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**FILED**

**JAN 30 2019**

**DEPT. OF REAL ESTATE**  
By *Cal Delano*

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

11 \* \* \*

12 In the Matter of the Accusation of ) No. H-41283 LA  
13 )  
14 EWING REALTY GROUP INC and )  
15 ROGER PATRICK EWING, ) ACCUSATION  
16 individually and as designated officer of )  
17 Ewing Realty Group Inc, )  
18 Respondents. )

18 The Complainant, Maria Suarez, a Supervising Special Investigator of the State  
19 of California, for cause of Accusation against EWING REALTY GROUP INC and ROGER  
20 PATRICK EWING, individually and as designated officer of Ewing Realty Group Inc  
21 ("Respondents") alleges as follows:

22 1.

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

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2.

All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of 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

(EWING REALTY GROUP INC)

3.

a. Respondent EWING REALTY GROUP INC ("ERGI") is presently licensed and/or has license rights under the Code, as a corporate real estate broker, Department of Real Estate ("Department") license ID 01377884.

b. Respondent ERGI's corporate real estate license was originally issued on March 19, 2003, and is scheduled to expire on March 27, 2019, unless renewed.

c. According to the Department's records to date, Respondent ERGI's main office address is 101 North Westlake Boulevard, Suite 110, Westlake Village, California.

d. Respondent ERGI's designated officer is Respondent ROGER PATRICK EWING ("EWING").

e. According to the Department's records to date, Respondent ERGI currently maintains the fictitious business names "Ewing & Associates Sothebys Intl Realty," "Ewing Referral Associates," "Fieldstone Escrow," and "Fieldstone Financial," under its corporate real estate license.

(ROGER PATRICK EWING)

4.

a. Respondent EWING is presently licensed and/or has license rights under the Code, as a real estate broker, Department license ID 00627274.

b. Respondent EWING's individual broker license was originally issued on February 29, 1980, and is scheduled to expire on March 2, 2020, unless renewed.

1 c. Since May 21, 2018, Respondent EWING has maintained the fictitious  
2 business name "Ewing & Associates Realty" under his individual real estate broker license.

3 d. According to the Department's records to date, Respondent EWING's main  
4 office address is 5559 Colodny Drive, Agoura Hills, California. Respondent EWING maintains  
5 a branch office located at 29105 Canwood Street, Agoura, California.

6 e. Respondent EWING is the designated officer for Respondent ERGI. His  
7 designation is scheduled to expire on March 27, 2019, unless renewed. As designated officer,  
8 Respondent EWING is responsible for the supervision of the activities conducted on behalf of  
9 Respondent ERGI by its officers, agents, real estate licensees, and employees pursuant to  
10 Section 10159.2 of the Code.

11 REAL ESTATE ACTIVITY

12 5.

13 At all times relevant herein Respondent ERGI was engaged in the business of,  
14 acted in the capacity of, advertised or assumed to act as a real estate broker, within the meaning  
15 of Code section 10131(a) by selling or offering to sell, buying or offering to buy, soliciting  
16 prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the  
17 purchase, sale or exchange of real property or a business opportunity ("real estate sales").  
18 Respondent ERGI engaged in broker escrow services in the course of or incidental to real estate  
19 transactions in which ERGI was performing an act for which a real estate license is required.

20 CAUSE FOR ACCUSATION

21 (AUDIT NO. LA 170165 – BROKER ESCROW)

22 6.

23 On or about July 26, 2018, the Department completed an audit examination  
24 (Audit No. LA 170165) of the books and records of Respondent ERGI pertaining to its broker  
25 escrow real estate activities described in Paragraph 5 above. The audit examination covered the  
26 period of time from January 1, 2016, through March 31, 2018 ("audit period"), and was  
27 performed between March 26, 2018 and July 26, 2018. The audit examination was limited to

ACCUSATION

1 Respondent ERGI's broker escrow activity only. The audit examination revealed violations of  
2 the Code and the Regulations as set forth in the following paragraphs, and more fully discussed  
3 in Audit Report No. LA 170165 and the exhibits and work papers attached to said audit report.

4 7.

5 An entrance conference was held on April 5, 2018, at Respondent EWING's  
6 main office address at 5559 Colodny Drive. The auditor met with Respondent EWING, who  
7 was the primary person who provided records for the examination. According to Respondent  
8 ERGI's Articles of Incorporation and the auditor's discussion with Respondent EWING,  
9 Respondent EWING is the sole owner of ERGI. According to Respondent EWING, Respondent  
10 ERGI ceased operations on February 2, 2018. During the past twelve (12) month period ending  
11 in March 2018, Respondent ERGI completed at least eighty-three (83) escrow transactions.  
12 According to EWING, he does not have any access to the software on ERGI's servers due to a  
13 payment dispute with the server provider. EWING provided limited records for the audit  
14 examination.

15 8.

16 At all times mentioned herein, and in connection with the broker escrow  
17 activities described in Paragraph 5 above, Respondent ERGI accepted or received funds,  
18 including funds in trust ("trust funds") from or on behalf of actual or prospective parties to  
19 transactions handled by Respondent ERGI, and thereafter made deposits and/or disbursements  
20 of such funds. Respondent ERGI maintained one (1) trust account and two (2) bank accounts to  
21 handle trust funds in connection with its broker escrow activities during the audit period. From  
22 time-to-time during the audit period, said trust funds were deposited and/or maintained in the  
23 following bank accounts:

24 Trust Account ("TA 1")

25 Bank: East West Bank  
26 Bank Address: 9378 Wilshire Boulevard, Suite 100, Beverly Hills CA 90212  
27 Account Name: Ewing Realty Group Inc Fieldstone Escrow Dept. Trust Account

1 Account Number: xxxxx9483  
2 Signatories: Roger Ewing, David C. Rees, Penny Abramson, and Irma Haldsne  
3 Signatures required: Two  
4 Purpose: TA 1 was maintained for handling receipts and disbursements of trust  
5 funds received in connection with Respondent ERGI's broker escrow activities during the audit  
6 period.

7 Bank Account ("BA 1")

8 Bank: East West Bank  
9 Bank Address: 9378 Wilshire Boulevard, Suite 100, Beverly Hills CA 90212  
10 Account Name: Fieldstone Escrow Inc  
11 Account Number: xxxxx6887  
12 Signatories: David C. Rees  
13 Signatures Required: Two  
14 Purpose: BA 1 was maintained for handling receipts and disbursements of trust  
15 funds received in connection with Respondent ERGI's broker escrow activities during the audit  
16 period.

17 Bank Account ("BA 2")

18 Bank: East West Bank  
19 Bank Address: 9378 Wilshire Boulevard, Suite 100, Beverly Hills CA 90212  
20 Account Name: Fieldstone Escrow Inc  
21 Account Number: xxxxx3446  
22 Signatories: David C. Rees  
23 Signatures Required: Unknown  
24 Purpose: BA 2 was maintained for handling receipts and disbursements of trust  
25 funds received in connection with Respondent ERGI's broker escrow activities during the audit  
26 period.

27

1 According to the bank statements provided during the audit examination,  
2 Respondent ERGI maintained a bank account ("BA 3") for handling the Account Analysis  
3 Relationship for at least eight (8) different accounts owned by "Fieldstone Escrow Inc" and  
4 "Ewing Realty Group Inc" in connection with ERGI's broker escrow activities during the audit  
5 period.

6 Bank Account ("BA 3")

7 Bank: East West Bank

8 Bank Address: 9378 Wilshire Boulevard, Suite 100, Beverly Hills CA 90212

9 Account Name: Ewing Realty Group Inc

10 Account Number: xxxxx2966

11 Signatories: David C. Rees

12 Signatures Required: N/A

13 Purpose: BA 3 was maintained for handling the Account Analysis Relationship for  
14 at least eight (8) different accounts owned by "Fieldstone Escrow Inc" and "Ewing Realty  
15 Group Inc" in connection with ERGI's broker escrow activities during the audit period.

16 Violations of the Real Estate Law

17 9.

18 The audit examination revealed violations of the Code and the Regulations, as  
19 set forth in the following paragraphs, and more fully discussed in Audit Report No. LA 170165  
20 and the exhibits and work papers attached to the audit report:

21 (a) **Trust Fund Balance and Accountability (Code section 10145)**. Bank  
22 reconciliations were prepared as of March 31, 2018, for TA 1 and BA 1. The adjusted bank  
23 balances were compared to the accountability. According to the bank records provided by  
24 Respondent EWING and the reconstructed separate beneficiary records for TA 1, there was an  
25 unidentified or unaccounted for amount of \$5,856.60 as of March 31, 2018, due to poor record  
26 keeping.

27  
ACCUSATION

1                   The bank statements for BA 2 from January 1, 2016, through January 31, 2018,  
2 indicated a bank balance of \$15,480.17 as of January 31, 2018. BA 2, however, did not have  
3 any trust funds received and disbursed during that period. The bank statements for BA 2 for  
4 February 2018 and March 2018 were not provided for the audit examination.

5                   **(b) Trust Fund Handling/When Broker Handles Escrow (Code section**  
6 **10145 and Regulations sections 2832 and 2951.** Based on an examination of BA 1 and BA  
7 2's bank "signature cards" dated August 16, 2017, BA 1 and BA 2 were not designated as trust  
8 accounts in the name of Respondent ERGI, as trustee, in violation of Code section 10145 and  
9 Regulations sections 2832 and 2951.

10                   **(c) Trust Account Withdrawals/When Broker Handles Escrow (Code**  
11 **section 10145 and Regulations sections 2834, 2951).** Based on an examination of TA 1's  
12 bank signature card dated October 12, 2017, and BA1 and BA 2's signature cards dated August  
13 16, 2017, David C. Rees and Penny Abramson were authorized to sign and make withdrawals  
14 on Respondent ERGI's TA 1, BA 1, and BA 2 bank accounts without fidelity bond coverage or  
15 insurance coverage equal to at least the maximum amount of the trust funds in violation of  
16 Code section 10145 and Regulations section 2834 and 2951. David C. Rees and Penny  
17 Abramson were not licensed by the Department in any capacity during the audit period.  
18 Respondent EWING was not a signer on BA 1 and BA 2 bank accounts.

19                   **(d) Trust Account Record to be Maintained/When Broker Handles Escrow**  
20 **(Code section 10145 and Regulations sections 2831, 2950(d), 2951).** Respondent ERGI failed  
21 to maintain complete and accurate control record for TA 1, which was used for trust fund  
22 receipts and disbursements in connection with ERGI's broker escrow activities during the audit  
23 period in violation of Code section 10145 and Regulations sections 2831, 2950(d), and 2951.  
24 The "Fieldstone Trust Log" records maintained were missing the trust fund date of deposit,  
25 check numbers issued and the date of related disbursements. In addition, the records did not  
26 reflect TA 1's running daily balance.

1                   (e) **Separate Records for Each Beneficiary/When Broker Handles Escrow**  
2 **(Code section 10145(g) and Regulations sections 2831.1, 2951)**. Respondent ERGI failed to  
3 maintain complete and accurate separate records for each beneficiary or transaction of all trust  
4 fund receipts and disbursements for TA 1 in connection with ERGI's broker escrow activities  
5 during the audit period in violation of Code section 10145 and Regulations section 2831.1 and  
6 2951. TA 1's separate records did not have an accurate running daily balance. Some trust funds  
7 disbursed from TA 1 were not recorded on the separate records. The separate records  
8 maintained for BA 1 and BA 2 were not provided for the audit examination.

9                   (f) **Trust Account Reconciliation/When Broker Handles Escrow (Code**  
10 **section 10145 and Regulations sections 2831.2 and 2951)**. Respondent ERGI did not  
11 maintain a complete and accurate monthly reconciliation of the balance of all separate  
12 beneficiary or transaction records to the balance of the records of all trust funds received and  
13 disbursed for TA 1, BA 1, and BA 2 in violation of Code section 10145 and Regulations  
14 sections 2831.2 and 2951.

15                   (g) **Undisclosed Compensation/Broker Placement of Trust Funds with**  
16 **Financial Institutions (Code section 10176(g) and Regulations section 2830)**. Based on the  
17 examination of BA 3's statements of Account Analysis Relationship Summary at East West  
18 Bank for the month of June 2017, Respondent ERGI maintained an earnings credit relationship  
19 with East West Bank. The bank statements reflected that ERGI received earnings credit from  
20 trust funds available from TA 1 and Respondent ERGI did not disclose the earnings credit in  
21 writing to all trust fund owners in TA 1 in violation of Code section 10176(g) and Regulations  
22 section 2830. The monthly earnings credit was used to offset the bank service charges in TA 1.  
23 Respondent ERGI received earnings credit from East West Bank totaling \$1,964.11 in the  
24 month of June 2017. Respondent ERGI did not make all the monthly Account Analysis  
25 Relationship Summaries available for the audit examination.

26                   (h) **When Broker Handles Escrow (Regulations section 2950(h))**. In at least  
27 six (6) escrow transaction files examined, Respondent ERGI did not disclose in writing to all

1 parties of the escrow transaction that EWING had an interest as a stockholder, officer and an  
2 owner of the agency holding the escrow in violation of Regulations section 2950(h).

3 (i) **Use of False or Fictitious Names (Code section 10159.5 and Regulations**  
4 **section 2731)**. Respondent ERGI used the unlicensed fictitious business names “Ewing &  
5 Assoc. Southby’s Int’l Realty” and “Ewing & Associate Southby’s International Realty Realty”  
6 without first obtaining a license from the Department bearing such fictitious name in violation  
7 of Code section 10159.5 and Regulations section 2731.

8 (j) **Escrow Activity Reporting (Code section 10141.6)**. According to the  
9 examination of the limited separate records provide by EWING, Respondent ERGI closed at  
10 least eight (8) escrows with an average total exceeding \$1,000,000 during the period from June  
11 7, 2016 to December 30, 2016. ERGI met the escrow threshold and failed to submit an escrow  
12 activity report (Form RE 890) within sixty (60) days after the end of the 2016 calendar year,  
13 which was due on March 1, 2017, in violation of Code section 10141.6.

14 Based on the examination of the limited separate records provided by EWING,  
15 Respondent ERGI closed at least seventy-five (75) escrows with an average total exceeding  
16 \$1,000,000 from February 5, 2017 to December 15, 2017. ERGI met the escrow threshold and  
17 failed to submit an escrow activity report (Form RE 890) within sixty (60) days after the end of  
18 the 2017 calendar year, which was due on Mary 1, 2018, in violation of Code section 10141.6.

19 (k) **Retention of Records/When Broker Handles Escrow (Code section**  
20 **10148 and Regulations section 2950(e)**. The Department served a subpoena duces tecum  
21 dated April 20, 2018, to Respondent EWING on April 25, 2018. The subpoena served on  
22 EWING requested Respondent ERGI produce records on May 7, 2018 at 11:30 a.m. at the  
23 Department of Real Estate Los Angeles offices related to its real estate activities during the  
24 audit period. As of July 16, 2018, Respondent ERGI failed to make available all books,  
25 accounts, and records related to its broker escrow activity for the DRE auditor’s examination,  
26 inspection, and copying in violation of Code section 10148 and Regulation section 2950(e).  
27 Respondent ERGI failed to make available the following records: control records, separate

1 records, records of receipts and deposits, records of disbursements, records of reconciliation,  
2 cancelled checks, and escrow transaction files.

3 **(l) Responsibility of Corporate Office in Charge/Broker Supervision (Code**  
4 **sections 10159.2 and 10177(h) and Regulations section 2725).** Based on the violations in  
5 Paragraphs 9(a)-(k) above, Respondent EWING failed to exercise adequate supervision and  
6 control over Respondent ERGI's broker escrow activities conducted by ERGI's licensees and  
7 its employees in violation of Code sections 10159.2 and 10177(h). Respondent EWING failed  
8 to establish policies, rules, procedures, and systems to review, oversee, inspect, and manage  
9 transactions requiring a real estate license and the handling of trust funds in violation of  
10 Regulations section 2725.

11 10.

12 Each of the foregoing violations in Paragraph 9(a)-(l) above constitute cause for  
13 the suspension or revocation of the real estate license and/or license rights of Respondents  
14 ERGI and EWING under the provisions of Sections 10177(d) and/or 10177(g).

15 COSTS

16 (AUDIT COSTS)

17 11.

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

23 (INVESTIGATION AND ENFORCEMENT COSTS)

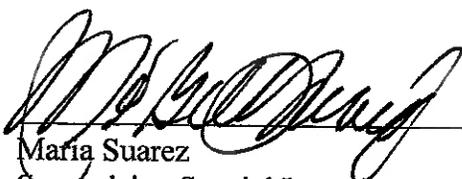
24 12.

25 Section 10106 of the Code, provides, in pertinent part, that in any order issued in  
26 resolution of a disciplinary proceeding before the Department, the Commissioner may request  
27

1 the administrative law judge to direct a licensee found to have committed a violation of this part  
2 to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

3 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
4 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
5 against all the licenses and/or license rights of Respondents EWING REALTY GROUP INC  
6 and ROGER PATRICK EWING, individually and as designated officer of Ewing Realty Group  
7 Inc, under the Real Estate Law, for the costs of investigation and enforcement as permitted by  
8 law, for the cost of the audit, and for such other and further relief as may be proper under other  
9 applicable provisions of law.

10  
11 Dated at Los Angeles, California this 16<sup>th</sup> day of January, 2019.

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15 Maria Suarez  
16 Supervising Special Investigator

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25 cc: EWING REALTY GROUP INC  
26 ROGER PATRICK EWING  
27 Maria Suarez  
Sacto.  
Audits -- Anna Hartoonian