

Santo

Department of Real Estate
320 W. 4TH Street, Suite 350
Los Angeles, CA 90013-1105

FILED

Telephone: (213) 576-6982

SEP 15 2009

DEPARTMENT OF REAL ESTATE
BY: [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | | |
|------------------------------------|---|--------------------|
| In the Matter of the Accusation of |) | No. H-35612 LA |
| |) | |
| SBL PROFESSIONAL REALTY INC.; |) | |
| and, YAN-LIANG LIN, individually |) | <u>STIPULATION</u> |
| and as designated officer of |) | <u>AND</u> |
| SBL Professional Realty Inc., |) | <u>AGREEMENT</u> |
| |) | |
| Respondents. |) | |

It is hereby stipulated by and between Respondents SBL PROFESSIONAL REALTY INC. and YAN-LIANG LIN, individually and as designated officer of SBL Professional Realty Inc. (sometimes collectively referred to as "Respondents"), represented by Richard T. Hsueh, Esq., and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 14, 2009, in this matter:

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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act ("APA"), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement ("Stipulation").

8 2. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondents filed a Notice of Defense pursuant to
13 Section 11506 of the Government Code for the purpose of
14 requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense the right to cross-examine
23 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations, without being admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.

10 5. This Stipulation is made for the purpose of
11 reaching an agreed disposition of this proceeding and is
12 expressly limited to this proceeding and any other proceeding or
13 case in which the Department of Real Estate ("Department"), or
14 another licensing agency of this state, another state or if the
15 federal government is involved, and otherwise shall not be
16 admissible in any other criminal or civil proceeding.

17 6. It is understood by the parties that the Real
18 Estate Commissioner may adopt this Stipulation as his Decision in
19 this matter thereby imposing the penalty and sanctions on
20 Respondents' real estate licenses and license rights as set forth
21 in the below "Order". In the event that the Commissioner in his
22 discretion does not adopt the Stipulation, the Stipulation shall
23 be void and of no effect and Respondents shall retain the right
24 to a hearing and proceeding on the Accusation under the
25 provisions of the APA and shall not be bound by any stipulation
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1 or waiver made herein.

2 7. The Order or any subsequent Order of the Real
3 Estate Commissioner made pursuant to this Stipulation shall not
4 constitute an estoppel, merger or bar to any further
5 administrative or civil proceedings by the Department of Real
6 Estate with respect to any matters which were not specifically
7 alleged to be causes for accusation in this proceeding.

8 8. Respondents understand that by agreeing to this
9 Stipulation, Respondents agree to pay, pursuant to Business and
10 Professions Code Section 10148, the cost of the audit which led
11 to this disciplinary action. The amount of said cost is
12 \$5,856.50.

13 9. Respondents have received, read, and understand the
14 "Notice Concerning Costs of Subsequent Audit". Respondents
15 further understand that by agreeing to this Stipulation, the
16 findings set forth below in the Determination of Issues become
17 final, and the Commissioner may charge Respondents for the cost
18 of any subsequent audit conducted pursuant to Business and
19 Professions Code Section 10148 to determine if the violations
20 have been corrected. The maximum cost of the subsequent audit
21 will not exceed \$5,856.50.

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DETERMINATION OF ISSUES

By reason of the foregoing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct of SBL PROFESSIONAL REALTY INC. as described in Paragraph 4, above, is in violation of Sections 10145 of the Business and Professions Code ("Code") and Sections 2715, 2832.1, 2831, 2831.1, 2832(a), 2834 and 2835, of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for the suspension or revocation of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Sections 10177(d).

II.

The conduct of YAN-LIANG LIN, as described in Paragraph 4, above, constitutes a failure to keep SBL PROFESSIONAL REALTY INC. in compliance with the Real Estate Law during the time that he was the officer designated by a corporate broker licensee in violation of Section 10159.2 of the Code. This conduct is a basis for the suspension or revocation of Respondent's license pursuant to Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondents SBL PROFESSIONAL REALTY INC. and YAN-LIANG LIN, under the Real Estate Law are revoked; provided, however, restricted real estate broker licenses shall be issued to said Respondents, pursuant to Section 10156.5 of the Business and Professions Code if Respondents:

(A) Make application thereof and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision.

(B) Respondent YAN-LIANG LIN shall, prior to and as a condition of the issuance of the restricted license, submit proof satisfactory to the Commissioner of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that Respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.

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1 The restricted licenses issued to Respondents shall be
2 subject to all of the provisions of Section 10156.7 of the
3 Business and Professions Code and to the followings limitations,
4 conditions and restrictions imposed under authority of Section
5 10156.6 of that Code:

6 1. The restricted license issued to Respondents may be
7 suspended prior to hearing by Order of the Real Estate
8 Commissioner in the event of a Respondent's conviction or plea of
9 nolo contendere to a crime which is substantially related to a
10 Respondent's fitness or capacity as a real estate licensee.

11 2. The restricted licenses issued to Respondents may
12 be suspended prior to hearing by Order of the Real Estate
13 Commissioner on evidence satisfactory to the Commissioner that a
14 Respondent has violated provisions of the California Real Estate
15 Law, the Subdivided Lands Law, Regulations of the Real Estate
16 Commissioner or conditions attaching to the restricted license.

17 3. Respondents shall not be eligible to apply for the
18 issuance of an unrestricted real estate license nor for the
19 removal of any of the conditions, limitations or restrictions of
20 a restricted license until one (1) year have elapsed from the
21 effective date of this Decision.

22 4. Respondent YAN-LIANG LIN shall, within nine (9)
23 months from the effective date of this Decision, present evidence
24 satisfactory to the Real Estate Commissioner that Respondent has,
25 since the most recent issuance of an original or renewal real
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1 estate license, taken and successfully completed the continuing
2 education requirements of Article 2.5 of Chapter 3 of the Real
3 Estate Law for renewal of a real estate license. If Respondent
4 fails to satisfy this condition, the Commissioner may order the
5 suspension of his license until the Respondent presents such
6 evidence. The Commissioner shall afford Respondent the
7 opportunity for a hearing pursuant to the Administrative
8 Procedure Act to present such evidence.

9 5. Respondent YAN-LIANG LIN shall within six (6)
10 months from the effective date of the restricted license, take
11 and pass the Professional Responsibility Examination administered
12 by the Department including the payment of the appropriate
13 examination fee. If Respondent fails to satisfy this condition,
14 the Commissioner may order suspension of the restricted license
15 until respondent passes the examination.

16 6. During the restricted period set forth above,
17 Respondent YAN-LIANG LIN shall not serve as the designated
18 officer for any corporate real estate broker unless and until
19 Respondent is the owner of record of the controlling shares of
20 the corporation.

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II.

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2 Any restricted license issued to SBL PROFESSIONAL
3 REALTY CORPORATION and YAN-LIANG LIN pursuant to this Decision
4 shall be suspended for sixty days from the date of issuance of
5 said restricted license; provided, however, that if Respondents
6 request, all sixty days of said suspension (or a portion thereof)
7 shall be stayed upon condition that:

8 1. Respondents each pay a monetary penalty pursuant to
9 Section 10175.2 of the Business and Professions Code at the rate
10 of \$25.00 per day for each day of the suspension for a monetary
11 penalty of \$1,500 each or a total monetary penalty of \$3,000.

12 2. Said payment shall be in the form of a cashier's
13 check or certified check made payable to the Recovery Account of
14 the Real Estate Fund. Said check must be received by the
15 Department prior to the effective date of the Decision in this
16 matter.

17 3. No further cause for disciplinary action against
18 the real estate licenses of Respondents occurs within one year
19 from the effective date of the Decision in this matter.

20 4. If Respondents fail to pay the monetary penalty in
21 accordance with the terms of the Decision, the Commissioner may,
22 without a hearing, order the immediate execution of all or any
23 part of the stayed suspension, in which event the Respondents
24 shall not be entitled to any repayment nor credit, prorated or
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1 otherwise, for money paid to the Department under the terms of
2 this Decision.

3 5. If Respondents pay the monetary penalty and if no
4 further cause for disciplinary action against the real estate
5 licenses of Respondents occurs within one year from the effective
6 date of the Decision, the stay hereby granted shall become
7 permanent.

8 III.

9 Pursuant to Section 10148 of the Business and
10 Professions Code, Respondents shall pay the Commissioner's
11 reasonable cost for (a) the audits which led to this
12 disciplinary action and (b) a subsequent audits to determine if
13 Respondents SBL PROFESSIONAL REALTY INC. and YAN-LIANG LIN are
14 now in compliance with the Real Estate Law. The cost of the
15 audit which led to this disciplinary action is \$5,856.50. In
16 calculating the amount of the Commissioner's reasonable cost,
17 the Commissioner may use the estimated average hourly salary for
18 all persons performing audits of real estate brokers, and shall
19 include an allocation for travel time to and from the auditor's
20 place of work. Said amount for the prior and subsequent audits
21 shall not exceed \$11,713.00. Respondents are jointly and
22 severally liable for the cost of the audits.

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1 Respondents shall pay such cost within 60 days of
2 receiving an invoice from the Commissioner detailing the
3 activities performed during the audit and the amount of time
4 spent performing those activities.

5 The Commissioner may suspend the license of Respondents
6 pending a hearing held in accordance with Section 11500, et seq.,
7 of the Government Code, if payment is not timely made as provided
8 for herein, or as provided for in a subsequent agreement between
9 the Respondents and the Commissioner. The suspension shall
10 remain in effect until payment is made in full or until a
11 Respondent enters into an agreement satisfactory to the
12 Commissioner to provide for payment, or until a decision
13 providing otherwise is adopted following a hearing held pursuant
14 to this condition.

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17 DATED: 8-18-09

EJL
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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19 * * *

20 EXECUTION OF THE STIPULATION

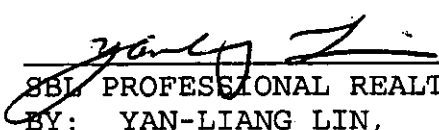
21 We have read the Stipulation, and have discussed it
22 with our counsel. Its terms are understood by us and are
23 agreeable and acceptable to us. We understand that we are
24 waiving rights given to us by the California Administrative
25 Procedure Act (including but not limited to Sections 11506,
26 11508, 11509 and 11513 of the Government Code), and we willingly,
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1 intelligently and voluntarily waive those rights, including the
2 right of requiring the Commissioner to prove the allegations in
3 the Accusation at a hearing at which we would have the right to
4 cross-examine witnesses against us and to present evidence in
5 defense and mitigation of the charges.

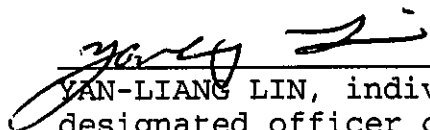
6 FACSIMILE

7 Respondents can signify acceptance and approval of the
8 terms and conditions of this Stipulation by faxing a copy of its
9 signature page, as actually signed by Respondents, to the
10 Department at the following facsimile number: Elliott Mac Lennan
11 at (213) 576-6917. Respondents agree, acknowledge and understand
12 that by electronically sending to the Department a fax copy of
13 Respondents' actual signature as they appear on the Stipulation,
14 that receipt of the faxed copy by the Department shall be as
15 binding on Respondents as if the Department had received the
16 original signed Stipulation.
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18 DATED: 8-20-09


SBL PROFESSIONAL REALTY INC.,
BY: YAN-LIANG LIN,
Respondent

21 DATED: 8-20-09


YAN-LIANG LIN, individually and as
designated officer of SBL
Professional Realty Inc.,
Respondent

25 DATED: 8-20-09

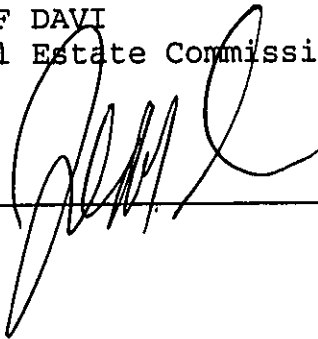

RICHARD T. HSUEH, ESQ., Attorney
for Respondents
Approved as to form

* * *

1 The foregoing Stipulation and Agreement is hereby
2
3 adopted as my Decision as to Respondents SBL PROFESSIONAL REALTY
4 INC. and YAN-LIANG LIN, individually and as designated officer of
5 SBL Professional Realty Inc. and shall become effective at 12
6 o'clock noon on October 15 , 2009.

7 IT IS SO ORDERED 9-2- , 2009.

8 JEFF DAVI
9 Real Estate Commissioner

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FILED

JAN 14 2009

DEPARTMENT OF REAL ESTATE

BY: *Be Ly*

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H- 35612 LA

12 SBL PROFESSIONAL REALTY INC.,)
13 and YAN-LIANG LIN,)
14 individually and as designated)
15 officer of SBL Professional)
16 Realty Inc.,)

A C C U S A T I O N

17 Respondents.)

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against SBL PROFESSIONAL REALTY INC. and YAN-LIANG LIN,
21 individually and as designated officer of SBL Professional Realty
22 Inc., alleges as follows:

23 1.

24 The Complainant, Robin Trujillo, acting in her official
25 capacity as a Deputy Real Estate Commissioner of the State of
26 California, makes this Accusation against SBL PROFESSIONAL REALTY
27 INC. and YAN-LIANG LIN.

2.

1 All references to the "Code" are to the California
2 Business and Professions Code and all references to "Regulations"
3 are to Title 10, Chapter 6, California Code of Regulations.
4

5 LICENSE HISTORY

6 3.

7 A. At all times mentioned, SBL PROFESSIONAL REALTY
8 INC. ("SBL") was licensed or had license rights issued by the
9 Department of Real Estate ("Department") as a real estate broker
10 by and through YAN-LIANG LIN.

11 B. At all times mentioned, YAN-LIANG LIN ("LIN") was
12 licensed or had license rights issued by the Department as a real
13 estate broker.

14 LICENSED ACTIVITIES AND BROKERAGE

15 SBL PROFESSIONAL REALTY INC.

16 4.

17 At all times mentioned, in the City and County of
18 Orange, SBL acted as a real estate broker and conducted licensed
19 activities within the meaning of Code Section 10131(b). SBL
20 operated a property management brokerage.
21

22 AUDIT

23 5.

24 On December 2, 2008, the Department completed an audit
25 examination of the books and records of SBL pertaining to the
26 property management activities described in Paragraph 4, that
27

1 require a real estate license. The audit examination covered a
2 period of time beginning on January 1, 2007 to June 23, 2008.
3 The audit examination revealed violations of the Code and the
4 Regulations as set forth in the following paragraphs, and more
5 fully discussed in Audit Report LA 070401 and the exhibits and
6 work papers attached to said audit report.

7 TRUST ACCOUNTS

8 6.

9 At all times mentioned, in connection with the
10 activities described in Paragraph 4, above, SBL accepted or
11 received funds including funds in trust (hereinafter "trust
12 funds") from or on behalf of actual or prospective parties to
13 transactions handled by SBL including property owners and
14 tenants. SBL maintained five trust accounts:
15

16 "SBL Professional Realty Inc. Management
17 07290-07779"
18 Bank of America
19 San Francisco, CA

(T/A #1)

20
21 "SBL Professional Realty Inc. Frisco
22 07293-42110"
23 Bank of America
24 San Francisco, CA

(T/A #2)

25 "SBL Professional Realty Inc. TSN Country Corner
26 07296-43137"
27 Bank of America
San Francisco, CA

(T/A #3)

1 "SBL Professional Realty Inc. Rancho Sunset
07295-68916"

2 Bank of America
3 San Francisco, CA

(T/A #4)

4 "SBL Professional Realty Inc. Warner Village
5 07297-61244"

6 Bank of America
San Francisco, CA

(T/A #5)

7
8 VIOLATIONS OF THE REAL ESTATE LAW

9 7.

10 In the course of activities described in Paragraphs 4
11 and 6, above, and during the examination period described in
12 Paragraph 5, Respondents SBL and LIN, acted in violation of the
13 Code and the Regulations in that they:

14 (a) Permitted, allowed or caused the disbursement of
15 trust funds from T/A #1 where the disbursement of funds reduced
16 the total of aggregate funds in escrow trust account, to an
17 amount which, on June 23, 2008, was \$82,231.62, less than the
18 existing aggregate trust fund liability of SBL to every principal
19 who was an owner of said funds, without first obtaining the prior
20 written consent of the owners of said funds, as required by Code
21 Section 10145 and Regulations 2832.1. The shortage was restored
22 to T/A #1 on November 13, 2008.

23 (b) Failed to maintain a control record in the form of
24 a columnar record in chronological order of all trust funds
25 received, deposited and disbursed by T/A #1, as required by Code
26 Section 10145 and Regulation 2831.
27

1 (c) Failed to maintain a separate record for each
2 beneficiary or transaction, thereby failing to account for all
3 trust funds received, deposited and disbursed for T/A #1, as
4 required by Code Section 10145 and Regulation 2831.1.

5 (d) Failed to perform a monthly reconciliation of the
6 balance of all separate beneficiary or transaction records
7 maintained pursuant to Regulation 2831.1 with the record of all
8 trust funds received and disbursed by T/A #1, as required by Code
9 Section 10145 and Regulation 2831.2.

10 (e) All trust accounts, T/A #1 - T/A #5, were not
11 designated as trust accounts, in violation of Code Section 10145
12 of the Code and Regulations 2832(a).

13 (f) Permitted Scotty Lin, unlicensed and unbonded
14 persons, to be an authorized signatory on T/A #1 and T/A #3, in
15 violation of Code Section 10145 and Regulation 2834.

16 (g) Commingled \$46,500.00 of SBL's own funds with trust
17 funds of T/A #1, 10176(e) and Regulation 2835; and

18 (h) Conducted escrow activities at 790 The City Drive
19 South, Suite 100, Orange, California, Drive, Building 31-D and at
20 9037 Arrow Route, prior to obtaining branch office licenses from
21 the Department, in violation of Code Section 10163 and Regulation
22 2715.
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DISCIPLINARY STATUTES AND REGULATIONS

8.

The conduct of Respondents SBL and LIN, as alleged and described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

| <u>PARAGRAPH</u> | <u>PROVISIONS VIOLATED</u> |
|------------------|---|
| 7(a) | Code Section 10145 and Regulation 2832.1 |
| 7(b) | Code Section 10145 and Regulation 2831 |
| 7(c) | Code Section 10145 and Regulation 2831.1 |
| 7(d) | Code Section 10145 and Regulation 2831.2 |
| 7(e) | Code Section 10145 and Regulation 2832(a) |
| 7(f) | Code Section 10145 and Regulation 2834 |

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1 7(g)

Code Section 10145 and Regulation
2835

3
4 7(h)

Code Section 10162 and Regulation
2715

5
6 The foregoing violations constitute cause for the suspension or
7 revocation of the real estate license and license rights of SBL
8 and LIN under the provisions of Code Sections 10177(d) and/or
9 10177(g).

10 NEGLIGIENCE

11 9.

12 The overall conduct of Respondents SBL and LIN
13 constitutes negligence and is cause for the suspension or
14 revocation of the real estate license and license rights of said
15 Respondents pursuant to Code Section 10177(g).

16 10.

17 The overall conduct of Respondent LIN constitutes a
18 failure on his part, as officer designated by a corporate broker
19 licensee, to exercise the reasonable supervision and control over
20 the licensed activities of SBL as required by Code Section
21 10159.2. This conduct is cause for the suspension or revocation
22 of the real estate license and license rights of LIN pursuant to
23 the provisions of Code Sections 10177(d) and 10177(h).

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against the license and license rights of Respondents SBL
5 PROFESSIONAL REALTY INC. and YAN-LIANG LIN, under the Real Estate
6 Law (Part 1 of Division 4 of the Business and Professions Code)
7 and for such other and further relief as may be proper under
8 other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 12 day of January 2009.

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12 _____
13 Deputy Real Estate Commissioner
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24 cc: SBL Professional Realty Inc.
25 c/o Yan-Liang Lin D.O.
26 Robin Trujillo
27 Sacto
Audits - Zaky Wanis