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FILED

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BUREAU OF REAL ESTATE

By B. Nicholas

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8
9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

13 JOHN CHING KWONG,)

14)
15 Respondent.)

No. H- 6411 SAC

ACCUSATION

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17 The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator
18 of the State of California, for Accusation against Respondent JOHN CHING KWONG
19 (KWONG), is informed and alleges as follows:

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21 The Complainant makes this Accusation against Respondent in her official
22 capacity.

23 2

24 KWONG is presently licensed and/or has license rights under the Real Estate
25 Law, Part 1 of Division 4 of the California Business and Professions Code (Code) by the Bureau
26 of Real Estate (Bureau) as a real estate broker.

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At all times herein mentioned, KWONG engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker 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, KWONG leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rents from tenants.

Beginning on June 15, 2015, and continuing intermittently through August 31, 2015, an audit was conducted at KWONG's office located at 1909 Meer Way, Sacramento, California, and at the Bureau's district office located at 1651 Exposition Blvd., Sacramento, California, where the auditor examined records for the period of April 1, 2014, through March 31, 2015 (the audit period).

While acting as a real estate broker as described in Paragraph 3, above, and within the audit period, KWONG accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, deposited or caused to be deposited those funds into bank accounts maintained by KWONG, at Bank of America, 4740 Freeport Blvd., Sacramento, CA 95822, as described below:

BANK ACCOUNT #1	
Account No.:	XXXXXXXXX7409
Entitled:	John C. Kwong, John Kwong Realty

and thereafter from time to time made disbursement of said trust funds.

In the course of the activities described in Paragraph 3, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) KWONG failed to designate Bank Account #1 as a trust account as required by Section 2832 of Chapter 6, Title 10, California Code of Regulations (Regulations);
- (b) KWONG allowed an unlicensed, unbonded person be a signatory to a trust account in violation of Section 2834 of the Regulations;
- (c) During an accountability performed on Bank Account #1, and as of March 31, 2015, a shortage of \$13,501.86 was revealed, in violation of Section 10145 of the Code;
- (d) KWONG failed to obtain written permission from owners of trust funds in Bank Account #1 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations;
- (e) KWONG failed to control records for Bank Account #1 as required by Section 2831.1 of the Regulations; and
- (f) KWONG over-disbursed management fees in the amount of \$1,627.60 in violation of Section 10176 (i) of the Code.

The acts and/or omissions described above constitute violations of Sections 2831.1 (control records), 2832 (trust fund designation), 2832.1 (written permission balance below accountability) and 2834 (trust fund signatories) of the Regulations and of Sections 10145 (trust fund handling) and 10176 (i) (other conduct fraud, dishonest dealing) of the Code and are grounds for discipline under Sections 10176 (i), 10177(d) (willful disregard of real estate laws) and 10177(g) (negligence/incompetence licensee) of the Code.

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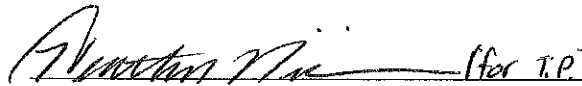
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Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the commissioner may request the administrative law judge to direct a licensee found to have committed a violation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

Audit Costs

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.

 (for T.P.)
TRICIA D. PARKHURST
Supervising Special Investigator

Dated at Sacramento, California,

this 18th day of July, 2016.