

MAY 17 2017

BUREAU OF REAL ESTATE

By MR Robert

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8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)
12 MONTICELLO PROPERTY MANAGEMENT,) No. H-12091 SF
13 INC. and ERIC WENCHUN CHUANG,) ACCUSATION
14 Respondents.)

15 The Complainant, ROBIN S. TANNER, acting in her official capacity as a
16 Supervising Special Investigator of the State of California, for cause of Accusation against
17 Respondents MONTICELLO PROPERTY MANAGEMENT, INC. (MPMI) and ERIC
18 WENCHUN CHUANG (CHUANG), sometimes collectively referred to as Respondents, is
19 informed and alleges as follows:

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21 Respondents are presently licensed and/or have license rights under the Real
22 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

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24 At all times mentioned, MPMI was and is licensed by the State of California
25 Bureau of Real Estate (Bureau) as a real estate broker corporation.

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2 At all times mentioned herein, CHUANG was and is licensed by the Bureau
3 individually as a real estate broker, and as the designated broker officer of MPMI. As the
4 designated broker officer, CHUANG was responsible, pursuant to Section 10159.2 of the Code,
5 for the supervision of the activities of officers, agents, real estate licensees and employees of
6 MPMI for which a real estate license is required to ensure the compliance of the corporation
7 with the Real Estate Law and Regulations.

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

14
15 At all times herein mentioned, Respondents engaged in the business of, acted in
16 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
17 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a
18 property management business with the public wherein, on behalf of others, for compensation or
19 in expectation of compensation, Respondents leased or rented or offered to lease or rent, or
20 placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or
21 negotiated the sale, purchase or exchanges of leases on real property, or on a business
22 opportunity, or collected rents from real property, or improvements thereon, or from business
23 opportunities.

24 FIRST CAUSE OF ACTION

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26 Each and every allegation in Paragraphs 1 through 5, inclusive, is incorporated by
27 this reference as if fully set forth herein.

On September 27, 2016 and September 28, 2016, an audit was conducted at MPMI's office located at 875 Yakima Drive, Fremont, California, where the auditor examined records for the period of September 1, 2015, through September 28, 2016 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, and deposited or caused to be deposited those funds into bank accounts maintained by Respondents, at Bank of America, P.O. Box 25118, Tampa, Florida 33622:

BANK ACCOUNT #1	
Account No.:	XXXX XXXX 6521
Entitled:	MONTICELLO PROPERTY MANAGEMENT

BANK ACCOUNT #2	
Account No.:	XXXX XXXX 3208
Entitled:	MONTICELLO PROPERTY MANAGEMENT

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

In the course of the activities described in Paragraph 5, Respondents:

- (a) were not in good legal standing with the Office of the Secretary of State while engaged in the business of a real estate licensed corporation, in violation of Section 2742 of the California Code of Regulations (Regulations);

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- (b) caused, suffered or permitted funds of others which were received and held by Respondents to be commingled with broker funds which had not been disbursed with 25 days of earning them in accordance with Section 2835 of the Regulations in Bank Accounts #1 and #2, in violation of Section 10176 (e) of the Code;
- (c) failed to maintain an accurate columnar record in chronological sequence of all trust funds received and disbursed (Control Record), containing all required information, for Bank Accounts #1 and #2, in violation of Section 2831 of the Regulations;
- (d) failed to maintain accurate separate records for each beneficiary of trust funds accepted or received and disbursed for Bank Account #1, in violation of Section 10145 (g) and 2831.1 of the Regulations;
- (e) failed to reconcile at least once a month, the balance of all separate beneficiary or transaction records for Bank Account #1, in violation of Section 2831.2 of the Regulations;
- (f) failed to properly designate Bank Accounts #1 and #2 in the name of a holder of a license as trustee as required by Section 10145 of the Code and Section 2832 of the Regulations;
- (g) allowed a person who was not licensed and did not have a fidelity bond to be a signatory on Bank Account #1, in violation of Section 2834 of the Regulations;
- (h) used an unlicensed fictitious business name, Monticello Property Management, in violation of Section 2731 of the Regulations; and
- (i) failed to disclose its license number on the corporation website as required by Section 10140.6 (b) and Section 2773 of the Regulations.

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2 The acts and/or omissions described above constitute violations of Sections 2731
3 (Fictitious Business Name), 2742 of the Regulations (Good Standing with Secretary of State),
4 2773 (Disclosure of License Identification Number), 2831 (Control Records), 2831.1 (Separate
5 Beneficiary Records), 2831.2 (Trust Fund Reconciliation), 2832 (Bank Account Not Properly
6 Designated as Trust Account) and 2834 (Trust Fund Signatories) of the Regulations and of
7 Sections 10140.6 (b) (Disclosure of License Identification Number in Advertising), 10145
8 (Trust Fund Handling), Section 10176 (e) (Commingling) of the Code and are grounds for
9 discipline under Sections 10177(d) (Willful Disregard of Real Estate Laws), 10177(g)
10 (Negligence/Incompetence Licensee), and/or 10176 (e) of the Code.

11 SECOND CAUSE OF ACTION

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13 Each and every allegation in Paragraphs 1 through 11, inclusive, is incorporated
14 by this reference as if fully set forth herein.

15 12

16 Respondent CHUANG failed to exercise reasonable supervision and control over
17 the property management activities of MPMI. In particular, CHUANG permitted, ratified and/or
18 caused the conduct described above to occur, and failed to take reasonable steps, including but
19 not limited to, the handling of trust funds, supervision of employees, and the implementation of
20 policies, rules and systems to ensure the compliance of the business with the Real Estate Law
21 and the Regulations.

22 13

23 The above acts and/or omissions of CHUANG violate Section 2725 (Broker
24 Supervision) of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the
25 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),
26 10177(g) and/or 10177(h) (Broker Supervision) of the Code.

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Audit Costs

The acts and/or omissions of Respondents, 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.

Costs of Investigation and Enforcement

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.

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 Respondents under the Real Estate Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other and further relief as may be proper under other provisions of law.


ROBIN S. TANNER
Supervising Special Investigator

Dated at Oakland, California,
this 3rd day of May, 2017.