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FILED

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DEPARTMENT OF REAL ESTATE
By B. Nicholas

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

CROSSBAY GROUP INC.;

and

TING YI CHANG, individually and as
designated officer of Crossbay Group Inc.,

Respondents.

No. H-12646 SF

ACCUSATION

The Complainant, STEPHANIE YEE, a Supervising Special Investigator of the
State of California, for cause of Accusation against CROSSBAY GROUP INC. and TING YI
CHANG (collectively referred to as "Respondents"), is informed and alleges as follows:

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

PRELIMINARY ALLEGATIONS

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

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At all times mentioned, Respondent CROSSBAY GROUP INC (CGI) was and is licensed by the Department as a real estate broker, License ID 02037948. CGI was licensed by the Department as a real estate corporation on or about June 5, 2017. Unless renewed CGI's corporate broker license expires on June 4, 2025.

At all times mentioned, TING YI CHANG (CHANG) was licensed by the Department as the designated broker officer of CGI. As said designated officer-broker, CHANG 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 CGI for which a license is required.

At all times mentioned, CHANG was and is 100 percent shareholder, and the Chief Executive Officer of CGI.

At all times mentioned, Respondent CHANG was and is licensed by the Department individually as a real estate broker, License ID 01944586, and as the designated officer of CGI. CHANG was licensed as a real estate salesperson on December 23, 2013, and as a broker on December 11, 2015. Unless renewed, CHANG's broker license will expire December 10, 2023.

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

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AUDIT OK20-0054

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On or about March 24, 2021, the Department completed its audit (OK20-0054) of the books and records of CGI property management activities described in Paragraph 7. The auditor herein examined the records for the period of January 1, 2019, through January 31, 2021.

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At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Sections 10131(b) of the Code, including 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 solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

As of the audit examination, Respondents managed approximately sixty-three (63) one-to-four family residential properties with eighty-seven (87) units for approximately forty (40) owners. Respondents collected approximately \$144,000 in trust funds annually.

Respondents' property management services include, but not limited to, collecting rents, paying expenses, and screening tenants. For such property management services, Respondents charged a management fees between \$50 and \$100 per unit per month and 4 to 6 percent of collected rents per unit per month.

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While acting as a real estate broker as described in Paragraph 7, 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.

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The trust funds accepted or received by Respondents were deposited or caused to be deposited by Respondents into 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:	Bank of America 108 East Brokaw Road San Jose, CA 95351
Account No.:	XXXXXXXXX5756
Account Name:	Crossbay Group Inc.
Purpose:	Account #1 was used for the handling of trust funds from property management activities.

ACCOUNT # 2	
Bank Name and Location:	JP Morgan Chase
Account No.:	XXXXXX2031
Account Name:	Crossbay Group Inc.
Purpose:	Account #2 was used for property owner Yao-Kuang Wu for management of his property 40953 Morningside Terrace, Fremont.

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In the course of the property management activities described in Paragraph 7, and during the audit examination period described in Paragraph 6, Respondents violated the Code and Regulations described below:

Trust Account Accountability and Balances

Based on the records provided during the audit, a bank reconciliation for Account #1 was prepared as of January 31, 2021. The adjusted bank balance was then compared to the corresponding sum of all the Separate Records for Each Beneficiary.

Adjusted Bank Balance	\$203,902.69
Accountability	<u>\$221,76.67</u>
Trust Fund Shortage	<u>(\$17,273.98)</u>

A shortage of \$17,273.98 was found in Account #1 as of January 31, 2021. The shortage was caused by the following: (a) negative balances in property/owners accounts in the amount of \$16,123.93, and (b) negative balance in the broker's account in the amount of \$1,150.05.

Respondents provided no evidence that the owners of the trust funds had given their written consent to allow Respondents to reduce the balance of the funds in Account #1 to an amount less than the existing aggregate trust fund liabilities, in violation of Section 10145 of the Code and Section 2832.1 of Title 10, Chapter 6, California Code of Regulations (Regulations).

Trust Account Designation

During the audit period, Account #1 and Account #2, accounts used to hold trust funds, were not designated as trust accounts in the name of the broker or the broker's fictitious business name as trustee, in violation of Section 10145 of the Code and Section 2832 Title 10,

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Chapter 6, California Code of Regulations (Regulations). The accounts were titled "Crossbay Group Inc."

Trust Account Reconciliation

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Respondents 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, as required by Section 2831.2 of the Regulations.

FAILURE TO SUPERVISE

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Respondent CHANG failed to exercise reasonable supervision over the acts of CGI 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 CHANG as described in Paragraph 13, constitutes failure on the part of CHANG, as designated broker-officer for CGI, to exercise reasonable supervision and control over the licensed activities of CGI as required by Section 10159.2 of the Code and Section 2725 of the Regulations.

GROUND FOR DISCIPLINE

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The acts and/or omissions of Respondents as alleged in the above constitute grounds for the suspension or revocation of all licenses and license rights of Respondents, pursuant to the following provisions of the Code and Regulations:

As to Paragraph 10, under Sections 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

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

1 As to Paragraph 12, under Sections 10177(d) and/or 10177(g) of the Code in
2 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations.

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4 The acts and/or omissions of CHANG as alleged in Paragraphs 13 and 14
5 constitute grounds for the suspension or revocation of all licenses and license rights of CHANG
6 under Sections 10177(g) and/or 10177(h) of the Code, and Section 10159.2 of the Code in
7 conjunction with Section 10177(d) of the Code.

8 COST RECOVERY

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

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

17 WHEREFORE, Complainant prays that a hearing be conducted on the
18 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
19 disciplinary action against all licenses and license rights of Respondent under the Code, for the

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1 cost of investigation and enforcement as permitted by law, and for such other and further relief as
2 may be proper under the provisions of law.

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5 STEPHANIE YEE
6 Supervising Special Investigator

7 Dated at Oakland, California,
8 this 24th day of February, 2023
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21 DISCOVERY DEMAND

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