

FILED

DEC 26 2017

BUREAU OF REAL ESTATE

By

H. De la

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9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of

13 OMNI PROPERTIES, INC., and DION
14 CHENG

Respondent.

No. H-12186 SF

ACCUSATION

15 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
16 State of California, for cause of Accusation against OMNI PROPERTIES, INC. (OMNI) and
17 DION CHENG (CHENG) (collectively "Respondents"), is informed and alleges as follows:

18 PRELIMINARY ALLEGATIONS

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20 The Complainant, ROBIN S. TANNER, a Supervising Special Investigator of the
21 State of California, makes this Accusation in her official capacity.

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

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At all times mentioned after July 26, 2017, OMNI was and is licensed by the State of California Bureau of Real Estate (Bureau) as a real estate broker corporation. At no time prior to July 26, 2017, was OMNI licensed in any capacity. CHENG is an officer, director, and 50 percent shareholder of OMNI.

At all times mentioned, CHENG was and is licensed by the Bureau as a real estate broker. At all times mentioned after July 26, 2017, CHENG was and is licensed as the designated broker officer of OMNI. As said designated officer-broker, CHENG was and is responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of OMNI for which a license is required.

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

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

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1 FIRST CAUSE OF ACTION

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3 Each and every allegation in Paragraphs 1 through 6, inclusive, is incorporated by
4 this reference as if fully set forth herein.

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6 On or about May 9, 2017 through May 10, 2017, an audit was conducted of the
7 records of OMNI. The auditor herein examined the records for the period of May 1, 2016,
8 through April 30, 2017.

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10 While acting as a real estate broker as described in Paragraph 6, Respondents
11 accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in
12 connection with the leasing, renting, and collection of rents on real property or improvements
13 thereon, as alleged herein, and thereafter from time to time made disbursements of said trust
14 funds.

15 10

16 The trust funds accepted or received by Respondents as described in Paragraph 9
17 were deposited or caused to be deposited by Respondents into trust accounts which were
18 maintained by Respondents for the handling of trust funds, and thereafter from time-to-time
19 Respondents made disbursements of said trust funds, identified as follows:

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ACCOUNT # 1	
Bank Name and Location:	Wells Fargo P.O. Box 6995 Portland, OR 97228
Account No.:	XXXXXX3333
Entitled:	Omni Properties Inc Omni Property Management

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ACCOUNT # 2	
Bank Name and Location:	Wells Fargo P.O. Box 6995 Portland, OR 97228
Account No.:	XXXXXX4335
Entitled:	Omni Properties Inc Omni Property Management
ACCOUNT # 3	
Bank Name and Location:	Wells Fargo P.O. Box 6995 Portland, OR 97228
Account No.:	XXXXXX5442
Entitled:	Omni Properties Inc dba Marbella Properties

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In the course of the activities described in Paragraph 6, Respondents:

(a) caused, suffered, or permitted the balance of funds in Account #1 to be reduced to an amount which, as of April 30, 2017, was approximately \$852.92 less than the aggregate liability of Account #1 in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations (Regulations);

(b) caused, suffered, or permitted the balance of funds in Account #2 to be reduced to an amount which, as of April 30, 2017, was approximately \$2,134.30 less than the aggregate liability of Account #2 in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

(c) caused, suffered, or permitted the balance of funds in Account #3 to be reduced to an amount which, as of April 30, 2017, was approximately \$7,648.69 less than the aggregate liability of Account #3 in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

(d) failed to deposit trust funds into one or more trust funds accounts in the name of OMNI as trustee at a bank or other financial institution, in conformance with Section 10145 of

1 the Code and Section 2832 of the Regulations;

2 (e) deposited trust funds into an interest bearing account for Account #2, in
3 violation of Section 10145(d) of the Code;

4 (f) conducted real estate activities using the fictitious business names "Omni Real
5 Estate" and "Marbella Properties", without first registering these fictitious business names with
6 the Bureau as required by Section 10159.5 of the Code and Section 2731 of the Regulations.

7 (g) failed to disclose license identification numbers on their website,
8 <http://marbellapm.com>, in violation of Section 10140.6(b) of the Code and Section 2773
9 of the Regulations.

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11 The facts alleged in the First Cause of Action are grounds for the suspension or
12 revocation of CHENG's licenses and license rights under the following sections of the Code and
13 Regulations:

14 As to Paragraphs 11(a) through 11(c), under Sections 10177(d) and/or 10177(g)
15 of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the
16 Regulations;

17 As to Paragraph 11(d), under Section 10177(d) and/or 10177(g) of the Code in
18 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

19 As to Paragraph 11(e), under Section 10177(d) and/or 10177(g) of the Code in
20 conjunction with Section 10145(d) of the Code;

21 As to Paragraph 11(f), under Sections 10177(d) and/or 10177(g) of the Code in
22 conjunction with Section 2731 of the Regulations and Section 10159.5 of the Code; and

23 As to Paragraph 11(g), under Sections 10177(d) and/or 10177(g) of the Code in
24 conjunction with Section 2773 of the Regulations and Section 10140.6(b) of the Code.

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Each and every allegation in Paragraphs 1 through 12, inclusive, above, are incorporated by this reference as if fully set forth herein.

Prior to July 26, 2017, CHENG willfully caused, suffered, permitted, and/or disregarded the real estate law by allowing OMNI to perform the acts and conduct the real estate activities described in Paragraph 6, including but not limited to the activities described in Paragraph 15, below.

Prior to July 26, 2017, in the course of the employment and activities described in Paragraph 14, CHENG, on behalf of OMNI, solicited prospective tenants for, negotiated rental agreements for, and/or collected rents from real properties owned by another or others, including but not limited to the collection of rents for 65 residential properties on behalf of 60 owners.

In acting as described above, CHENG willfully caused, suffered, and/or permitted, OMNI to violate and/or willfully disregard Section 10130 of the Code.

The facts alleged in the Second Cause of Action are grounds for the suspension or revocation of Respondents' licenses and license rights pursuant to Section 10130 of the Code in conjunction with Section 10177(d) of the Code.

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Each and every allegation in Paragraphs 1 through 17, inclusive, is incorporated by this reference as if fully set forth herein.

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Respondent CHENG failed to exercise reasonable supervision over the acts of OMNI in such a manner as to allow the acts and events described above to occur.

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The acts and/or omissions of CHENG as described in Paragraph 19, constitutes failure on the part of CHENG, as designated broker-officer for OMNI, to exercise reasonable supervision and control over the licensed activities of OMNI as required by Section 10159.2 of the Code and Section 2725 of the Regulations.

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The facts described above as to the Third Cause of Action constitute cause for the suspension or revocation of the licenses and license rights of Respondent CHENG under Section 10177(g) and/or Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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

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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.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondents under the Code, for the cost of
4 investigation and enforcement as permitted by law, and for such other and further relief as may
5 be proper under the provisions of law.

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7 ROBIN S. TANNER
Supervising Special Investigator

8 Dated at Oakland, California,

9 this 22nd day of December, _____

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11 DISCOVERY DEMAND

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