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FILED

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BUREAU OF REAL ESTATE

By K. Contreras

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
REAL COMMERCIAL PROPERTY, INC.,)
A Corporation, and)
LIJUN TONG,)
)
Respondents.)

NO. H-11704 SF
ACCUSATION

The Complainant, ROBIN TANNER, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity against Respondent REAL COMMERCIAL PROPERTY, INC. (herein "RCPI"), and Respondent LIJUN TONG (herein "TONG") (herein collectively "Respondents"), is informed and alleges as follows:

1

At all times herein mentioned, Respondents were and now are licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein the "Code").

2

At all times herein mentioned, RCPI was and now is licensed by the State of California Bureau of Real Estate (herein the "Bureau") as a corporate real estate broker by and

1 through TONG, as designated officer-broker of RCPI to qualify said corporation and to act for
2 said corporation as a real estate broker.

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4 At all times herein mentioned, TONG was and now is licensed by the Bureau as
5 a real estate broker individually and as designated officer-broker of RCPI. As said designated
6 officer-broker, TONG was at all relevant times mentioned herein responsible pursuant to Section
7 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate
8 licensees, and employees of RCPI, for which a license is required.

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10 Whenever reference is made in an allegation in this Accusation to an act or
11 omission of RCPI, such allegation shall be deemed to mean that the officers, directors, employees,
12 agents and/or real estate licensees employed by or associated with RCPI committed such act or
13 omission while engaged in the furtherance of the business or operations of such corporate
14 respondent and while acting within the course and scope of their authority and employment.

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16 At all times herein mentioned, Respondents engaged in the business of, acted in
17 the capacity of, advertised, or assumed to act as real estate brokers for compensation or in the
18 expectation of compensation within the State of California within the meaning of Section
19 10131(b) of the Code, including the operation and conduct of a property management business
20 with the public wherein, on behalf of others, Respondents leased or rented or offered to lease or
21 rent, or placed for rent, or solicited listings or places for rent, or solicited for prospective tenants,
22 or negotiated the sale, purchase or exchanges of leases on real property or on a business
23 opportunity, or collected rents from real property, or improvements thereon, or from business
24 opportunities.

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26 In so acting as real estate brokers as described in Paragraphs 2 and 3, above,
27 Respondents accepted or received funds in trust (herein "trust funds") from or on behalf of

1 tenants, owners, and others in connection with real estate leasing, renting, and collection of rents
2 on real property or improvements thereon, and thereafter from time to time made disbursements
3 of said funds.

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5 The aforesaid trust funds accepted or received by Respondents were deposited or
6 caused to be deposited by Respondents into one or more bank accounts (herein "trust fund
7 accounts") maintained by Respondents for the handling of trust funds at the Danville, California
8 branches of Bank of America and JPMorgan Chase Bank as follows:

9 Bank of America

- 10 (a) "Real Commercial Property Inc," account number xxxxxx1619
11 (herein "Bank Account #1");
12 (b) "Real Commercial Property Inc," account number xxxxxxxx1610
13 (herein "Bank Account #2"); and
14 (c) "Lijun Tong," account number xxxxxx1043 (herein "Bank
15 Account #4");

16 JPMorgan Chase Bank

- 17 (a) "Stockton Outpost Business LLC," account number xxxxx0686
18 (herein "Bank Account #3").

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20 Between about January 1, 2011 and July 31, 2013, Respondents, in connection
21 with their property management activities described in Paragraphs 5 through 7, above:

- 22 (a) failed to place trust funds entrusted to Respondents into the hands of a
23 principal on whose behalf the funds were received, into a neutral escrow
24 depository, or into a trust fund account in the name of RCPI, as trustee at
25 a bank or other financial institution, in connection with Bank Accounts
26 #1 through #4, in conformance with the requirements of Section 10145
27 of the Code and Section 2832 of Title 10, Chapter 6, of the California
Code of Regulations (herein "the Regulations");

- 1 (b) failed to keep a columnar record in chronological sequence of all trust funds
2 received and disbursed from Bank Accounts #1 through #4, containing all
3 the information required by Section 2831 of the Regulations;
- 4 (c) failed to keep a separate record for each beneficiary or transaction for Bank
5 Accounts #1 through #4, containing all the information required by Section
6 2831.1 of the Regulations;
- 7 (d) failed to reconcile at least once a month, the balance of all separate
8 beneficiary or transaction records with Bank Accounts #1 through #4, as
9 required by Section 2831.2 of the Regulations;
- 10 (e) authorized Lily Tong, an unlicensed person without fidelity bond coverage,
11 to make withdrawals from Bank Accounts #1 and #2, in violation of Section
12 2834 of the Regulations;
- 13 (f) deposited trust funds into an interest bearing account for Bank Accounts #1
14 and #4, in violation of Section 10145(d) of the Code;
- 15 (g) caused, suffered or permitted money of others which was received and
16 held by Respondents in Bank Accounts #1 and #2, to be commingled
17 with Respondents' own money, in violation of Section 10176(e) of the
18 Code;
- 19 (h) failed to disclose a secret profit in the amount of about \$40.27 received from
20 the Home Depot reward savings program in the purchase of repair materials,
21 in violation of Section 10176(g) of the Code;
- 22 (i) failed to disclose a secret profit in the amount of about \$316.88 received
23 from three (3) credit card rewards programs, in violation of Section 10176(g)
24 of the Code, as follows:
- 25 1) Bank of America Preferred World Master Card;
26 2) Bank of America World Points Travel Rewards for Business; and
27 3) Chase Sapphire credit card; and

- 1 (j) failed to retain for three years copies of all listings, deposit receipts, canceled
2 checks, trust records, and other documents executed in connection with any
3 and all transactions for Bank Accounts #1 through #4, in violation of Section
4 10148 of the Code.

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6 The facts alleged above are grounds for the suspension or revocation of the licenses
7 and license rights of Respondents under the following provisions of the Code and/or the
8 Regulations:

- 9 (a) as to Paragraph 8(a), under Section 10145 of the Code and Section 2832 of
10 the Regulations in conjunction with Section 10177(d) of the Code;
11 (b) as to Paragraph 8(b), under Section 2831 of the Regulations in conjunction
12 with Section 10177(d) of the Code;
13 (c) as to Paragraph 8(c), under 10145 of the Code and Section 2831.1 of the
14 Regulations in conjunction with Section 10177(d) of the Code;
15 (d) as to Paragraph 8(d), under Section 2831.2 of the Regulations in conjunction
16 with Section 10177(d) of the Code;
17 (e) as to Paragraph 8(e), under Section 2834 of the Regulations in conjunction
18 with Section 10177(d) of the Code;
19 (f) as to Paragraph 8(f), under Section 10145(d) of the Code in conjunction
20 with 10177(d) of the Code;
21 (g) as to Paragraph 8(g), under Section 10176(e) of the Code;
22 (h) as to Paragraph 8(h), under Section 10176(g) of the Code;
23 (i) as to Paragraph 8(i), under Section 10176(g) of the Code; and,
24 (j) as to Paragraph 8(j), under Section 10148 of the Code in conjunction with
25 10177(d) of the Code.
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1 COST RECOVERY

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3 Audit Costs

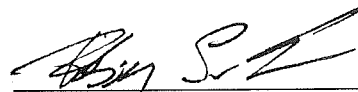
4 The acts and/or omissions of Respondents as alleged above, entitle the Bureau to
5 reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

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7 Investigation and Enforcement Costs

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

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

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21 ROBIN TANNER
22 Deputy Real Estate Commissioner
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24 Dated at Oakland, California

25 this 20th day of May, 2014.
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