

FILED

OCT 17 2018

DEPT. OF REAL ESTATE
By *AL Delbus*

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8 **BEFORE THE DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of) No. H- 41179 LA
12)
13 EASTWEST LENDING, INC.; and)
14 and SANG THANH TIEU,)
15 individually and as designated officer of) **ACCUSATION**
16 EastWest Lending, Inc.,)
17 Respondents.)

17 The Complainant, Maria Suarez, a Supervising Special Investigator of the State
18 of California, acting in her official capacity, for cause of Accusation against EASTWEST
19 LENDING, INC. ("ELI") and SANG THANH TIEU ("TIEU"), individually and as designated
20 officer of EastWest Lending, Inc., is informed and alleges as follows:

21 1.

22 The Complainant, Maria Suarez, acting in her official capacity as Supervising
23 Special Investigator of the State of California, makes this Accusation.

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2.

All references to the "Code" are to the California Business and Professions Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations unless otherwise specified.

3.

A. EASTWEST LENDING, INC.: Respondent ELI is presently licensed and/or has license rights issued by the Department of Real Estate as a real estate corporate broker (license no. 01837306). ELI was originally licensed as a corporate real estate broker on or about December 10, 2007. ELI's registered fictitious business names have been "East West Lending" and "EastWest Realty," both from on or about January 10, 2008 through the present, and "Nation 1 Escrow – A Non-Independent," from on or about March 9, 2016 through the present. From on or about February 24, 2010 through the present, ELI's designated officer has been TIEU. From on or about December 10, 2007 to February 24, 2010, ELI's designated officer was Linh Van Le (license no. 00981263), whose real estate broker license expired on or about August 17, 2010. From on or about October 1, 2007 through the present, ELI has been licensed with a mortgage license originator ("MLO") license endorsement (NMLS no. 327318).

B. SANG THANH TIEU: Respondent TIEU is presently licensed and/or has license rights issued by the Department of Real Estate as a real estate broker (license no. 01764140). TIEU was originally licensed with a real estate broker license on or about February 22, 2010. Previously, from on or about August 24, 2006 to February 21, 2010, TIEU was licensed as a real estate salesperson. From on or about October 1, 2007 through the present, TIEU has been licensed with an MLO license endorsement (NMLS no. 330872).

4.

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

1 committed such act or omission while engaged in the furtherance of the business or operations
2 of Respondents and while acting within the course and scope of their corporate authority and
3 employment, including, but not limited to, ELI and TIEU.

4 5.

5 At all times mentioned, in Orange County, ELI and TIEU engaged in the
6 business of real estate brokers conducting licensed activities within the meaning of Code
7 section 10131(a) and California Financial Code section 17006. BHPI and TIEU engaged in
8 selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers
9 of, soliciting or obtaining listings of, or negotiating the purchase, sale, or exchange of real
10 property or a business opportunity, and providing broker-controlled escrows.

11
12 (Trust Fund Audit)

13 6.

14 On or about November 30, 2017, the Department of Real Estate completed an
15 audit examination of the books and records of ELI to determine whether ELI and TIEU handled
16 and accounted for trust funds and conducted its real estate activities in accordance with the Real
17 Estate Law and Regulations. The audit examination covered a period of time beginning on
18 October 1, 2014 and ended on September 30, 2017. The audit examination revealed violations
19 of the Code and the Regulations set forth in the following paragraphs, and more fully discussed
20 in Audit Report LA160194 and the exhibits and work papers attached to said audit report.

21
22 Bank Accounts/Trust Accounts

23 7.

24 At all times mentioned, in connection with the activities described in Paragraph
25 5, above, ELI accepted or received funds including funds in trust (“trust funds”) from or on
26 behalf of actual or prospective parties, such as owners of real property seeking property
27

1 management services, and thereafter made deposits and/or disbursements of such funds. From
2 time to time herein mentioned, during the audit period, said trust funds were deposited and/or
3 maintained by ELI in the bank account as follows:

4
5 "EastWest Lending Inc dba Nation 1 Escrow"
6 *****2923

7 Union Bank, N.A.
8 11900 Brookhurst St.
9 Garden Grove, CA 92840

(BA 1)

8
9 8.

10 In the course of activities described in Paragraphs 5 and 7, above, and during the
11 audit examination period in Paragraph 6, above, Respondents ELI and TIEU acted in violation
12 of the Code and the Regulations as set forth below:

13 (a)(1) Permitted, allowed, or caused the disbursement of trust funds from the
14 bank account BA 1 where the disbursement of funds reduced the total of aggregate funds in BA
15 1, to an amount which, on May 31, 2017, was at least \$1,576,998.01 less than the existing
16 aggregate trust fund liability to every principal who was an owner of said funds, without first
17 obtaining the prior written consent of the owners of said funds, in violation of Code section
18 10145 and Regulations sections 2832.1 and 2951. Approximately \$1,162,850.00 of this
19 shortage is due to a net transfer/conversion of funds to ELI's business checking accounts
20 (account numbers *****2907 and *****2915); approximately \$3,649.23 is due to debit card
21 purchases; approximately \$9,366.04 is due to unreimbursed bank charges; and approximately
22 \$79,180.47 is due to tax levies.

23 (a)(2) Permitted, allowed, or caused the disbursement of trust funds from the
24 bank account BA 1 where the disbursement of funds reduced the total of aggregate funds in BA
25 1, to an amount which, on July 31, 2017, was at least \$1,560,604.33 less than the existing
26 aggregate trust fund liability to every principal who was an owner of said funds, without first
27 obtaining the prior written consent of the owners of said funds, in violation of Code section

1 10145 and Regulations sections 2832.1 and 2951. Approximately \$1,132,675.00 of this
2 shortage is due to a net transfer/conversion of funds to ELI's business checking accounts
3 (account numbers *****2907 and *****2915); approximately \$3,649.23 is due to debit card
4 purchases; approximately \$9,947.04 is due to unreimbursed bank charges; and approximately
5 \$81,950.73 is due to tax levies.

6 (b) Converted trust funds by transferring trust funds from BA 1 to ELI's
7 business checking accounts (account numbers *****2907 and *****2915), in violation of
8 Code sections 10176(e), 10176(i), and 10177(j). Specifically, from on or about January 1, 2015
9 to May 31, 2017, ELI and TIEU transferred a net amount of \$902,050.00 from BA 1 to ELI's
10 business checking accounts, and had debit card purchases totaling \$1,531.09. From on or about
11 January 1, 2015 to July 31, 2017, ELI and TIEU transferred a net amount of \$871,875.00 from
12 BA 1 to ELI's business checking accounts, and had debit card purchases totaling \$1,531.09.

13 (c) Failed to designate BA 1, which was used to receive, deposit, and
14 disburse trust funds, as a trust fund account, in violation of Code section 10145(a) and
15 Regulations sections 2832 and 2951.

16 (d) Permitted Linh Van Le, co-owner of ELI and former designated officer
17 of ELI, who is an unlicensed and unbonded person during the audit examination period, to be
18 an authorized signatory on BA 1, into which were deposited trust funds, in violation of Code
19 section 10145 and Regulations sections 2834 and 2951.

20 (e) Failed to maintain an accurate control record in the form of a columnar
21 record in chronological order of all trust funds received, deposited, and disbursed, for BA 1, in
22 violation of Code section 10145 and Regulations sections 2831 and 2951.

23 (f) Failed to perform and maintain a monthly reconciliation comparing the
24 balance of all separate records to the balance of the record of all trust funds received and
25 disbursed (control record) for BA 1, in violation of Code section 10145 and Regulations
26 sections 2831.2 and 2951.

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(g) Failed to maintain signed broker-salesperson agreements that covered material aspects of the supervision of licensed activities, in violation of Regulations section 2726.

(h) TIEU failed to establish and exercise reasonable control and supervision over the activities conducted on behalf of ELI as necessary to secure full compliance with the Real Estate Law, including, but not limited to, establishing policies, rules, procedures, and systems to review, oversee, and inspect the handling of trust funds, in violation of Code sections 10159.2 and 10177(h) and Regulations section 2725.

9.

The conduct of Respondents ELI and TIEU described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

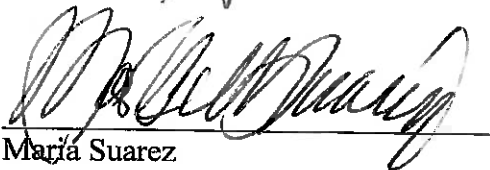
<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
8(a)	Code section 10145 and Regulations sections 2832.1 and 2951
8(b)	Code sections 10176(e), 10176(i), and 10177(j)
8(c)	Code section 10145(a) and Regulations sections 2832 and 2951
8(d)	Code section 10145 and Regulations sections 2834 and 2951
8(e)	Code section 10145 and Regulations sections 2831 and 2951
8(f)	Code section 10145 and Regulations sections 2831.2 and 2951
8(g)	Regulations section 2726
8(h)	Code sections 10159.2 and 10177(h) and Regulations section 2725

The foregoing violations constitute cause for discipline of the real estate license and license rights of ELI and TIEU under the provisions of Code sections 10176(e), 10177(d), 10177(g), 10177(h), and/or 10177(j)/10176(i).

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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/or license rights under the Real Estate Law (Part 1 of
4 Division 4 of the California Business and Professions Code) of Respondents EASTWEST
5 LENDING, INC. and SANG THANH TIEU, individually and as designated officer of EastWest
6 Lending, Inc., for the cost of investigation and enforcement as permitted by law, audit costs as
7 permitted by law, and for such other and further relief as may be proper under applicable
8 provisions of law. In addition, the MLO license endorsements of Respondents EASTWEST
9 LENDING, INC. and SANG THANH TIEU, individually and as designated officer of EastWest
10 Lending, Inc., should also be suspended or revoked pursuant to Code section 10166.051(b) and
11 Regulations section 2758.3 for their failure to meet the minimum requirements set forth in
12 Code section 10166.05(c) (demonstration of such financial responsibility, character, and
13 general fitness as to command the confidence of the community and warrant a determination
14 that the MLO licensee will operate honestly, fairly, and efficiently).

15 Dated at Los Angeles, California: 27 September, 2018.

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18 Maria Suarez
19 Supervising Special Investigator

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21
22 cc: EastWest Lending, Inc.
23 Sang Thanh Tieu
24 Maria Suarez
25 Sacto
26 Enforcement
27 Audits – Jayendra P. Barbhaiya