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FILED

MAY 04 2022

DEPARTMENT OF REAL ESTATE
By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of	)	No. H-7127 SAC
EUGENE SHINSHUNG CHANG,	)	<u>ACCUSATION</u>
Respondent.	)	

The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator of the State of California, for cause of Accusation against EUGENE SHINSHUNG CHANG ("Respondent"), is informed and alleges as follows:

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The Complainant, TRICIA D. PARKHURST, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

LICENSE HISTORY

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At all times mentioned, Respondent was and is licensed by the Department as a real estate broker, License ID 01784018. Respondent was licensed by the Department as a real

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1 estate salesperson on or about December 5, 2006, and as a real estate broker on or about April
2 3, 2009. Unless renewed, Respondent's broker license will expire April 2, 2025.

3 Respondent was licensed to do business under the fictitious business name
4 "College Town Realty."

5 AUDIT SC20-0036

6 4

7 On or about March 30, 2021, the Department completed its audit (SC20-0036) of
8 the books and records of Respondent's property management activities described in Paragraph 5.
9 The auditor herein examined the records for the period of January 1, 2020, through August 31,
10 2020.

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12 At all times mentioned, Respondent engaged in the business of, acted in the
13 capacity of, advertised, or assumed to act as a real estate broker within the State of California
14 within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a
15 property management business with the public wherein, on behalf of others, for compensation or
16 in expectation of compensation, Respondent leased or rented and offered to lease or rent, and
17 solicited for prospective tenants of real property or improvements thereon, and collected rents
18 from real property or improvements thereon.

19 As of the audit examination, Respondent managed approximately 59 properties
20 with 66 units for 44 owners. Respondent collected approximately \$1,340,179 in trust funds
21 annually.

22 Respondent's property management services include, but not limited to, collecting
23 rents and security deposits; soliciting tenants; advertising properties; making mortgage, property
24 tax, and insurance payments; and responsibility for repairs and maintenance. For such property
25 management services, Respondent charged a management fee between 4 and 6 percent of
26 collected rents. Respondent also charged half of first month rent for lease execution.

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While acting as a real estate broker as described in Paragraph 5, Respondent accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

The trust funds accepted or received by Respondent were deposited or caused to be deposited by Respondent into accounts which were maintained by Respondent for the handling of trust funds, and thereafter from time-to-time Respondent made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of America 325 E Street Davis, CA 95616
Account No.:	XXXX XXXX 3544
Account Name:	Eugene Chang College Town Realty Trust Account
Signatories:	Eugene Chang
Description:	Trust Account #1 was used for the handling of trust funds from property management activities. Deposits consisted of rent and security deposit payments and owner contributions. Disbursements consisted of owner proceeds, security deposit disposition, repairs and maintenance payments, and management fees.

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In the course of the property management activities described in Paragraph 5, and during the audit examination period described in Paragraph 4, Respondent violated the Code and Regulations described below:

Trust Account Accountability and Balances

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Based on the records provided during the audit, a bank reconciliation for Trust Account #1 was prepared for as of August 31, 2020. The adjusted bank balance was calculated by using the ending bank balance per the bank statement provided plus deposits in transit minus outstanding checks as identified from the Record of Trust Funds Received and Disbursed. Accountability for each property was determined by using the trust fund liability report provided and subtracting the uncleared deposits/uncollected funds which included but was not limited to rents as identified on the bank reconciliation report provided by Respondent. The adjusted bank balance of Trust Account #1 as of August 31, 2020, was compared to the resulting adjusted ending owner balances.

Adjusted Bank Balance	(\$22,397.23)
Accountability	<u>\$66,658.73</u>
Trust Fund Shortage	<u>(\$89,055.96)</u>

As of August 31, 2020, Trust Account #1 contained a shortage in the amount of \$89,055.96. The short was caused by the following:

- Negative balances in property/owners accounts in the amount of \$76,877.97 caused by not collecting full amount of rents, utilities and/or any funds due from the tenants while disbursing funds to property owners,
- Disbursements of unearned management fees of at least \$3,302.99; and
- The cause of the remaining shortage of \$8,875.00 was unidentified.

Disbursement of Unearned Management Fees

As of August 31, 2020, Respondent disbursed at least \$3,302.99 of unearned management fees from Trust Account #1. Respondent confirmed that he was charging management fees based on full amount of rent due even though he did not collect any rent.

For the properties identified below, property management agreements, management fees charged, lease agreements, owner's statements and separate beneficiary records to were used to verify rent collected and actual management fees disbursed for the period of January 2020 to August 2020.

306 Leon Place					
Month	Rent Due	Rent Collected	Mgmt Fees Earned (6% of Rents Collected)	Mgmt Fees Actually Disbursed	Over Disbursement of Mgmt Fees
January 2020	\$2,000	\$0.00	\$0.00	\$120.00	\$120.00
February 2020	\$2,000	\$0.00	\$0.00	\$120.00	\$120.00
March 2020	\$2,000	\$0.00	\$0.00	\$120.00	\$120.00
April 2020	\$2,000	\$0.00	\$0.00	\$120.00	\$120.00
May 2020	\$2,000	\$0.00	\$0.00	\$120.00	\$120.00
June 2020	\$2,000	\$0.00	\$0.00	\$120.00	\$120.00
July 2020	\$2,000	\$0.00	\$0.00	\$120.00	\$120.00
August 2020	\$2,000	\$0.00	\$0.00	\$120.00	\$120.00
Total	\$16,000	\$0.00	\$0.00	\$960.00	\$960.00

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1542 Drake Drive					
Month	Rent Due	Rent Collected	Mgmt Fees Earned (6% of Rents Collected)	Mgmt Fees Actually Disbursed	Over Disbursement of Mgmt Fees
January 2020	\$1,825	\$1,376.50	\$82.59	\$109.50	\$26.91
February 2020	\$1,825	\$905.00	\$54.30	\$109.50	\$55.20
March 2020	\$1,825	\$905.00	\$54.30	\$109.50	\$55.20
April 2020	\$1,825	\$450.00	\$27.00	\$109.50	\$82.50
May 2020	\$1,825	\$450.00	\$27.00	\$109.50	\$82.50
June 2020	\$1,825	\$450.00	\$27.00	\$109.50	\$82.50
July 2020	\$1,825	\$450.00	\$27.00	\$109.50	\$82.50
August 2020	\$1,825	\$450.00	\$27.00	\$109.50	\$82.50
Total	\$14,600	\$5,436.50	\$326.19	\$876.00	\$549.81

2650 Nicolson					
Month	Rent Due	Rent Collected	Mgmt Fees Earned (6% of Rents Collected)	Mgmt Fees Actually Disbursed	Over Disbursement of Mgmt Fees
January 2020	\$2,150	\$100.00	\$6.00	\$129.00	\$123.00
February 2020	\$2,150	\$100.00	\$6.00	\$129.00	\$123.00
March 2020	\$2,150	\$100.00	\$6.00	\$129.00	\$123.00
April 2020	\$2,150	\$100.00	\$6.00	\$129.00	\$123.00
May 2020	\$2,150	\$0.00	\$6.00	\$129.00	\$123.00
June 2020	\$2,150	\$0.00	\$6.00	\$129.00	\$123.00

July 2020	\$2,150	\$0.00	\$6.00	\$129.00	\$123.00
August 2020	\$2,150	\$50.00	\$3.00	\$129.00	\$126.00
Total	\$17,200	\$450.00	\$27.00	\$1,032.00	\$1,005.00

2002 Picasso Avenue

Month	Rent Due	Rent Collected	Mgmt Fees Earned (6% of Rents Collected)	Mgmt Fees Actually Disbursed	Over Disbursement of Mgmt Fees
January 2020	\$2,200	\$1,950.00	\$117.00	\$132.00	\$15.00
February 2020	\$2,200	\$1,950.00	\$117.00	\$132.00	\$15.00
March 2020	\$2,200	\$1,950.00	\$117.00	\$132.00	\$15.00
April 2020	\$2,200	\$1,950.00	\$117.00	\$132.00	\$15.00
May 2020	\$2,200	\$1,950.00	\$117.00	\$132.00	\$15.00
June 2020	\$2,200	\$1,950.00	\$117.00	\$132.00	\$15.00
July 2020	\$2,200	\$1,950.00	\$117.00	\$132.00	\$15.00
August 2020	\$2,200	\$1,950.00	\$117.00	\$132.00	\$15.00
Total	\$17,600	\$15,600	\$936.00	\$1,056.00	\$120.00

1422 Farragut Circle

Month	Rent Due	Rent Collected	Mgmt Fees Earned (6% of Rents Collected)	Mgmt Fees Actually Disbursed	Over Disbursement of Mgmt Fees
January 2020	\$2,800	\$2,525.00	\$151.50	\$168.00	\$16.50
February 2020	\$2,800	\$2,525.00	\$151.50	\$168.00	\$16.50

1	March 2020	\$2,800	\$2,525.00	\$151.50	\$168.00	\$16.50
2	April 2020	\$2,800	\$2,525.00	\$151.50	\$168.00	\$16.50
3	May 2020	\$2,800	\$2,525.00	\$151.50	\$168.00	\$16.50
4	June 2020	\$2,800	\$2,525.00	\$151.50	\$168.00	\$16.50
5	July 2020	\$2,800	\$2,525.00	\$151.50	\$168.00	\$16.50
6	August 2020	\$2,800	\$2,525.00	\$151.50	\$168.00	\$16.50
7	Total	\$22,400	\$18,258.75	\$1,095.52	\$1,344.00	\$248.48

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9	4923 Cowell Blvd. #A-D					
10	Month	Rent Due	Rent Collected	Mgmt Fees Earned (6% of Rents Collected)	Mgmt Fees Actually Disbursed	Over Disbursement of Mgmt Fees
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13						
14	January 2020	\$5,450	\$5,225.00	\$313.50	\$327.00	\$13.50
15	February 2020	\$5,450	\$5,225.00	\$313.50	\$327.00	\$13.50
16	March 2020	\$5,450	\$5,220.00	\$313.20	\$327.00	\$13.80
17	April 2020	\$5,450	\$3,935.00	\$236.10	\$327.00	\$90.90
18	May 2020	\$5,450	\$5,225.00	\$313.50	\$327.00	\$13.50
19	June 2020	\$5,450	\$3,925.00	\$235.50	\$327.00	\$91.50
20	July 2020	\$5,450	\$3,925.00	\$235.50	\$327.00	\$91.50
21	August 2020	\$5,450	\$3,925.00	\$235.50	\$327.00	\$91.50
22	Total	\$43,600	\$36,605	\$2,196.30	\$2,616.00	\$419.70

GROUNDS FOR DISCIPLINE

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The acts and/or omissions of Respondent as alleged above constitute grounds for the suspension or revocation of all licenses and license rights of Respondent, pursuant to the following provisions of the Code and Regulations:

1 As to Paragraph 8, under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

3 As to Paragraph 9, under Sections 10176(i) and/or 10177(g) of the Code.

4 COST RECOVERY

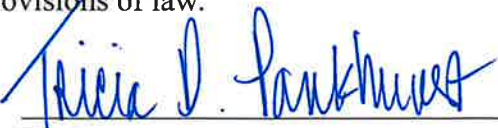
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6 The acts and/or omissions of Respondent as alleged above, entitle the Department
7 to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund
8 handling violation) of the Code.

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

14 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
15 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
16 action against all licenses and license rights of Respondent under the Code, for the cost of
17 investigation and enforcement as permitted by law, for the cost of the audit, and for such other
18 and further relief as may be proper under other provisions of law.

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20 TRICIA D. PARKHURST
21 Supervising Special Investigator

22 Dated at Sacramento, California,
23 this 2nd day of May, 2022

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DISCOVERY DEMAND

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