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FILED

JUN 29 2018

BUREAU OF REAL ESTATE

By 

7
8 **BEFORE THE BUREAU OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation against)

No. H- 41091 LA

12 SKYWAY INVESTMENT CORPORATION)
13 and YAOTIAN LUO, individually, and as)
14 designated officer of SKYWAY INVESTMENT)
CORPORATION,)

ACCUSATION

15 Respondents.)

16 The Complainant, Maria Suarez, a Supervising Special Investigator of the State of
17 California, for cause of Accusation against SKYWAY INVESTMENT CORPORATION
18 ("SKYWAY") and YAOTIAN LUO ("LUO"), individually, and as designated officer of
19 SKYWAY, alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Supervising Special Investigator of the State of
22 California, makes this Accusation in her official capacity.

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2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to title 10, chapter 6, California Code of Regulations.

LICENSE HISTORY

3.

YAOTIAN LUO

A. LUO is presently licensed and/or has license rights under the Real Estate Law (part 1 of division 4 of the Code) as a real estate broker ("REB") under license ID 01107097.

B. LUO was originally licensed by the Bureau of Real Estate ("Bureau") as a REB on or about February 5, 1999. LUO's REB is set to expire on February 4, 2019.

C. LUO is the designated officer for SKYWAY until his officer license expiration date of June 21, 2021.

D. On or about October 21, 2013, in Bureau Case No. H-39170, LUO and SKYWAY were found to have violated Financial Code section 17006, subdivision (a)(4), by performing third party escrows on transactions in which LUO and SKYWAY were not performing acts in the course of or incidental to a real estate transaction in which they were agents or parties to the transaction and in which they were performing acts for which a real estate license is required. LUO and SKYWAY were ordered to desist and refrain from performing any further such acts.

E. On or about April 10, 2015, LUO's license and license rights were suspended for thirty days under Bureau Case No. H-39055 LA. LUO's conduct was found to have violated Code section 10159.2 and Regulation 2725 and to constitute grounds for suspension of LUO's license under Code section 10177, subdivision (h). LUO's suspension was stayed for two years on certain terms and conditions.

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4.

SKYWAY INVESTMENT CORPORATION

A. Respondent SKYWAY is presently licensed and/or has license rights under the Real Estate Law (part 1 of division 4 of the Code) as a corporate REB under license ID 01220388.

B. SKYWAY was originally licensed by the Bureau on or about May 6, 1997. SKYWAY's corporate REB is set to expire on June 21, 2021.

C. On or about October 21, 2013, in Bureau Case No. H-39170, SKYWAY was the subject of a desist and refrain order as described above.

E. On or about April 10, 2015, SKYWAY's license and license rights were suspended for thirty days under Bureau Case No. H-39055 LA. SKYWAY's conduct was found to have violated Code sections 10145 and 10159.5 and Regulations 2731, 2831, 2832, subdivision (a), 2834, subdivision (a), 2835, and 2950, subdivisions (d) and (h), and to constitute grounds for suspension of SKYWAY's license under Code section 10177, subdivision (d). SKYWAY's suspension was stayed for two years on certain terms and conditions.

BROKERAGE

5.

At all times relevant herein, SKYWAY was engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Code section 10131, subdivision (a). SKYWAY also conducted broker-controlled escrows under the exemption set forth in California Financial Code section 17006, subdivision (a)(4), for real estate brokers performing escrows incidental to a real estate transaction in which the broker is an agent or a party to the transaction and in which the broker is performing acts for which a real estate license is required.

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AUDIT VIOLATIONS

(BRE Audit LA170112)

6.

On January 31, 2018, the Bureau completed an audit examination of the books and records of SKYWAY pertaining to the real estate activities described in Paragraph 5 above. The audit examination covered a period of time beginning on April 10, 2015 and ending on November 30, 2017 ("audit period"). The final report of January 31, 2018 revealed violations of the Code and the Regulations as set forth in the following paragraphs, and as more fully discussed in Audit Report LA170112.

Bank Account

7.

During the audit period, SKYWAY accepted or received funds in trust from or on behalf of actual or prospective parties ("trust funds") and thereafter made deposits or disbursements of such funds. The Bureau examined the following account used by SKYWAY for the deposit and/or maintenance of trust funds relating to its real estate activities:

Bank Account 1 ("B/A 1" in Audit LA170112)

* Account Number: xxxxx-4866

* Bank: Heritage East West Bank, Monterey Park, CA

8.

Violations of the Real Estate Law

In the course of the activities described in Paragraph 5, and during the audit period described in Paragraph 6, SKYWAY acted in violation of the Code and the Regulations, as described below:

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1 **A. Trust Fund Handling for Multiple Beneficiaries (Code section 10145 and**
2 **Regulations 2832.1, 2950, subdivision (g), and 2951)**

3 Without the prior written consent of the owners of the trust funds in Bank
4 Account 1, SKYWAY caused, permitted and/or allowed the withdrawal or disbursement of trust
5 funds from Bank Account 1 such that the total of aggregate funds remaining in the account was
6 less than the existing aggregate trust fund liability of SKYWAY to every principal who was an
7 owner of said funds. As of November 30, 2017, Bank Account 1 had a minimum shortage of
8 <\$153.48>. The shortage was attributable to bank service charges. SKYWAY'S conduct
9 violates Code section 10145 and Regulations 2832.1, 2950, subdivision (g), and 2951.

10 **B. Trust Account Designation – (Code section 10145 and Regulations 2832**
11 **and 2951)**

12 During the audit period, Bank Account 1, an account used to hold trust funds, was
13 not designated as a trust account in the name of the broker as trustee, in violation of Code section
14 10145 and Regulations 2832 and 2951.

15 **C. Trust Fund Handling – Failure to Maintain Accurate Control Record of**
16 **All Trust Funds Received and Disbursed (Code section 10145 and Regulations 2831, 2950,**
17 **subdivision (d), and 2951)**

18 During the audit period, SKYWAY failed to maintain a complete and accurate
19 control record of all trust funds received and disbursed from Bank Account 1, in violation of
20 Code section 10145 and Regulations 2831, 2950, subdivision (d), and 2951.

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1 **D. Trust Fund Handling – Failure to Maintain Accurate Separate Records**
2 **for Each Beneficiary or Transaction (Code section 10145 and Regulations 2831.1, 2950,**
3 **subdivision (d), and 2951)**

4 During the audit period, SKYWAY failed to maintain complete and accurate
5 separate records for each beneficiary or transaction of all trust funds received and disbursed from
6 Bank Account 1, in violation of Code section 10145 and Regulations 2831.1, 2950, subdivision
7 (d), and 2951.

8 **E. Notification of Escrow Activities (Code section 10141.6)**

9 During the audit period, SKYWAY engaged in escrow activities for five or more
10 transactions in a calendar year pursuant to the exemption from the Escrow Law contained in
11 section 17006 of the Financial Code. SKYWAY also conducted escrow activities in excess of
12 one million dollars in a calendar year pursuant to the aforementioned exemption. Yet,
13 SKYWAY failed to file escrow activity reports with the Bureau within sixty days following the
14 completion of the calendar year, in violation of Code section 10141.6.

15 **F. Salesperson Employment and Termination (Code section 10161.8 and**
16 **Regulation 2752)**

17 During the audit period, SKYWAY did not notify the Bureau within five days of
18 employing at least four salespersons: Yuan Run Hu, Eva Zhong Huo, Tony Tu Tang, Eric Chi
19 Wang Tsang. SKYWAY's conduct violates Code section 10161.8 and Regulation 2752.

20 **G. Unlicensed Fictitious Business Name (Code section 10159.5 and**
21 **Regulation 2731)**

22 During the audit period, SKYWAY used the unlicensed fictitious business name
23 "Skyway Escrow" to conduct its broker escrow activities, in violation of Code section 10159:5
24 and Regulation 2731.

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

3 Audit Costs

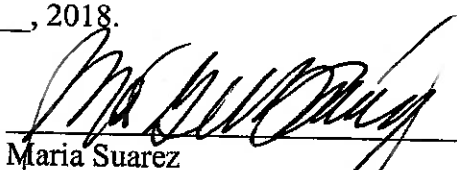
4 11.

5 Code section 10148, subdivision (b), provides, in pertinent part, the
6 Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has
7 found in a final decision following a disciplinary hearing that the broker has violated Code
8 section 10145 or a regulation or rule of the Commissioner interpreting said section.

9
10 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
11 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
12 action against the licenses and license rights of Respondents under the Real Estate Law (Part 1 of
13 division 4 of the Business and Professions Code), for the cost of investigation and enforcement
14 as permitted by law, and for such other and further relief as may be proper under other provisions
15 of law, and for costs of audit.

16 Dated at Los Angeles, California

17 this 25th day of June, 2018.

18
19 
20 Maria Suarez
21 Supervising Special Investigator

22
23 cc: SKYWAY INVESTMENT CORPORATION
24 YAOTIAN LUO
25 Sacto.
26 Audits - Anitha Wijaya

27 CalBRE Accusation - SKYWAY INVESTMENT CORPORATION & YAOTIAN LUO