


**FILED**

SEP 26 2013

DEPARTMENT OF REAL ESTATE  
BY: 

1 Elliott Mac Lennan, Counsel (SBN 66674)  
2 Bureau of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982  
5 Direct: (213) 576-6911  
6 Facsimile: (213) 576-6917

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8  
9 **BEFORE THE BUREAU OF REAL ESTATE**  
10 **STATE OF CALIFORNIA**

11 \* \* \*

11 In the Matter of the Accusation of )  
12 )  
12 SKYWAY INVESTMENT CORPORATION, ) No. H- 39055 LA  
13 doing business as Skyway Financial Company; )  
13 and ) ACCUSATION  
14 )  
14 YAOTIAN LUO, individually and as designated )  
15 officer of Skyway Financial Company, )  
16 )  
16 Respondents, )  
17 )

18 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the  
19 State of California, for cause of Accusation against SKYWAY INVESTMENT  
20 CORPORATION ("SIC") and YAOTIAN LUO ("LUO"), individually and as designated officer  
21 of Skyway Financial Company (collectively "Respondents"), is informed and alleges as follows:

22 1.

23 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State  
24 of California, makes this Accusation in her official capacity.

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From May 6, 1997, Respondent SIC has been licensed as a real estate corporation. At all times relevant herein, SIC was acting by and through Respondent LUO as its designated broker-officer since February 5, 1999, pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

3.

From February 5, 1999, through the present, Respondent LUO has been licensed as a real estate broker.

4.

SIC is owned by LUO, its chief executive officer, secretary, and chief financial officer.

5.

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondents committed such act or omission while engaged in the furtherance of the business or operations of Respondents and while acting within the course and scope of their corporate authority and employment including LUO and Elsa Hui.

FIRST CAUSE OF ACCUSATION

6.

At all times mentioned, in the City of Monterey Park, County of Los Angeles, Respondents SIC and LUO acted as real estate brokers and conducted licensed activities within the meaning of:

A. Code Section 10131(a). Respondents engaged in the business of a residential resale brokerage and acted in the capacity of, advertised or assumed to act as a real estate broker, including the solicitation and negotiation of the sale of real property as the agent of others; and

B. In addition, SIC conducted broker-controlled escrows through its escrow

1 division, Skyway Escrow, under the exemption set forth in California Financial Code Section  
2 17006(a)(4) for real estate brokers performing escrows incidental to a real estate transaction  
3 where the broker is a party and where the broker is performing acts for which a real estate license  
4 is required.

5  
6 Audit

7 7.

8 On April 30, 2013, the Bureau completed an audit examination of the books and  
9 records of Respondent SIC pertaining only to the broker-controlled escrow activities described in  
10 Paragraph 6, which require a real estate license. The audit examination covered a period of time  
11 beginning on March 1, 2010 and ending on February 28, 2013. The audit examination revealed  
12 violations of the Code and the Title 10, Chapter 6, California Code of Regulations  
13 ("Regulations") set forth in the following paragraphs, and more fully set forth in Audit Report  
14 LA120234 and the exhibits and work papers attached thereto.  
15

16 Bank Account

17 8.

18 At all times mentioned, in connection with the activities described in Paragraph 6,  
19 above, SIC accepted or received funds including funds in trust (hereinafter "trust funds") from or  
20 on behalf of actual or prospective parties to real estate transactions, including escrow services  
21 provided by SIC's in-house escrow division. Thereafter SIC made deposits and or disbursements  
22 of such trust funds. From time to time herein mentioned during the audit period, said trust funds  
23 were deposited and/or maintained by SIC in the bank account herein set forth.

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1                   Bank Account 1: (BA 1)

2                   Bank: East West Bank  
3                             Monterey Park Branch  
4                             720 West Garvey Avenue  
5                             Monterey Park, CA 91754

6                   Account Name:     Skyway Investment Corp/Skyway Escrow

7                   Account Number:   \*\*\*\*\*4866

8                   (Used for handling trust funds received and disbursed from SIC's broker  
9                   escrow activities)

10   Violations of the Real Estate Law

11   9.

12                   In the course of activities described in Paragraphs 6 and 8, above, and during the  
13                   examination period, described in Paragraph 7, Respondents SIC and LUO, acted in violation of  
14                   the Code and the Regulations in which Respondents:

15   (a) Failed to maintain a control record in the form of a columnar record in  
16   chronological order for escrow bank account BA 1, in violation of Code Section 10145 and  
17   Regulations 2831, 2950(d) and 2951;

18   (b) BA 1 was not in the name of the broker as trustee at a bank or other financial  
19   institution, nor designated as a trust account, in violation of Code Section 10145 and Regulations  
20   2832(a), 2950(d) and 2951;

21   (c) Permitted Elsa Hui, an unlicensed and unbonded escrow officer, to be an  
22   authorized signatory on BA 1, in violation of Code Section 10145 and Regulation 2834(a);  
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24                   ///  
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26                   ///  
27

1 (d) Failed to disburse from BA 1 broker's escrow fees totaling \$400.15, within  
2 twenty-five days of deposit, in violation of Code Sections 10145, 10176(e) and Regulation  
3 2835;

4 (e) Used the fictitious names "Skyway Investment Corp" and "Skyway Escrow"  
5 to conduct licensed activities, without holding a license bearing said fictitious business names,  
6 in violation of Code Section 10159.5 and Regulation 2731;

7 (f) Failed to disclose in writing to all parties of SIC's financial interest and  
8 ownership of SIC's escrow company, Skyway Escrow, in violation of Code Section 10145 and  
9 Regulation 2950(h); and

10 (g) Failed to maintain signed broker salesperson agreements with salespersons,  
11 Chi Sui Chen, Hong Li Chen, Grace Peng Chou, Jixian Jin, Ton Ma, Betty Hsiang Hui Meng,  
12 and Julia C. Wu, in violation of Code Section and Regulation 2726.  
13

14 10.

15 The conduct of Respondents SIC and LUO, described in Paragraph 9, above,  
16 violated the Code and the Regulations as set forth below:  
17

18 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
19 9(a)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
20 9(b)	Code Section 10145 and Regulations 2832(a), 2950(d) and 2951
21 9(c)	Code Section 10145 and Regulations 2834(a), 2950(d) and 2951
22 9(d)	Code Sections 10145 and 10176(e) and Regulations 2835 and 2951
23 9(e)	Code Section 10159.5 and Regulation 2731
24 9(f)	Code Section 10145 and Regulation 2950(h)
25 9(g)	10177(d) and Regulation 2726

26 The foregoing violations constitute cause for discipline of the real estate licenses and license rights of Respondents under the provisions of Code Sections 10176(e) and 10177(d).

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2 SECOND CAUSE OF ACCUSATION  
3 (Negligence)

4 12.

5 The overall conduct of Respondents SIC and LUO constitutes negligence and is  
6 cause for discipline of the real estate license and license rights of said Respondents pursuant to  
7 the provisions of Code Section 10177(g).

8 THIRD CAUSE OF ACCUSATION  
9 (Fiduciary Duty)

10 13.

11 The conduct, acts and omissions of Respondents SIC and LUO constitute a breach  
12 of fiduciary duty, owed to SIC's clients and trust fund beneficiaries of good faith, trust,  
13 confidence and candor, within the scope of their escrow relationship, in violation of Code Section  
14 10177(g), and constitutes cause for discipline of the real estate license and license rights of said  
15 Respondents pursuant to the provisions of said Code Section.

16 FOURTH CAUSE OF ACCUSATION  
17 (Supervision and Compliance)

18 14.

19 The overall conduct of Respondent LUO constitutes a failure on said Respondent's  
20 part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision  
21 and control over the licensed activities of SIC as required by Code Section 10159.2 and  
22 Regulation 2725, and to keep SIC in compliance with the Real Estate Law, and is cause for  
23 discipline of the real estate license and license rights of Respondent LUO pursuant to the  
24 provisions of Code Sections 10177(d), 10177(g) and 10177(h).

25 15.

26 Code Section 10106 provides, in pertinent part, that in any order issued in  
resolution of a disciplinary proceeding before the Bureau of Real Estate, the Commissioner may

1 request the administrative law judge to direct a licensee found to have committed a violation of  
2 this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of  
3 the case.

4 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
5 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
6 action against all licenses and/or license rights of Respondents SKYWAY INVESTMENT  
7 CORPORATION and YAOTIAN LUO, individually and as designated officer of Skyway  
8 Financial Company under the Real Estate Law (Part 1 of Division 4 of the California Business  
9 and Professions Code) and for such other and further relief as may be proper under other  
10 applicable provisions of law, including, but not limited to, costs of audit, investigation and  
11 enforcement.  
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13  
14 Dated at Los Angeles, California.

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16 this 17 day of September, 2013.

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19 ROBIN TRUJILLO  
Deputy Real Estate Commissioner

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24 cc: Skyway Financial Company  
25 Yaotian Luo  
26 Robin Trujillo  
Audits – Kathleen Mak  
Sacto