

FILED

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DEPARTMENT OF REAL ESTATE
BY: 

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
SUMMIT MORTGAGE BANKERS INC.; and)
MING MIN CHEN, individually)
and as designated officer of Summit Mortgage)
Bankers Inc . & Investments Inc., and)
JENNY HUA LI,)
Respondents.)

No. H-38502 LA
ACCUSATION

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SUMMIT MORTGAGE BANKERS INC. ("SMBI"), MING MIN CHEN ("CHEN"), aka Ming "Michael" Min Chen, individually and as designated officer of Summit Mortgage Bankers Inc., and JENNY HUA LI (collectively "Respondents"), is informed and alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

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2.

From December 15, 2006, to the present, Respondent SMBI has been licensed as a corporate real estate broker. At all times relevant herein, SMBI was acting by and through Respondent CHEN as its designated broker-officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. From May 31, 2011, CHEN has been the designated officer of SMBI.

3.

A. From August 17, 2006 through the present, Respondent CHEN has been licensed as a real estate broker.

Table: SMBI Designated Officer Tenure

Designated Officer	Tenure
MING MIN CHEN	December 15, 2006 to present

B. From July 15, 2002, JENNY HUA LI was licensed as a real estate salesperson. From April 17, 2007, through the present, Respondent LI has been licensed as a real estate broker. HUA is the loan officer of SMBI.

4.

SMBI is a California corporation, 60% owned by CHEN, and 40% by the Estate of Erwin K. Liu.

5.

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

1 FIRST CAUSE OF ACCUSATION
2 (Mortgage Loan Audit)

3 6.

4 At all times mentioned, in the City of Alhambra and County of Orange, State of
5 California, SMBI and CHEN acted as real estate brokers and conducted licensed activities within
6 the meaning of Code Section 10131(d) wherein SMBI engaged in a mortgage loan brokerage
7 wherein SMBI solicits borrowers and lenders, negotiates and packages mortgage loans for
8 compensation.

9 SMBI funds mortgage loans using its lines of credit for borrowers and also acts as
10 a third party loan originator submitting loan packages to institutional lenders for funding. In the
11 last twelve (12) months, SMBI funded five hundred ninety eight (598) loans totaling \$17,380,700
12 and packaged twenty five (25) loans totaling \$7,350,700.

13 7.

14 Mortgage Loan Audit

15 On April 30, 2012, the Department completed an audit examination of the books
16 and records of Respondent SMBI pertaining to the mortgage loan brokerage activities described
17 in Paragraph 6, which require a real estate license. The audit examination covered a period of
18 time beginning on February 1, 2009 to January 31, 2012. The audit examination revealed
19 violations of the Code and the Title 10, Chapter 6, California Code of Regulations
20 ("Regulations") set forth in the following paragraphs, and more fully set forth in Audit Report LA
21 110103 and the exhibits and work papers attached thereto.

22 Mortgage Loan Trust Account

23 8.

24 At all times mentioned, in connection with the activities described in Paragraph 6,
25 above, SBMI accepted or received funds including funds in trust ("trust funds") from or on behalf
26 of actual or prospective parties to transactions including lenders and borrowers handled by SBMI
and thereafter made deposits and or disbursements of such funds. SBMI maintain one trust

1 operating account which was used to handle trust funds collected during the audit period relative
2 to its loan brokerage activity. From time to time herein mentioned, during the audit period, said
3 trust funds were deposited and/or maintained by SBMI in these four bank accounts as follows.

4
5 Trust Account # 1 (TA 1)

6 Bank Name: The Bank of East Asia

7 Bank Address: 39-02 Main St.

8 Flushing, NY 11354

9 Account Name: Summit Mortgage Bankers Inc Trust Account

10 Account No.: *****1478

11 Signatories: Ming Min Chen

12 Description: TA 1 is used to hold credit report and appraisal fees collected from potential
13 borrowers related to SMBI's mortgage loan activity. Disbursements from TA1 included
14 payments to appraisers and credit report companies. One signature is required and D.O. CHEN is
15 the sole signatory.

16 Violations of the Real Estate Law
17 (Mortgage Loan Audit)

18 9.

19 In the course of activities described in Paragraph 6 above, and during the
20 examination period, described in Paragraph 7, Respondents SMBI and CHEN, acted in violation
21 of the Code and the Regulations in that Respondents:

22 (a) (SMBI and CHEN) Failed to maintain an accurate and complete control
23 record for all trust funds received, deposited and disbursed into TA 1, relative to borrower Hui
24 Ling Zhao, in violation of Code Section 10145 and Regulation 2831. LI collected \$375 from the
25 borrower, Hui Ling Zhao, and REB Li deposited Zhao's \$375 into her own bank account (#
26 0816747750) on June 11, 2009, and paid Capstone with her credit card on June 18, 2009 (W/P C-
3). SMBI did not maintain a record of all trust funds received and disbursed for Zhao's
transaction:

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	<u>Date Received from</u>	<u>Date of</u>			
<u>Borrower</u>	<u>Borrower</u>	<u>Deposit</u>	<u>Date Paid</u>	<u>Amount</u>	
Hui Ling					
Zhao	6/5/2009	6/11/2009	6/18/2009	375.00	

(b) (SMBI and HUA) Mixed and commingled trust funds and personal funds by depositing the appraisal fee received from Hui Ling Zhao into a bank account J Lee Enterprise" owned and controlled by HUA instead of depositing Zhao's appraisal fee into SMBI's trust account, TA 1, in violation of Code Sections 10176(e) and 10176(i) and Regulation 2832(a).

(c) Failed to retain a true and correct copy of a Department of Real Estate approved Mortgage Loan Disclosure Statement signed by the broker for borrowers Wei, Lu/Lany Liu, Cho, Li, Wang, Lee, Liu, Luk, Zhan/Chen/Huang, and Lin/Lan, in violation of Code Section 10240.

(d) At all times herein mentioned, CHEN was licensed by the Department as the designated officer of SMBI to qualify it and to act for it as a real estate broker and, as provided by Code Section 10159.2, was responsible for the supervision and control of the activities conducted on behalf of SMBI by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of broker-associate and loan officer LI, and salesperson, Zhixiang Yan, overseer SMBI in Alhambra, California during his employment from February 9, 201 to July 8, 2012, including the performance of acts for which a real estate license is required, in violation of Code Section 10177(h) and Regulation 2725. Chen did not exercise reasonable control and supervision over SMBI's real estate activities to secure full compliance with the Real Estate Laws and Regulations. CHEN failed to establish policies, rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a real estate license and the handling of trust funds and the supervision licensees LI and Zhixiang Yan.

10.

The conduct of Respondents SMBI, CHEN, and LI, described in Paragraph 9, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9(a)	Code Section 10145 and Regulation 2831
9(b)	Code Sections 10145 and 10176(e) and Regulation 2832(a)(LI)
9(c)	Code Section 10240 and Regulation 2840
9(d)	Code Sections 10159.2 and 10177(h) and Regulation 2725 (CHEN)

The foregoing violations constitute cause for discipline of the real estate licenses and license rights of Respondents SMBI, CHEN and LI under the provisions of Code Sections 10177(d) and/or 10177(g) and 10177(h)(CHEN).

SECOND CAUSE OF ACCUSATION
(Negligence)

11.

The overall conduct of Respondents SMBI, CHEN and LI constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

THIRD CAUSE OF ACCUSATION
(Fiduciary Duty)

12.

The conduct, acts and omissions of Respondents SMBI, CHEN and LI constitute a breach of fiduciary duty, owed to SMBI's clients within the scope of their brokerage relationship and, in violation of Code Section 10177(g) and constitute cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and/or license rights of Respondents SUMMIT MORTGAGE
4 BANKERS INC., and MING MIN CHEN, individually and as designated officer of Summit
5 Mortgage Bankers Inc., and JENNY HUA LI under the Real Estate Law (Part 1 of Division 4 of
6 the California Business and Professions Code) and for such other and further relief as may be
7 proper under other applicable provisions of law, including, but not limited to costs of audit
8 pursuant to Code Section 10148 and costs of investigation and enforcement pursuant to Code
9 Section 10106.
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11 Dated at Los Angeles, California.

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13 this 24 day of October, 2012.

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15 ROBIN TRUJILLO
16 Deputy Real Estate Commissioner
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23 cc: Summit Mortgage Bankers Inc.
24 Ming Min Chen
25 Jenny Hua Lee
26 Robin Trujillo
Audits – Benilda Emery
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