

FILED

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BUREAU OF REAL ESTATE

By *By dew*

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8 **BEFORE THE BUREAU OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of)
12 WAYNE DOUGLAS POWELL,)
13 Respondent.)

No. H-6639 SAC
ACCUSATION

14
15 The Complainant, CHIKA SUNQUIST, acting in her official capacity as a
16 Supervising Special Investigator of the State of California, for cause of Accusation against
17 WAYNE DOUGLAS POWELL (Respondent), is informed and alleges as follows:

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19 Respondent is presently licensed and/or has license rights under the Real
20
21 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code) as a real estate
22
23 broker and a mortgage loan originator.

24 2

25 At all times mentioned, Respondent was doing business under the fictitious
26 business name of Lafayette Financial.

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1 3

2 At all times herein mentioned, Respondent engaged in the business of, acted in
3 the capacity of, advertised, or assumed to act as a real estate broker within the State of California
4 within the meaning of Section 10131 (d) of the Code, including solicitation of borrowers or
5 lenders for or negotiation of loans or performance of services for borrowers or lenders or note
6 owners in connection with loans secured directly or collaterally by liens on real property or on a
7 business opportunity for or in expectation of compensation.

8 FIRST CAUSE OF ACTION

9 4

10 Each and every allegation in Paragraphs 1 through 3, inclusive, is incorporated by this
11 reference as if fully set forth herein.

12 5

13 On or about November 20, 2015, Respondent brokered a private money loan
14 secured by the real property located at 128 Diablo View Drive, Orinda, CA, on behalf of the
15 lender/investor, BILL SCHILZ INVESTMENT CORP I, A CALIFORNIA CORPORATION.

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17 The Note dated December 17, 2015, indicates the lender is BILL SCHILZ
18 INVESTMENT CORP I, A CALIFORNIA CORPORATION (CFL # 01101525).

19 7

20 The Bureau of Real Estate (Bureau) Special Investigator was unable to locate
21 records of BILL SCHILZ INVESTMENT CORP I, A CALIFORNIA CORPORATION on the
22 California Secretary of State website.

23 8

24 The Bureau Special Investigator was unable to locate records of a California
25 Finance Lender license belonging to BILL SCHILZ INVESTMENT CORP I, A CALIFORNIA
26 CORPORATION on the California Department of Business Oversight website.

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The representations made by Respondent in Paragraph 6, above, were untrue and Respondent either knew them to be untrue at the time they were made or should have known them to be untrue. Respondent made the representations in order to complete the private money loan secured by the real property located at 128 Diablo View Drive, Orinda, CA. The true facts were:

1) BILL SCHILZ INVESTMENT CORP I, A CALIFORNIA CORPORATION was not registered with the California Secretary of State; and

2) BILL SCHILZ INVESTMENT CORP I, A CALIFORNIA CORPORATION did not have a California Finance Lender license.

Respondent's acts and or omissions identified above constitute grounds for the suspension or revocation of the license and license rights of Respondents pursuant to Sections 10176 (a) (Substantial Misrepresentations), 10177 (d) (Willful Disregard of Real Estate Laws), and 10177 (g) (Negligence/Incompetence of Licensee) of the Code.

SECOND CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 10, inclusive, is incorporated by this reference as if fully set forth herein.

On or about December 21, 2015, Respondent delivered to BILL SCHILZ INVESTMENT CORP I, A CALIFORNIA CORPORATION the Lender-Purchaser Disclosure Statement. However, Respondent had not completed the income section of the Lender-Purchaser Disclosure Statement.

In the course of activities described in Paragraph 3 and 5, Respondent, failed to provide a fully completed Lender-Purchaser Disclosure Statement to BILL SCHILZ

1 INVESTMENT CORP I, A CALIFORNIA CORPORATION in accordance with Section
2 10232.5 of the Code.

3 14

4 The act and/or omission described above constitutes a violation of Section
5 10232.4 (Delivery of Disclosure Statement), and is grounds for discipline under 10177(d) and
6 10177(g).

7 THIRD CAUSE OF ACTION

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9 Each and every allegation in Paragraphs 1 through 14, inclusive, is incorporated
10 by this reference as if fully set forth herein.

11 16

12 On or about October 2, 2017, the Bureau received from Respondent an Investor
13 Questionnaire for lender/investor BILL SCHILZ INVESTMENT CORP II which was dated
14 January 9, 2013. The Bureau received no other Investor Questionnaires or evidence of the
15 investor's suitability from Respondent.

16 17

17 The act and/or omission described above constitutes a violation of Section
18 10232.45 (Failure to Maintain Records of Investor Suitability) of the Code, and is grounds for
19 discipline under Sections 10177(d) and 10177(g) of the Code.

20

21 COST RECOVERY

22 18

23 Section 10106 of the Code provides, in pertinent part, that in any order issued in
24 resolution of a disciplinary proceeding before the department, the commissioner may request the
25 administrative law judge to direct a licensee found to have committed a violation of this part to
26 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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