

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 137007
5 Sacramento, CA 95813-7007

6 Telephone: (916) 576-8700
7 (916) 579-7847 (Direct)

8 Fax: (916) 263-3767

FILED

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DEPARTMENT OF REAL ESTATE
By B. Andrews

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation of)

12 OMNI PROPERTIES, INC., and DION)
13 CHENG)

14 Respondent.)

No. H-12493 SF

ACCUSATION

15 The Complainant, STEPHANIE YEE, 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

19 1

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

22 2

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

25 3

26 At all times mentioned, OMNI was and is licensed by the State of California
27 Department of Real Estate (Department) as a restricted real estate broker corporation.

1 4

2 At all times mentioned, CHENG was and is licensed by the Department as a
3 restricted real estate broker, and is licensed as the designated broker officer of OMNI. As said
4 designated officer-broker, CHENG was and is responsible pursuant to Section 10159.2 of the
5 Code for the supervision of the activities of the officers, agents, real estate licensees, and
6 employees of OMNI for which a license is required.

7 5

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

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

22 FIRST CAUSE OF ACTION

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

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On or about April 16, 2019 through March 12, 2020, an audit was conducted of the records of OMNI. The auditor herein examined the records for the period of May 11, 2018, through February 28, 2019.

While acting as a real estate broker as described in Paragraph 6, Respondents 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 Respondents as described in Paragraph 9 were deposited or caused to be deposited by Respondents into trust accounts which were maintained by Respondents for the handling of trust funds, and thereafter from time-to-time Respondents made disbursements of said trust funds, identified as follows:

ACCOUNT # 1	
Bank Name and Location:	Wells Fargo P.O. Box 6995 Portland, OR 97228
Account No.:	XXXXXX5442
Entitled:	Omni Properties Inc as Trustee DBA: Marbella Properties Omni Real Estate

ACCOUNT # 2	
Bank Name and Location:	Wells Fargo P.O. Box 6995 Portland, OR 97228
Account No.:	XXXXXX6926
Entitled:	Omni Properties Inc as Trustee DBA: Marbella Properties Omni Real Estate

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 January 31, 2019, was approximately \$23,332.78 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 January 31, 2019, was approximately \$4,415.00 less than the aggregate liability of Account #2 in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

(c) failed to reconcile the balance of separate beneficiary or transaction records with the control record of trust funds received and disbursed at least once a month, and/or failed to maintain a record of such reconciliations for Account #1 and 2 as required by Section 2831.2 of the Regulations; and

(d) commingled with its own money or property, the money or property of others which was received or held by OMNI in trust in violation of Section 10176(e) of the Code;

(e) failed to immediately notify the Commissioner in writing when real estate salesperson Christina Villegas-Manahan and real estate broker Rachel Enriquez Wong entered its employ, as required by Section 10161.8 of the Code; and,

(f) failed to maintain a broker-licensee agreement with Rachel Enriquez Wong., in violation of Section 2726 of the Regulations.

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

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1 As to Paragraphs 11(a) through 11(b), under Sections 10177(d) and/or 10177(g)
2 of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the
3 Regulations;

4 As to Paragraph 11(c), under Section 10177(d) and/or 10177(g) of the Code in
5 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations;

6 As to Paragraph 11(d), under Section 10176(e) of the Code;

7 As to Paragraph 11(e), under Sections 10177(d) and/or 10177(g) of the Code in
8 conjunction with Section 10161.8 of the Code; and

9 As to Paragraph 11(f), under Sections 10177(d) and/or 10177(g) of the Code in
10 conjunction with Section 2726 of the Regulations.

11 SECOND CAUSE OF ACTION

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

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

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19 The acts and/or omissions of CHENG as described in Paragraph 14, constitutes
20 failure on the part of CHENG, as designated broker-officer for OMNI, to exercise reasonable
21 supervision and control over the licensed activities of OMNI as required by Section 10159.2 of
22 the Code and Section 2725 of the Regulations.

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

1 COST RECOVERY

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

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

10 PRIOR DISCIPLINARY ACTION

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12 Effective May 10, 2018, in Case No. H-12186 SF before the Department, the Real
13 Estate Commissioner revoked the real estate corporate broker license of OMNI, for violation of
14 Section 10177(d) of the Code, and real estate broker license of CHENG for violation of Sections
15 10177(d) and 10177(h) of the Code, but granted the right to a restricted real estate licenses, on
16 terms, conditions, and restrictions set forth in the Order.

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

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23 STEPHANIE YEE
24 Supervising Special Investigator

25 Dated at Oakland, California,
26 this 15th day of October, 2020

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