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FILED

JAN 24 2019

DEPARTMENT OF REAL ESTATE
By V. Kroyer

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 LEGEND REAL ESTATE & FINANCE and) No. H-12341 SF
13 XUDONG LI,) 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, LEGEND REAL ESTATE & FINANCE (LREF) and XUDONG LI aka JERRY
18 LI (LI), sometimes collectively referred to as Respondents, is informed and alleges as follows:

19 1

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

22 2

23 At all times mentioned herein, LREF was and is licensed by the State of
24 California Department of Real Estate (Department) as a real estate broker corporation.

25 3

26 At all times mentioned herein, LI was and is licensed by the Department
27 individually as a real estate broker, mortgage loan originator, and as the designated broker

1 officer of LREF. As the designated broker officer, LI was responsible, pursuant to Section
2 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees
3 and employees of LREF for which a real estate license is required to ensure the compliance of
4 the corporation with the Real Estate Law and Regulations.

5 4

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

11 5

12 At all times mentioned herein, Respondents engaged in the business of, acted in
13 the capacity of, advertised, or assumed to act as real estate brokers within the State of California
14 within the meaning of Section 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, Respondents leased or rented or offered to lease or rent, or
17 placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or
18 negotiated the sale, purchase or exchanges of leases on real property, or on a business
19 opportunity, or collected rents from real property, or improvements thereon, or from business
20 opportunities.

21 FIRST CAUSE OF ACTION

22 6

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

25 7

26 On or about May 8, 2018, and continuing intermittently through May 14, 2018,
27 an audit was conducted at LREF's branch office located at 2090 Warm Springs Court, Suite

1 156, Fremont, California, where the auditor examined records for the period of January 1, 2016,
2 through April 30, 2018 (the audit period).

3 8

4 While acting as real estate brokers as described in Paragraph 5, above, and within
5 the audit period, Respondents accepted or received funds in trust (trust funds) from or on behalf
6 of property owners, lessees and others in connection with property management activities, and
7 deposited or caused to be deposited those funds into bank accounts maintained by Respondents,
8 at Wells Fargo Bank, 1202 E Arques Ave, Sunnyvale, California 94085, including but not
9 limited to the following:

10

TRUST ACCOUNT #1	
11 Account No.:	XXXXXXXX4235
12 Entitled:	LEGEND REAL ESTATE & FINANCE TRUST ACCT

13

14

TRUST ACCOUNT #2	
15 Account No.:	XXXXXXXX5204
16 Entitled:	LEGEND REAL ESTATE & FINANCE TRUST ACCT

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

18 9

19 In the course of the activities described in Paragraph 5, in connection with the
20 collection and disbursement of trust funds, it was determined that:
21

- 22
- 23 (a) An accountability was performed on Trust Account #1 and Trust Account
24 #2, and as of September 18, 2017, a combined minimum shortage of
\$26,824.19 was revealed, in violation of Section 10145 of the Code;
 - 25 (b) Respondents failed to obtain written permission from owners of trust
26 funds in Trust Account #1 and Trust Account #2 to allow the balance to
27 drop below accountability, in violation of Section 2832.1 of Chapter 6,
Title 10, California Code of Regulations (Regulations);

1 (c) Respondents allowed trust funds to be deposited into Trust Account #2, an
2 interest-bearing account, in violation of Section 10145 (d) of the Code
3 and Section 2832 of the Regulations; and

4 (d) Respondents failed to reconcile at least one a month, the balance of all
5 separate beneficiary or transaction records for Trust Account #1 and #2,
6 in violation of Section 2831.2 of the Regulations.

7 10

8 The acts and/or omissions described above constitute violations of Sections
9 2831.2 (Trust Account Reconciliation), 2832 (Trust Funds Deposited into Interest-Bearing
10 Account), and 2832.1 (Written Permission for Balance Below Accountability) of the
11 Regulations and of Section 10145 (Trust Fund Handling) of the Code, and are grounds for
12 discipline under Sections 10177(d) (Willful Disregard of Real Estate Laws) and/or 10177(g)
13 (Negligence/Incompetence Licensee) of the Code.

14 SECOND CAUSE OF ACTION

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16 Each and every allegation in Paragraphs 1 through 10, inclusive, is incorporated
17 by this reference as if fully set forth herein.

18 12

19 As of September 18, 2017, Trust Account #1 and Trust Account #2 had a
20 combined minimum shortage of \$26,824.19.

21 13

22 The entire shortage was attributable to LI's use of those trust funds as payment of
23 his daughter's college tuition to the University of Michigan.

24 14

25 The acts and/or omissions described above constitute grounds for the suspension
26 or revocation of all licenses and license rights of Respondents pursuant to Sections 10176 (i)
27 (Grounds for Revocation or Suspension – Fraud or Dishonest Dealing), 10177 (d) (Willful

///

1 Disregard of Real Estate Laws), 10177 (g) (Negligence/Incompetence of Licensee) and 10177
2 (j) (Further Grounds of Disciplinary Action – Fraud or Dishonest Dealing) of the Code.

3 THIRD CAUSE OF ACTION

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

7 16

8 Respondent LI failed to exercise reasonable supervision and control over the
9 property management activities of LREF. In particular, LI permitted, ratified and/or caused the
10 conduct described above to occur, and failed to take reasonable steps, including but not limited
11 to, the handling of trust funds, supervision of employees, and the implementation of policies,
12 rules and systems to ensure the compliance of the business with the Real Estate Law and the
13 Regulations.

14 17

15 The above acts and/or omissions of LI violate Section 2725 (Broker Supervision)
16 of the Regulations and Section 10159.2 (Responsibility/Designated Officer) of the Code and
17 constitute grounds for disciplinary action under the provisions of Sections 10177(d), 10177(g)
18 and/or 10177(h) (Broker Supervision) of the Code.

19 COST RECOVERY

20 18

21 Audit Costs

22 The acts and/or omissions of Respondents, as alleged above, entitle the
23 Department to reimbursement of the costs of its audits pursuant to Section 10148(b) (Audit Costs
24 for Trust Fund Handling Violations) of the Code.

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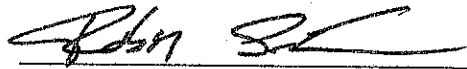
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Costs of Investigation and Enforcement

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, 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 22nd day of January, 2019.

DISCOVERY DEMAND

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