

**FILED**

**OCT 22 2019**

**DEPT. OF REAL ESTATE**

By *Al Selms*

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

11 \* \* \*

12 In the Matter of the Accusation of )  
13 ) No. H-41527 LA  
14 CLOUD9 REAL ESTATE SERVICES INC, )  
15 doing business as Cloud Escrow, a Non- )  
16 Independent Broker Escrow, and Investment ) ACCUSATION  
17 Trust Realty; JASMINE LEE, individually )  
18 and as designated officer of Cloud9 Real )  
Estate Services Inc., )  
Respondents. )

19 The Complainant, Maria Suarez, a Supervising Special Investigator of the State of  
20 California, for cause of Accusation against CLOUD9 REAL ESTATE SERVICES INC, doing  
21 business as Cloud Escrow, a Non-Independent Broker Escrow, and Investment Trust Realty,  
22 JASMINE LEE, individually and as designated officer of Cloud9 Real Estate Services Inc  
23 (“Respondents”) alleges as follows:

24 1.

25 The Complainant, Maria Suarez, a Supervising Special Investigator of the State of  
26 California, makes this Accusation in her official capacity.

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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, of the California Code of Regulations.

LICENSE HISTORY

(CLOUD9 REAL ESTATE SERVICES INC)

3.

a. Respondent CLOUD9 REAL ESTATE SERVICES INC ("CRESI") is presently licensed and/or has license rights under the Code, as a corporate real estate broker, Department of Real Estate ("Department") license ID 01986532.

b. The Department originally issued CRESI a real estate broker on or about November 17, 2015. CRESI's license is scheduled to expire on November 16, 2019, unless renewed.

c. According to the Department's records to date, CRESI's main office address is 20657 Golden Springs Drive, Suite 201, Diamond Bar, California. CRESI does not currently maintain a branch office.

d. CRESI maintains the authorized fictitious business names "Cloud Escrow, a Non-Independent Broker Escrow" (as of August 30, 2017), "Investment Trust Realty" (as of November 17, 2015), "CA Dichan Realty" (as of November 17, 2015), and "REMAX Edge" (as of August 30, 2017).

e. Since on or about November 17, 2015, through the present, CRESI's designated officer has been Respondent JASMINE LEE ("LEE").

(JASMINE LEE)

4.

a. Respondent LEE is presently licensed and/or has license rights under the Code, as a real estate broker, Department license ID 01877923.

1                   b. The Department originally issued LEE a real estate broker license on February  
2 26, 2014. LEE's license is scheduled to expire on February 25, 2022.

3                   c. LEE maintains the authorized fictitious business names "CA Dichan Realty,"  
4 "Investment Trust Realty," and "US Dichan Realty."

5                   d. LEE is the designated officer of Respondent CRESI. As designated officer,  
6 LEE is responsible for the supervision of the activities conducted on behalf of CRESI by its  
7 officers, agents, real estate licensees, and employees pursuant to Code section 10159.2.

8   CAUSE FOR ACCUSATION

9   5.

10                   At all times relevant herein Respondent CRESI was engaged in the business of a  
11 real estate broker within the meaning of:

12                   a. Code section 10131(a). CRESI's activities included the selling or offering to  
13 sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or  
14 obtaining listings of, or negotiating the purchase, sale or exchange of real property or a business  
15 opportunity (real estate sales). CRESI engaged in broker escrow services (Audit No. LA170193)  
16 in the course of or incidental to real estate transactions in which CRESI was performing an act  
17 for which a real estate license is required.

18                   b. Code section 10131(b). CRESI's activities included the leasing or renting of  
19 real property and the collection of rents and security deposits for real property on behalf of others  
20 for compensation or in expectation of compensation (property management) (Audit No.  
21 LA170180).

22   6.

23                   On or about July 27, 2018, the Department completed an audit examination  
24 (Audit Nos. LA170180 and LA170193) of the books and records of Respondent CRESI  
25 pertaining to its property management activity described in Paragraph 5b above and broker  
26 escrow services described in Paragraph 5a above. The audit examination covered the period of  
27 time from December 1, 2016, through March 31, 2018 ("audit period"), and was performed

1 between March 30, 2018, through July 27, 2018. The audit examination for Audit No. LA170180  
2 was limited to Respondent CRESI's property management activity only. The audit examination  
3 for Audit No. LA170193 was limited to Respondent CRESI's broker escrow activity. The audit  
4 examinations revealed violations of the Code and the Regulations as set forth in the following  
5 paragraphs, and more fully discussed in Audit Report Nos. LA170180 and LA170193 and the  
6 exhibits and work papers attached to said audit report.

7 (AUDIT NO. LA170180 – PROPERTY MANAGEMENT)

8 7.

9 A Department auditor held an entrance conference on April 11, 2018 at CRESI's  
10 main office with LEE, CRESI's attorney, and CRESI's real estate salesperson Fei Weng, license  
11 ID 01976337. LEE was the primary person who provided records for examination. According to  
12 LEE and the records examined, during the audit period CRESI engaged in property management  
13 activity and managed thirty-five (35) properties for thirty-four (34) owners. CRESI collected  
14 rents, paid expenses, and screened tenants for compensation. CRESI charged a management fee  
15 of 5% of scheduled rents.

16 8.

17 At all times mentioned herein, and in connection with the property management  
18 activities described in Paragraph 5b, above, CRESI accepted or received funds, including funds  
19 in trust ("trust funds") from or on behalf of the owners of the properties managed by CRESI, and  
20 thereafter made deposits and/or disbursements of such funds. CRESI maintained one (1) bank  
21 account that handled trust funds in connection with its property management activity during the  
22 audit period. The bank account is as follows:

23 Bank Account 1 ("B/A 1")

24 Bank: JP Morgan Chase  
25 Account Name: Cloud9 Real Estate Services Inc DBA Investment Trust Realty or CA  
26 Dichan Realty or Remax Edge  
27 Account Number: xxxxx6907

1 Signatories: Jasmine Lee, Fei Weng

2 Signatures Required: One

3 Purpose: B/A 1 was maintained for handling the receipts and disbursements of trust  
4 funds in connection with CRESI's property management activity.  
5 According to B/A 1's signature card provided for the audit examination,  
6 B/A 1 was opened on December 7, 2016.

7 Violations

8 9.

9 The audit examination revealed violations of the Code and the Regulations, as set  
10 forth in the following paragraphs, and more fully discussed in Audit No. LA170180 and the  
11 exhibits and work papers attached to the audit report:

12 (a) Trust Fund Accountability and Balances (Code section 10145 and Regulations  
13 section 2832.1. As of March 31, 2018, B/A 1 had a minimum trust fund shortage of \$35,160.09.  
14 The minimum shortage was due to minimum negative balances of property accounts totaling  
15 \$35,118.49 and bank charges totaling \$41.60. Respondent CRESI did not provide any evidence  
16 that the owners of the trust funds had given their written consent to allow Respondent CRESI  
17 and/or Respondent LEE to reduce the balance of funds in B/A 1 to an amount less than the  
18 aggregate trust fund liabilities of CRESI to all owners of the funds.

19 The minimum negative balances were caused by disbursements of funds related to  
20 properties when there were insufficient funds to do so. For example:

| <u>Property</u>     | <u>Owner</u>      | <u>Amount</u> |
|---------------------|-------------------|---------------|
| 1 Sommerville Place | Y.J. <sup>1</sup> | \$2,751.92    |
| 10 Sugarbush        | X.Z.              | \$4,099.57    |
| 22 Middleton        | W.D.              | \$2,442.93    |

25  
26 <sup>1</sup> Initials are used in place of individual's full name to protect their privacy. Documents containing individual's full  
27 name will be provided during the discovery phase of this case to Respondents and/or their attorney(s), after service  
of a timely and proper request for discovery on Complainant's counsel.

|   |                   |      |             |
|---|-------------------|------|-------------|
| 1 | 39 Modesto        | F.S. | \$3,831.50  |
| 2 | 83 Trumpet Vine   | Y.F. | \$2,236.77  |
| 3 | 8 Diamond Gate    | X.Y. | \$10,349.02 |
| 4 | 93 Montrose       | H.G. | \$5,066.00  |
| 5 | 943 Somerville    | L.H. | \$3,375.00  |
| 6 | 2 Valmarana Aisle | J.J. | \$855.55    |
| 7 | 21 Chianti        | J.P. | \$52.50     |
| 8 | 29 Cottage        | J.Y. | \$57.73     |

9 On April 11, 2018, Respondent LEE made two (2) deposits totaling \$33,901.46 to cure some of  
10 the minimum trust fund shortage.

11 (b) Trust Fund Records to be Maintained (Code section 10145 and Regulations  
12 section 2831). During the audit period, the control record maintained for B/A 1 was inaccurate  
13 and incomplete. In some instances, some of the trust funds received and deposited in B/A 1 were  
14 not recorded in B/A 1's control record. For example:

| 15 | <u>Deposit Per Bank</u> | <u>Amount</u> | <u>Property</u>   |
|----|-------------------------|---------------|-------------------|
| 16 | 12/8/2017               | \$3,450.43    | 1303 Oakwood      |
| 17 | 6/6/2017                | \$7,200.00    | 10 Sugarbush      |
| 18 | 5/24/2017               | \$4,300.00    | 22 Middleton      |
| 19 | 5/24/2017               | \$2,650.00    | 2 Valmarana Aisle |

20 In some instances, the control record did not indicate the payees for some checks disbursed from  
21 B/A 1. For example:

| 22 | <u>Date</u> | <u>Check No.</u> | <u>Amount</u> | <u>Property</u> |
|----|-------------|------------------|---------------|-----------------|
| 23 | 1/24/2018   | 9118             | \$2,057.00    | 39 Modesto      |
| 24 | 1/24/2018   | 9117             | \$4,730.20    | 83 Trumpet      |
| 25 | 1/22/2018   | 9115             | \$1,100.00    | 3 Flintridge    |
| 26 | 1/19/2018   | 9114             | \$2,487.17    | 10 Sugarbush    |

1 Some checks disbursed from B/A 1 were not recorded in the control record of B/A 1.  
2 Furthermore, some dates of disbursement from B/A 1 were not accurate in the control record of  
3 B/A 1. Disbursements were recorded for some transactions but there were no checks issued.

4 (c) Separate Record for Each Beneficiary or Transaction (Code section 10145 and  
5 Regulations section 2831.1). During the audit period, the separate records for B/A 1 were  
6 inaccurate and incomplete. Some checks were disbursed from B/A 1 but were not recorded in the  
7 separate record. Some dates of disbursement from B/A 1 were not accurate in the separate  
8 records of B/A 1. In some instances, the dates of disbursement from B/A 1, which were  
9 disbursements to Respondent CRESI for expenses of multiple properties paid by CRESI, were  
10 not recorded in B/A 1's separate records or were recorded inaccurately.

11 (d) Trust Account Reconciliation (Code section 10145 and Regulations 2831.2).  
12 During the audit period, Respondent CRESI failed to maintain a monthly reconciliation  
13 comparing the balance of all the separate records to the control record of all trust funds received  
14 and disbursed for B/A 1.

15 (e) Trust Fund Handling (Code section 10145 and Regulations section 2832).  
16 According to B/A 1's bank signature cards dated December 7, 2016, and July 26, 2017, provided  
17 by Respondent LEE, B/A 1 was not created as a trust account.

18 (f) Trust Account Withdrawals (Code section 10145 and Regulations section  
19 2834). According to B/A 1's bank signature cards, Respondents allowed Fei Weng to be a signer  
20 of B/A 1 during the audit period. From January 30, 2017, through July 25, 2017, Fei Weng, who  
21 is a licensed real estate salesperson (license ID 01976337) was not employed by Respondent  
22 CRESI. Weng's employing broker at that time was Real Estate 100 Inc, a corporate real estate  
23 broker (license ID 01208677). Furthermore, during the audit period, CRESI did not maintain a  
24 written authorization on file authorizing Weng to be a signer on B/A 1. On June 7, 2018,  
25 Respondent LEE provided written authorization dated June 7, 2018, for Weng to be a signer on  
26 B/A 1. Moreover, according to Respondent LEE, Nichole Choquette was CRESI's unlicensed  
27 employee/bookkeeper/assistant. Although Choquette was not listed as a signor on the bank

1 signature card for B/A 1, Choquette signed several checks which cleared from B/A 1 during the  
2 audit period. According to Respondent LEE, Choquette separated from CRESI in January 2018.

3 (g) Handling of Trust Funds / Commingling (Code section 10145 and Regulations  
4 2835). During the audit period, Respondent CRESI kept more than \$200.00 of CRESI's funds in  
5 B/A 1 and did not disburse the excess CRESI funds in B/A 1 within twenty-five (25) days after  
6 their deposit. As of March 31, 2018, CRESI commingled CRESI's funds of at least \$2,942.30  
7 with trust funds in B/A 1.

8 (AUDIT NO. LA170193 – BROKER ESCROW)

9 10.

10 A Department auditor held an entrance conference on April 11, 2018 at CRESI's  
11 main office with LEE, CRESI's attorney, and CRESI's real estate salesperson Fei Weng, license  
12 ID 01976337. LEE was the primary person who provided records for examination. According to  
13 LEE and the records examined, during the audit period CRESI opened fifteen (15) escrows of  
14 which ten (10) were closed and four (4) escrows were cancelled. CRESI maintained one (1) trust  
15 account that handled trust funds in connection with its broker escrow activity during the audit  
16 period. CRESI met the escrow threshold for the calendar year ending in 2017.

17 11.

18 At all times mentioned herein, and in connection with the broker escrow activities  
19 described in Paragraph 5a, above, CRESI accepted or received funds, including funds in trust  
20 ("trust funds") in connection with CRESI's broker escrow activity. CRESI maintained one (1)  
21 bank account that handled trust funds in connection with its broker escrow activity during the  
22 audit period. The bank account is as follows:

23 Trust Account 1 ("T/A 1")

24 Bank: East West Bank  
25 Account Name: Cloud9 Real Estate Services Inc DBA Cloud Escrow, a Non-Indep Broker  
26 Escrow (Trust Account)  
27 Account Number: xxxxx5224

ACCUSATION



1 Signatories: Jasmine Lee, Alexandra Lorraine Smith  
2 Signatures Required: One signature (from 9/27/2017 through 11/20/2017)  
3 Two signatures (from 11/21/2017 through April 10, 2018)  
4 Purpose: T/A 1 was maintained for handling the receipts and disbursements of trust  
5 funds in connection with CRESI's broker escrow activity. According to  
6 the bank signature card for T/A 1, the account was opened on September  
7 27, 2017.

8 Violations

9 12.

10 The audit examination revealed violations of the Code and the Regulations, as set  
11 forth in the following paragraphs, and more fully discussed in Audit No. LA170193 and the  
12 exhibits and work papers attached to the audit report:

13 (a) Trust Account Withdrawals / When Broker Handles Escrow (Code section  
14 10145 and Regulations sections 2834 and 2951). According to the bank signature card for T/A  
15 dated November 21, 2017, CRESI allowed Alexandra Lorraine Smith, non-licensee, to sign  
16 checks and make withdrawals from T/A 1 without fidelity bond coverage during the audit period.  
17 Based on the bank signature card for T/A 1 dated April 11, 2018, Smith was removed as a signer  
18 of T/A 1.

19 (b) Notification of Escrow Activities (Code section 10141.6). According to the  
20 documents provided, CRESI closed two (2) escrow transactions in 2017. The dollar volume of  
21 CRESI's escrowed transactions exceeding \$1 million in 2017. CRESI failed to submit the  
22 Escrow Activity Report (RE 890) form within sixty (60) days following the completion of the  
23 2017 calendar year. The following are CRESI's escrowed transactions in 2017:

24 ///  
25 ///  
26 ///  
27 ///

| Escrow No. | Date Closed | Sales Price    | Total Deposits in T/A 1 |
|------------|-------------|----------------|-------------------------|
| 001001-CZ  | 11/20/2017  | \$440,000.00   | \$53,668.68             |
| 001003-CZ  | 11/29/2017  | \$970,000.00   | \$970,724.85            |
| Total:     |             | \$1,410,000.00 | \$1,024,393.53          |

(c) When Broker Handles Escrow – Failure to Disclose Interest in the Agency Holding the Escrow (Regulations section 2950(h)). During the audit period, CRESI failed to advise all parties in writing that CRESI and LEE had financial ownership interests in the agency holding the escrow in some escrow transaction files examined. For example:

| Escrow No. | Date Opened | Property         | Date Closed |
|------------|-------------|------------------|-------------|
| 001007-CZ  | 1/2/2018    | 19 Easthill      | 2/2/2018    |
| 001008-CZ  | 1/19/2018   | 8740 Kendra Lane | 2/5/2018    |
| 001009-CZ  | 1/19/2018   | 24 Apple Valley  | 1/26/2018   |

(d) Branch Office (Code section 10163 and Regulations section 2715). During the audit period, CRESI used an unlicensed branch office located at 20657 Golden Springs Drive, Suite 204A, Diamond Bar, California in connection with its broker escrow activity. Respondent failed to obtain a branch office license from the Department prior to conducting broker escrow activities at this office location.

(e) Use of False or Fictitious Name (Code section 10159.5 and Regulation section 2731). According to the bank signature card for T/A 1 dated November 21, 2017, CRESI used an unlicensed fictitious business name “Cloud Escrow, a Non-Indep Broker Escrow” in connection with its broker escrow activity without first obtaining a license from the Department bearing such a fictitious business name.

(BROKER SUPERVISION)

13.

Based on the violations set forth in Paragraphs 9 and 12 above, Respondent LEE did not exercise adequate supervision over the activities of Respondent CRESI’s employees to

ACCUSATION

1 ensure compliance with the Real Estate Laws and Regulations in violation of Code sections  
2 10177(h) and 10159.2. Respondent LEE failed to establish and/or implement policies, rules,  
3 procedures and system to review, oversee, inspect and manage transactions requiring a real estate  
4 license and the handling of trust funds in violation of Regulations section 2725.

5 14.

6 Each of the foregoing violations in Paragraphs 9 and 12 above constitute cause for  
7 the suspension or revocation of the real estate license and/or license rights of Respondents  
8 CRESI and LEE under the provisions of Sections 10177(d), 10177(g), and/or 10177(h).

9 COSTS

10 (AUDIT COSTS)

11 15.

12 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate  
13 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner has  
14 found in a final decision, following a disciplinary hearing, that the broker has violated Section  
15 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code section.

16 (INVESTIGATION AND ENFORCEMENT COSTS)

17 16.

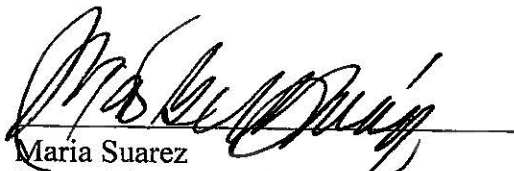
18 Section 10106 of the Code, provides, in pertinent part, that in any order issued in  
19 resolution of a disciplinary proceeding before the Department, the Commissioner may request  
20 the administrative law judge to direct a licensee found to have committed a violation of this part  
21 to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

22 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this  
23 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
24 against all the licenses and/or license rights of Respondents CLOUD9 REAL ESTATE  
25 SERVICES INC, doing business as Cloud Escrow, a Non-Independent Broker Escrow, and  
26 Investment Trust Realty, and JASMINE LEE, individually and as designated officer of Cloud9  
27 Real Estate Services Inc, under the Real Estate Law, for the costs of investigation and

ACCUSATION

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

3  
4 Dated at Los Angeles, California this 2nd day of October, 2019.

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8 Maria Suarez  
9 Supervising Special Investigator

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cc: CLOUD9 REAL ESTATE SERVICES INC  
JASMINE LEE  
Maria Suarez  
Sacto.  
Audits – Mina Wan