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DEPARTMENT OF REAL ESTATE

By *pdw*

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 8 BEFORE THE DEPARTMENT OF REAL ESTATE
 9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)
)
 12 CALIFORNIA PACIFIC FINANCIAL SERVICES, INC.) No. H-12676 SF
 and PAUL EKANE LEJOY,)
 13) ACCUSATION
)
 14 Respondents.)
 15)

16 The Complainant, STEPHANIE YEE, in her official capacity as a Supervising
 17 Special Investigator of the State of California, Department of Real Estate (“Department”), brings
 18 this Accusation against CALIFORNIA PACIFIC FINANCIAL SERVICES, INC. (“CPFSI”) and
 19 PAUL EKANE LEJOY (“LEJOY”), (collectively “Respondents”), and is informed and alleges as
 20 follows:

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22 CPFSI is presently licensed by the Department and/or has license rights under the
 23 Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (“Code”), as
 24 a corporate real estate broker, License No. 02041430.

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26 LEJOY is presently licensed by the Department and/or has license rights under the
 27 Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker, License No. 01467744.

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LEJOY currently holds a Mortgage Loan Originator (“MLO”) endorsement from the Department, National Mortgage Licensing System (“NMLS”) ID. No. 1465966.

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At all relevant times, LEJOY was the designated broker officer for CPFISI and was required to exercise reasonable supervision and control over the activities of CPFISI, including the supervision of employees and/or agents working for CPFISI.

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At all relevant times, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate licensees within the State of California within the meaning of Section 10131(b) of the Code including the operation and conduct of a property management business with the public, wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented or offered to lease or rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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On or about April 26, 2022, the Department received a consumer online complaint from a property owner who hired Respondents to manage his Oakland, CA property. The complaint alleged that Respondents failed to provide the property owner with rental statements, receipts and/or invoices. The Department’s audit was subsequently initiated.

FIRST CAUSE OF ACTION
(Audit Violations)

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Each and every allegation made in Paragraphs 1 through 6, inclusive, is incorporated by reference as if fully set forth herein.

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On or about January 19, 2023, the Department conducted an audit of the real estate activities of Respondents located at 1901 Harrison St., Ste. 1100, Oakland, CA 94612. The Department’s auditor, Gina King, examined the business records of Respondents for the period of July 1, 2021, through October 31, 2022, (“audit period”).

While engaging in the real estate activities described above in Paragraph 5 and within the audit period, Respondent accepted or received funds in trust (“trust funds”) and deposited or caused the trust funds to be deposited into the following accounts:

Trust Account #1:

Bank Name: First Republic Bank
111 Pine Street
San Francisco, CA 94111
Account No.: Last 4 Digits: 4444
Account Name: California Pacific Financial Services, Inc.
DBA California Pacific Realty
(Real Estate Trust Checking Account)
Signatories: Zahid Jahania (RES/CEO/CFO)
Respondent (REB/D.O./Secretary)
Description: Trust Account #1 was used as a rents operations account for the purpose of property management.

Trust Account #2:

Bank Name: First Republic Bank
111 Pine Street
San Francisco, CA 94111
Account No.: Last 4 Digits: 2374
Account Name: California Pacific Financial Services, Inc.
DBA California Pacific Realty
(Real Estate Trust Checking Account)
Signatories: Zahid Jahania (RES/CEO/CFO)
Respondent (REB/D.O./Secretary)
Description: Trust Account #2 was used to hold security deposits collected from tenants.

In the course of the real estate activities described above in Paragraph 5, and during the audit period, the following violations were discovered:

1 (a) As of October 31, 2022, Trust Account #1 had a shortage of \$30,475.19, in
2 violation of Section 10145 of the Code and Section 2832.1 of Chapter 6, Title 10, California Code
3 of Regulations (“Regulations”). The shortage was attributed to the following: a negative balance of
4 \$788.41 on two owner ledgers; the improper maintenance of trust funds pertaining to three
5 properties totaling \$3,820.00; and a negative balance of \$25,866.78 on a broker ledger.

6 (b) As of October 31, 2022, Trust Account #2 had a shortage of \$232,970.52, in
7 violation of Section 10145 of the Code and Section 2832.1 of the Regulations. Respondents caused
8 the shortage by incorrectly maintaining trust funds totaling \$232,970.52 in Trust Account #1,
9 instead of Trust Account #2.

10 (c) Respondents mixed broker funds totaling \$21,927.96 with trust funds in Trust
11 Accounts #2, in violation of Sections 10145 and 10176(e) of the Code and Section 2835 of the
12 Regulations.

13 (d) No fidelity-bond and/or insurance coverage was maintained for Jahania, a
14 licensed real estate salesperson, for the period of August 23, 2021, to September 19, 2021, during
15 which time Jahania did not have a broker affiliation. No fidelity bond/insurance coverage was
16 maintained for Jahania for the period of September 20, 2021, to May 22, 2022, during which time
17 CPFSI was not Jahania’s employing broker. Such acts/omissions by Respondents were in violation
18 of Section 10145 of the Code and Section 2834 of the Regulations.

19 (e) Trust account #2 was an interest-bearing account, holding funds for multiple
20 beneficiaries. The funds in Trust Account #2 were not kept separate, distinct, and apart from funds
21 belonging to other beneficiaries, in violation of Section 10145 of the Code.

22 (f) From August 23, 2022, to September 19, 2022, CPFSI performed the licensed
23 acts as described above in Paragraph 5 while CPFSI’s real estate corporate broker license status
24 with the Department was expired, in violation of Section 10130 of the Code.

25 (g) Jahania was retained by Respondents to act as a property manager for CPFSI
26 during a time when Jahania was not licensed under CPFSI’s license, in violation of Section 10137
27 of the Code.

1 (h) CFPSI failed to maintain a broker-salesperson relationship agreement with
2 Jahania during the period when Jahania was employed by CFPSI, in violation of Section 2726 of the
3 Regulations.

4 (i) As the designated broker officer for CPFSI, LEJOY failed to exercise
5 reasonable supervision over the licensed activities of CPFSI, in violation of Section 10159.2 of the
6 Code and Section 2725 of the Regulations.

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8 The acts and/or omissions of Respondents, as described above, constitute grounds for
9 the suspension or revocation of a real estate license pursuant to Sections 10130, 10131, 10137,
10 10145, 10176(e), 10177(d) and 10177(g) of the Code, in conjunction with Sections 2726, 2832.1,
11 2834, and 2835 of the Regulations.

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13 The acts and/or omissions of LEJOY, as described above, constitute further grounds
14 for the suspension or revocation of LEJOY's real estate broker license pursuant to Sections 10159.2
15 and 10177(h) of the Code, in conjunction with Section 2725 of the Regulations.

16 SECOND CAUSE OF ACTION
17 **(Breach of Fiduciary Duties as to Respondents)**

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19 Each and every allegation made above in Paragraphs 1 through 12, inclusive, is
20 incorporated by this reference as if fully set forth herein.

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23 At all relevant times, while acting in their capacity as real estate agents,
24 Respondents owed their clients and/or beneficiaries those fiduciary duties that are inherent in a
25 position of trust as created by the agent/principal relationship, including, but not limited to the
26 following duties: the duty of reasonable care and skill, the duty of honesty, the duty of good faith
27 and fair dealings, the duty of loyalty, and duty of diligence.

Respondents breached their fiduciary duties by engaging in the acts and/or omissions described above in the FIRST CAUSE OF ACTION. Said acts were in violation of the Real Estate Law as provided above.

AUDIT COSTS

The acts and/or omissions of Respondents as alleged above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund violations) of the Code.

COST OF INVESTIGATION AND ENFORCEMENT

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the Administrative Law Judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license rights of Respondents under the Real Estate Law, for the cost of investigation and enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other and further relief as may be proper under other provisions of law.



STEPHANIE YEE
Supervising Special Investigator

Dated at Oakland, California,
this 2nd day of October, 2023.

1 DISCOVERY DEMAND

2 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the
3 Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth
4 in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
5 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
6 Office of Administrative Hearings deems appropriate.

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