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DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

OMNI PROPERTIES, INC.,
and DION CHENG,

Respondents.

No. H-12735 SF

FIRST AMENDED
ACCUSATION

The Complainant, STEPHANIE YEE, acting in her official capacity as a
Supervising Special Investigator of the State of California, for cause of Accusation against
Respondents OMNI PROPERTIES, INC. (OMNI) and DION CHENG (CHENG), collectively
Respondents, is informed and alleges as follows:

1

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

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At all times mentioned herein, CHENG was and is licensed by the Department individually as a real estate broker, and as the designated broker officer of OMNI. As the designated broker officer, CHENG was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees and employees of OMNI for which a real estate license is required to ensure the compliance of the corporation with the Real Estate Law and Regulations.

Whenever reference is made to 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 herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 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 or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

At all times herein mentioned, Respondents conducted real estate activity under the registered fictitious business names, "Marbella Properties" and "Omni Real Estate".

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1 FIRST CAUSE OF ACTION

2 Audit OK 22-0010

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

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7 On or about October 11, 2023, the Department completed its audit of the records
8 of OMNI's property management activities. The Department's auditor examined records for the
9 period of July 1, 2021, through June 30, 2022 (the audit period).

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11 While acting as a real estate broker as described in Paragraph 5, above, and
12 within the audit period, Respondents accepted or received funds in trust (trust funds) from or on
13 behalf of property owners, lessees and others in connection with property management
14 activities, and deposited, caused to be deposited, or directed that the trust funds be deposited
15 into bank accounts maintained by Respondents, at Wells Fargo Bank, N.A., P.O. Box 6995,
16 Portland, Oregon 97228, including but not limited to the following:

17 Trust Account #1

18 Account No.: XXXXXX5442

19 Account Name: OMNI PROPERTIES INC. AS TRUSTEE

MARBELLA PROPERTIES OMNI REAL ESTATE

20 Signatories: Dion Cheng; Rachel Wong

21 Trust Account #2

22 Account No.: XXXXXX6926

23 Account Name: OMNI PROPERTIES INC. AS TRUSTEE

DBA MARBELLA PROPERTIES OMNI REAL ESTATE

24 Signatories: Dion Cheng; Rachel Wong

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

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In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds during the audit period, Respondents violated the Real Estate Law as described below:

- (a) A bank reconciliation was performed on Trust Account #1, and as of June 30, 2022, there was a shortage in the amount of \$5,208.88 revealed, in violation of Section 10145 of the Code;
- (b) A bank reconciliation was performed on Trust Account #2, and as of June 30, 2022, there was a shortage in the amount of \$771.62 revealed, in violation of Section 10145 of the Code;
- (c) Respondents failed to obtain written permission from owners of trust funds in Trust Account #1 and Trust Account #2, to allow the balances to drop below accountability, in violation of Section 2832.1 of Chapter 6, Title 10, California Code of Regulations (Regulations); and
- (d) Respondent failed to perform and/or maintain records of monthly reconciliations, reconciling the balance of all separate beneficiary or transaction records with the balance of the record of all trust funds received and disbursed for Trust Account #1 and Trust Account #2, in violation of Section 2831.2 of the Regulations.

The acts and/or omissions described above constitute violations of Sections 2832.1 (Written Permission for Balance Below Accountability) and 2831.2 (Trust Account Reconciliation) of the Regulations, and of Sections 10145 (Trust Fund Handling) and are grounds for discipline under Sections 10177(d) (Willful Disregard of Real Estate Laws) and/or 10177(g) (Negligence/Incompetence Licensee) of the Code.

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1 SECOND CAUSE OF ACTION

2 Failure to Supervise

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

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

13 14

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

18 PRIOR ADMINISTRATIVE ACTION

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20 Effective May 10, 2018, in Case No. H-12186 SF, before the Bureau¹, the
21 Real Estate Commissioner revoked all licenses and licensing rights of Respondents. However,
22 Respondents were granted:

- 23 (a) right to the issuance of a restricted real estate broker corporation license for
24 OMNI; and
25 (b) right to the issuance of a restricted real estate broker license for CHENG,
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27 ¹ Effective July 1, 2018, the Bureau of Real Estate became the Department of Real Estate. (Bus. & Prof. Code § 10005.)

1 subject to terms, conditions and restrictions imposed pursuant to Sections 10156.5 and 10156.7
2 of the Code. The Real Estate Commissioner determined Respondents were in violation of the
3 following: Sections 2731, 2773, 2832, and 2832.1 of the Regulations, and Sections 10130,
4 10140.6 (b) 10145, 10159.5, 10177 (d) of the Code, and CHENG had violated Section 10177 (h)
5 of the Code.

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7 Effective June 28, 2021, in Case No. H-12493 SF, before the Department, the
8 Real Estate Commissioner continued the restricted licenses of Respondent, subject to the same
9 conditions, limitations, and restrictions attached to its initial issuance; provided, however, the
10 term of the restricted licenses was to be extended for an additional three years. The Real Estate
11 Commissioner determined Respondents were in violation of the following: Sections 2726,
12 2831.2, and 2832.1 of the Regulations, and Sections 10145, 10161.8, 10176 (e), 10177 (d), and
13 10177 (g) of the Code, and CHENG had violated Section 2725 of the Regulations, and Sections
14 10159.2, and 10177 (h) of the Code.

15 COST RECOVERY

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17 Audit Costs

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

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22 Costs of Investigation and Enforcement

23 Section 10106 of the Code provides, in pertinent part, that in any order issued in
24 resolution of a disciplinary proceeding before the Department, the commissioner may request the
25 administrative law judge to direct a licensee found to have committed a violation of this part to
26 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
2 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
3 disciplinary action against all licenses and license rights of Respondents under the Real Estate
4 Law, for the cost of the investigation and enforcement as permitted by law, for the cost of the
5 audit as permitted by law, and for such other and further relief as may be proper under other
6 provisions of law.

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8 STEPHANIE YEE
9 Supervising Special Investigator

10 Dated at Oakland, California,
11 this 18th day of August, 2025.

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13 DISCOVERY DEMAND

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