

**FILED**  
FEB 16 2005  
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

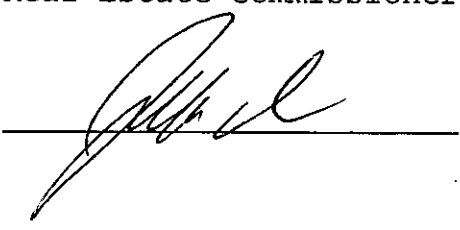
In the Matter of the Accusation of )	No. H-30373 LA
TRG REALESTATE GROUP, INC., a )	L-2003110191
corporation and doing business as )	
The Realestate Group, Inc. and )	
CHARLES WILLIAM BURTON, )	
individually and as designated )	
officer of TRG Realestate Group, )	
Inc., doing business as The )	
Realestate Group-Escrow Division, )	
The Realestate Group, and )	
West Bay Mortgage Co., )	
Respondents. )	

DECISION

The Proposed Decision dated January 6, 2005, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on March 17, 2005.

IT IS SO ORDERED 2-9-05

JEFF DAVI  
Real Estate Commissioner  


BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation and  
Supplemental Accusation Against:

TRG REALESTATE GROUP, INC., a  
corporation and doing business as The  
Realestate Group Inc., and CHARLES  
WILLIAM BURTON, individually and  
as designated officer of TRG Realestate  
Group, Inc., doing business as The  
Realestate Group-Escrow Division, The  
Realestate Group, and West Bay Mortgage  
Co.,

Respondents.

Case No. H- 30373 LA

OAH No. L2003110191

**PROPOSED DECISION**

This matter was heard on December 16, 2004, at Los Angeles, California, before Christopher J. Ruiz, Administrative Law Judge, Office of Administrative Hearings, State of California.

Respondent Charles William Burton (Respondent Burton) and TRG Real Estate Group, Inc. (Respondent TRG)(collectively, Respondents) were present and were represented by Steven F. Spierer, Esq.

Complainants Maria Suarez and Janice Waddell (Complainants), Deputy Real Estate Commissioners, were represented by Chris Leong, Counsel for Department of Real Estate (Department).

Oral and documentary evidence was received and the matter was submitted for decision.

The Accusation and Supplemental Accusation were amended by stipulation between the parties. The handwritten amendments are indicated in the pleadings attached hereto and are incorporated by reference (Exhibits 1B and 1C).

## FACTUAL FINDINGS

1. Complainants brought the Accusation and Supplemental Accusation in their official capacities.
2. Respondents are presently licensed and have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code).
3. Respondent TRG was and still is licensed by the Department as a corporate real estate broker.
4. Respondent Burton was and still is licensed by the Department as a real estate broker, individually and as responsible designated officer of TRG Realestate Group, Inc., pursuant to Code section 10159.2.<sup>1</sup>
5. Respondents engaged in the business of real estate brokers for others in the State of California, within the meaning of Code section 10131, subdivisions (a) and (d), including the operation and conduct of a real estate sales and loan business with the public wherein Respondents purchased and sold real property on behalf of owners of real property and solicited borrowers for loans secured by interest in real property.
6. On October 3, 2002, the Department concluded its first audit of Respondents' books and records pertaining to Respondents activities as real estate brokers covering a period from approximately April 30, 2001, to July 30, 2002. The conclusions of the Department are contained in audit numbers LA 010469 and LA 010470. The audit revealed violations of the Code and of California Code of Regulations, title 10, (Regulations), as set forth in Finding No. 8.
7. In connection with the real estate sales, loan, and broker escrow activity described above, Respondents accepted or received funds, including funds in trust (trust funds), from or on behalf of actual and prospective parties to transactions handled by Respondents. Trust funds were maintained or deposited in Account No. 1891613182, in the name of Charles W. Burton dba: The Realestate Group-Escrow Division, Comerica Bank, 8840 South La Cienega Blvd., Inglewood, California (TA#1).
8. Based on Audit Report No. LA 010469 and LA 010470, dated October 3, 2002, the exhibits attached to those reports, and the testimony of Darryl Thomas, it was established that Respondents TRG and Burton acted in violation of the Code and the Regulations as set forth below:
  - (a) As of April 30, 2002, T/A #1 had a shortage in the amount of approximately \$9,547.09. As of June 30, 2002, T/A #1 had a shortage in the amount of

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<sup>1</sup> All statutory references are to the Business and Professions Code.

approximately \$37,769.54. As of July 30, 2002, T/A #1 had a shortage in the amount of approximately \$6,322.78. Respondents caused, permitted or allowed the withdrawal or disbursement of trust funds from T/A #1 without the prior written consent of every principal who then was an owner of funds in the account thereby reducing the balance of funds in the said account to an amount less than the existing aggregate trust fund liability of the broker to all owners of said trust funds, in violation of Code section 10145 and Regulations 2832.1 and 2951.

(b) Respondents failed to perform monthly reconciliation of the columnar records for TA#1, reconciling the control record balances with the separate record balances, during the audit period, in violation of Code section 10145 and Regulations 2831.2 and 2951;

(c) Respondents allowed a non-licensee to be a signatory on the trust account, in violation of Code section 10145 and Regulations 2834 and 2951;

(d) Respondent Burton failed to exercise reasonable supervision and establish policies for reviewing the handling of the trust account, in violation of Code section 10159.2 and Regulation 2725;

(e) Respondents failed to maintain accurate control records, due to various recording errors, in violation of Code section 10145 and Regulation 2831;

(f) Respondents failed to maintain complete separate records of each beneficiary in connection with the broker-escrow activity, in violation of Code section 10145 and Regulation 2951 and 2831.1;

(g) The account containing the trust funds was in the name of the broker, but the account was not designated as a trust account and trust funds were not deposited by the next working day after receipt, in violation of Code section 10145 and Regulations 2832 and 2950, subdivision (f); and

(h) Respondents failed to maintain evidence of advising all parties that Respondent TRG held a financial interest in the agency holding the escrow, in violation of Regulation 2950, subdivision (h).

9. It was established that on April 16, 2004, the Department concluded its second audit of Respondents' books and records covering a period from approximately December 31, 2002, to December 31, 2003. The Department's findings are contained in audit numbers LA 030271 and LA 030313, as set forth in Findings 11.

10. Trust funds were maintained or deposited in three accounts as follows: (1) Account No. 1891613182, in the name of Charles W. Burton dba: The Realestate Group-Escrow Division, Comercia Bank, 9920 South La Cienega Blvd., 11<sup>th</sup> Floor, Inglewood, California (Comerica Bank) (TA#1); (2) Account No. 1891977041, in the name of TRG

Escrow at Comerica Bank (TA#2); and (3) Account No. 1891971, in the name of TRG Escrow at Comerica Bank (TA#3).

11. Based on Audit Report No. LA 030271 and LA 030313, dated April 16, 2004, and the testimony of Darryl Thomas, it was established that Respondents TRG and Burton acted in violation of the Code and the Regulations as set forth below:

(a) As of December 31, 2003, T/A #2 had a shortage in the amount of approximately \$1,602.68. Part of the shortage was identified as over disbursements in the amount of \$410.24. Respondents caused, permitted, or allowed the withdrawal or disbursement of trust funds from T/A #1 without the prior written consent of every principal who then was an owner of funds in the account thereby reducing the balance of funds in said account to an amount less than the existing aggregate trust fund liability of the broker to all owners of said trust funds, in violation of Code section 10145 and Regulations 2832.1 and 2951;

(b) Respondents failed to perform monthly reconciliation of the balance of all separate records for each beneficiary, with the record of all trust funds received and placed into a trust account, which resulted in a shortage. Additionally, based on bank records and statements made by Respondent Burton, Lauren Kim-Zaro (Kim Zaro) and Teresa Martin of Co-America Bank, during the period of May 5, 2003 to July 28, 2003, an ex-employee of TRG, Anna Dela Rosa, transferred a total of \$348,900 from the broker's trust account into an out-of-state account in Florida, in violation of Code section 10145 and Regulations 2831.2 and 2951;

(c) Respondent Burton failed to exercise reasonable supervision and establish policies for reviewing the handling of the trust account, in violation of Code section 10159.2 and Regulation 2725;

(d) Respondents failed to maintain accurate control records, due to recording errors, in violation of Code section 10145 and Regulation 2831;

(e) Respondents failed to maintain complete separate records of each beneficiary in connection with his broker-escrow activity, in violation of Code section 10145 and Regulations 2951 and 2831.1; and

(f) Respondents failed to maintain evidence of advising all parties that Respondent TRG held a financial interest in the agency holding the escrow, in violation of Regulation 2950, subdivision (h).

12. Respondent Burton has been licensed since 1959. In the 1980's, he obtained his broker's license. Respondent is 77 years old and works seven days a week. He loves the real estate business. He presently supervises approximately 600 agents and has never had his license subject to discipline before this matter.

13. a. Sufficient evidence of rehabilitation and mitigation was established. Essentially, Respondents were poor record keepers and had an ex-employee who stole money from the trust account. Evidence was presented regarding how easy it is to steal money from a bank account unless certain precautions are taken. These precautions are not the standard in the real estate industry. That is, many brokers are vulnerable as was Respondent Burton.

b. When notified of the missing money, Respondent Burton wrote a personal check, which almost depleted his savings, to cover the stolen money (\$213,000). The bank covered the remaining loss. He also hired consultant Pamela Strickland to help him correct his business practices. She has helped Respondent accomplish this goal and Respondent has been very willing to change his business practices. His trust accounts are now secure and Respondent Burton is more active in supervising his offices.

c. Respondent suffered a heavy financial loss as a result of his not protecting the trust accounts. He took immediate and appropriate remedial action to prevent against future mishaps. A restricted license will not pose a threat to public safety.

### **LEGAL CONCLUSIONS AND DISCUSSION**

Based upon the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to suspend or revoke all real estate licenses and license rights of Respondents under Code sections 10177, subdivision (d), and 10177, subdivision (g), based on the conduct, acts, and omissions of Respondents TRG and Burton as set forth in Factual Findings 1 through 11.

2. Cause exists to suspend or revoke Respondent Burton's license under Code Sections 10177, subdivision (d), 10177, subdivision (g), and 10177, subdivision (h), because Respondent Burton, as the officer designated by TRG as the person responsible for the supervision and control of the activities conducted on behalf of the corporation as necessary to secure full compliance with Real Estate Law as set forth in Code section 10159.2, failed in said duties as set forth in Factual Findings 1-11.

### **ORDER Re Respondent Charles William Burton**

All licenses and licensing rights of Respondent CHARLES WILLIAM BURTON under the Real Estate Law are revoked; provided, however, that a restricted real estate broker license shall be issued to Respondent CHARLES WILLIAM BURTON pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the

appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

4. Respondent CHARLES WILLIAM BURTON shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

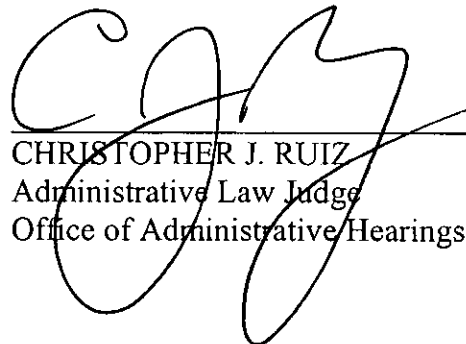
5. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for a subsequent audit to determine if Respondent has corrected all violations. Respondent is not ordered to pay for previously incurred costs as those costs were not sought in the Accusation, Supplemental Accusation, or at hearing. The Commissioner may suspend the restricted licenses issued to Respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

**ORDER Re Respondent TRG Real Estate Group**

All licenses and licensing rights of Respondent TRG REALESTATE GROUP, INC., under the Real Estate Law are revoked; provided, however, that a restricted real estate corporation license shall be issued to Respondent TRG REALESTATE GROUP, INC., pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

DATED: January 6, 2004.

  
CHRISTOPHER J. RUIZ  
Administrative Law Judge  
Office of Administrative Hearings



1 CHRIS LEONG, Counsel (SBN 141079)  
2 Department of Real Estate  
3 320 West Fourth Street, Suite 350  
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982  
6 -or- (213) 576-6910 (Direct)

**FILED**  
JUN 23 2004  
DEPARTMENT OF REAL ESTATE

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 TRG REALESTATE GROUP, INC., a )  
13 corporation and doing business as )  
14 The Realestate Group Inc. and )  
15 CHARLES WILLIAM BURTON, )  
16 individually and as designated )  
17 officer of TRG Realestate Group, )  
18 Inc., doing business as The )  
19 Realestate Group-Escrow Division, )  
20 The Realestate Group, and )  
21 West Bay Mortgage Co., )  
22 Respondents. )

No. H-30373 LA  
L-2003110191

SUPPLEMENTAL  
ACCUSATION

23 This is a Supplemental Accusation to the Accusation  
24 filed on October 9, 2003.

25 The Complainant, Janice Waddell, a Deputy Real Estate  
26 Commissioner of the State of California, for cause of  
27 Accusation against TRG REALESTATE GROUP, INC., a corporation  
and doing business as The Realestate Group, Inc. ("TRG") and  
CHARLES WILLIAM BURTON, individually and as designated officer  
of TRG Realestate Group, Inc., doing business as The Realestate

1 Group-Escrow Division, The Realestate Group, and West Bay  
2 Mortgage Co. ("BURTON"), hereafter sometimes collectively  
3 referred to as Respondents, is informed and alleges in her  
4 official capacity as follows:

5 1.

6 Respondents are presently licensed and/or have  
7 license rights under the Real Estate Law, Part 1 of Division 4  
8 of the California Business and Professions Code ("Code").

9 2.

10 At all times material herein, Respondent TRG was and  
11 still is licensed by the Department of Real Estate of the State  
12 of California ("Department") as a corporate real estate broker.

13 3.

14 At all times material herein, BURTON was licensed by  
15 the Department as a real estate broker, individually and as  
16 responsible designated officer of TRG Realestate Group, Inc.,  
17 pursuant to Code Section 10159.2.

18 4.

19 At all times material herein, Respondents engaged in  
20 the business of, acted in the capacity of, advertised or  
21 assumed to act as real estate brokers for others in the State  
22 of California, within the meaning of Code Section 10131(a) and  
23 (d), including the operation and conduct of a real estate  
24 sales, loan and loan servicing business with the public wherein  
25 Respondents purchased and sold real property on behalf of  
26 owners of real property and/or solicited borrowers for loans  
27 secured by interest in real property and/or serviced loans

1 secured by interest in real property in expectation of  
2 compensation. TRG's primary licensed activity is broker  
3 escrows pursuant to the Financial Code Section 17006(a)(4)  
4 exemption.

5 5.

6 All further references to "Respondents", unless  
7 otherwise specified, include the parties identified in Paragraphs  
8 2 and 3, above, and also include the employees, agents and real  
9 estate licensees employed by or associated with said parties, who  
10 at all times herein mentioned were engaged in the furtherance of  
11 the business or operations of said parties and who were acting  
12 within the course and scope of their authority and employment.

13 6.

14 On April 16, 2004, the Department concluded its  
15 examination of Respondents' books and records pertaining to  
16 Respondents' activities as real estate brokers, audit numbers  
17 LA 030271 and LA 030313 covering a period from approximately  
18 December 31, 2002 to December 31, 2003. The examination  
19 revealed violations of the Code and of Title 10, Chapter 6,  
20 California Code of Regulations ("Regulations"), as set forth  
21 below.

22 7.

23 At all times herein, in connection with the real  
24 estate sales, loan, loan servicing and broker-escrow activity  
25 described above, Respondents accepted or received funds,  
26 including funds in trust ("trust funds") from or on behalf of  
27 actual and prospective parties to transactions handled by

1 Respondents. Trust funds were maintained or deposited in three  
2 accounts as follows: 1) Account No. 1891613182, in the name of  
3 Charles W. Burton dba: The Realestate Group-Escrow Division,  
4 Comercia Bank, 9920 South La Cienega Blvd., 11<sup>th</sup> Floor,  
5 Inglewood, California (hereafter "Comercia Bank"). ("TA#1");  
6 2) Account No. 1891977041, in the name of TRG Escrow at  
7 Comercia Bank ("TA#2"); and 3) Account No. 1891971, in the name  
8 of TRG Escrow at Comercia Bank ("TA#3").

9 8.

10 Respondents TRG and BURTON acted in violation of the  
11 Code and the Regulations as set forth below, and as more  
12 specifically set forth in Audit Report No. LA 030271 and  
13 LA 030313, dated April 16, 2004, and the exhibits attached to  
14 said Audit Report, in that Respondents:

15 (a) As of December 31, 2003, T/A #2 had a shortage in  
16 the amount of approximately \$1,602.68. Part of the shortage was  
17 identified as over disbursements in the amount of \$410.24.

18 Respondents caused, permitted and/or allowed the withdrawal or  
19 disbursement of trust funds from T/A #1 without the prior written  
20 consent of every principal who then was an owner of funds in the  
21 account thereby reducing the balance of funds in said account to  
22 an amount less than the existing aggregate trust fund liability  
23 of the broker to all owners of said trust funds, in violation of  
24 Code Section 10145 and Regulations 2832.1 and 2951.

25 (b) Failed to perform monthly reconciliation of the  
26 balance of all separate records for each beneficiary, with the  
27 record of all trust funds received and placed into a trust

1 account, which resulted in a shortage. Additionally, based on  
2 bank records and statements made by BURTON, Lauren Kim-Zaro  
3 (Kim Zaro) and Teresa Martin of Co-America Bank, during the  
4 period of May 5, 2003 to July 28, 2003, an ex-employee of TRG,  
5 Anna Dela Rosa, transferred a total of \$348,900 from the  
6 broker's trust account into an out-of-state account in Florida,  
7 in violation of Code Section 10145 and Regulations 2831.2 and  
8 2951;

9 (c) Respondent BURTON failed to exercise reasonable  
10 supervision and establish policies for reviewing the handling  
11 of the trust account, in violation of Code Section 10159.2 and  
12 Regulation 2725;

13 (d) Failed to maintain accurate control records, due  
14 to various recording errors, in violation of Code Section 10145  
15 and Regulation 2831;

16 (e) Failed to maintain complete separate record of  
17 each beneficiary in connection with his broker-escrow activity,  
18 in violation of Code Section 10145 and Regulation 2951 and  
19 2831.1;

20 (f) Failed to maintain evidence of advising all  
21 parties that TRG held a financial interest in the agency  
22 holding the escrow, in violation of Regulation 2950(h).

23 9.

24 The conduct, acts and omissions of Respondents TRG  
25 and BURTON, as described in Paragraphs 1 through 8, violated  
26 the Code and the Regulations as set forth above and constitutes  
27 cause for the suspension or revocation of all real estate

1 licenses and license rights of Respondents under the provisions  
2 of Code Sections 10177(d) and/or 10177(g).

3 10.

4 -- Respondent BURTON, as the officer designated by TRG  
5 as the person responsible for the supervision and control of  
6 the activities conducted on behalf of the corporation by its  
7 officers and employees as necessary to secure full compliance  
8 with Real Estate Law as set forth in Sections 10159.2 of the  
9 Code failed in said duties as set forth herein above. This is  
10 further cause to discipline the license and license rights of  
11 Respondent BURTON pursuant to Code Sections 10177(d), 10177(g)  
12 and/or 10177(h).

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1  
2 WHEREFORE, Complainant prays that a hearing be  
3 conducted on the allegations of this Accusation and that upon  
4 proof thereof, a decision be rendered imposing disciplinary  
5 action against all licenses and/or license rights of  
6 Respondents TRG REALESTATE GROUP, INC., a corporation and doing  
7 business as The Realestate Group, Inc. and CHARLES WILLIAM  
8 BURTON, individually and as designated officer of TRG  
9 Realestate Group, Inc., doing business as The Realestate Group-  
10 Escrow Division, The Realestate Group, and West Bay Mortgage  
11 Co., under the Real Estate Law (Part 1 of Division 4 of the  
12 Business and Professions Code), and for such other and further  
13 relief as may be proper under other applicable provisions of  
14 law.

15 Dated at Los Angeles, California

16 this <sup>23<sup>rd</sup></sup> day of June, 2004.

17  
18  
19   
20 Deputy Real Estate Commissioner  
21

22 cc: TRG Realestate Group, Inc.  
23 Charles William Burton  
24 Steven F. Spierer, Esq.  
25 Janice Waddell  
26 Sacto.  
27 LA Audit/Thomas  
EE  
OAH

5800  
**BEFORE THE DEPARTMENT OF REAL ESTATE  
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In the Matter of the Accusation of ) Case No. H-30373 LA  
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TRG REALESTATE GROUP, INC., ) OAH No. L-2003110191  
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The Realestate Group, Inc. and )  
CHARLES WILLIAM BURTON, )  
individually and as designated )  
officer of TRG Realestate Group, )  
Inc., doing business as )  
The Realestate Group-Escrow Division, )  
The Realestate Group, and )  
West Bay Mortgage Co., )

**FILED**  
APR 20 2004  
DEPARTMENT OF REAL ESTATE

Respondent(s)

**NOTICE OF CONTINUED HEARING ON ACCUSATION**

**To the above-named Respondent(s):**

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on THURSDAY, DECEMBER 16, 2004, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: April 20, 2004

By

Chris Leong  
CHRIS LEONG, Counsel

cc: TRG Realestate Group, Inc.  
Charles William Burton  
Steven F. Spierer, Esq.  
Darryl Thomas, L.A. Audit Section  
Sacto.  
OAH



BEFORE THE DEPARTMENT OF REAL ESTATE  
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Case No. H-30373 LA  
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**FILED**  
DEC - 3 2003  
DEPARTMENT OF REAL ESTATE

Respondent(s)

**NOTICE OF HEARING ON ACCUSATION**

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, MARCH 24, 2004, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: December 3, 2003

By CHRIS LEONG  
CHRIS LEONG, Counsel

cc: TRG Realestate Group, Inc.  
Charles William Burton  
Steven F. Spierer, Esq.  
Darryl Thomas, L.A. Audit Section  
Sacto.  
OAH

1 CHRIS LEONG, Counsel (SBN 141079)  
2 Department of Real Estate  
3 320 West Fourth Street, Suite 350  
4 Los Angeles, CA 90013-1105

5 Telephone: (213) 576-6982  
6 -or- (213) 576-6910 (Direct)  
7

FILED  
OCT -9 2003  
DEPARTMENT OF REAL ESTATE

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of )  
12 TRG REALESTATE GROUP, INC., a ) No. H-30373 LA  
13 corporation and doing business as ) A C C U S A T I O N  
14 The Realestate Group Inc. and )  
15 CHARLES WILLIAM BURTON, )  
16 individually and as designated )  
17 officer of TRG Realestate Group, )  
18 Inc., doing business as The )  
19 Realestate Group-Escrow Division, )  
20 The Realestate Group, and )  
21 West Bay Mortgage Co., )  
22 Respondents. )

23 The Complainant, Maria Suarez, a Deputy Real Estate  
24 Commissioner of the State of California, for cause of  
25 Accusation against TRG REALESTATE GROUP, INC., a corporation  
26 and doing business as The Realestate Group, Inc. ("TRG") and  
27 CHARLES WILLIAM BURTON, individually and as designated officer  
of TRG Realestate Group, Inc., doing business as The Realestate  
Group-Escrow Division, The Realestate Group, and West Bay  
Mortgage Co. ("BURTON"), hereafter sometimes collectively

1 referred to as Respondents, is informed and alleges in her  
2 official capacity as follows:

3 1.

4 Respondents are presently licensed and/or have  
5 license rights under the Real Estate Law, Part 1 of Division 4  
6 of the California Business and Professions Code ("Code").

7 2.

8 At all times material herein, Respondent TRG was and  
9 still is licensed by the Department of Real Estate of the State  
10 of California ("Department") as a corporate real estate broker.

11 3.

12 At all times material herein, BURTON was licensed by  
13 the Department as a real estate broker, individually and as  
14 responsible designated officer of TRG Realestate Group, Inc.,  
15 pursuant to Code Section 10159.2.

16 4.

17 At all times material herein, Respondents engaged in  
18 the business of, acted in the capacity of, advertised or  
19 assumed to act as real estate brokers for others in the State  
20 of California, within the meaning of Code Section 10131(a) and  
21 (d), including the operation and conduct of a real estate  
22 sales, loan and loan servicing business with the public wherein  
23 Respondents purchased and sold real property on behalf of  
24 owners of real property and/or solicited borrowers for loans  
25 secured by interest in real property and/or serviced loans  
26 secured by interest in real property in expectation of  
27 compensation. TRG's primary licensed activity is broker

1 escrows pursuant to the Financial Code Section 17006(a)(4)  
2 exemption.

3 5.

4 All further references to "Respondents", unless  
5 otherwise specified, include the parties identified in Paragraphs  
6 2 through 4, above, and also include the employees, agents and  
7 real estate licensees employed by or associated with said  
8 parties, who at all times herein mentioned were engaged in the  
9 furtherance of the business or operations of said parties and who  
10 were acting within the course and scope of their authority and  
11 employment.

12 6.

13 On October 3, 2002, the Department concluded its  
14 examination of Respondents' books and records pertaining to  
15 Respondents' activities as real estate brokers, audit numbers  
16 LA 010469 and LA 010470 covering a period from approximately  
17 April 30, 2001 to July 30, 2002. The examination revealed  
18 violations of the Code and of Title 10, Chapter 6, California  
19 Code of Regulations ("Regulations"), as set forth below.

20 7.

21 At all times herein, in connection with the real  
22 estate sales, loan, loan servicing and broker escrow activity  
23 described above, Respondents accepted or received funds,  
24 including funds in trust ("trust funds") from or on behalf of  
25 actual and prospective parties to transactions handled by  
26 Respondents. Trust funds were maintained or deposited in  
27 Account No. 1891613182, in the name of Charles W. Burton dba:

1 The Realestate Group-Escrow Division, Comercia Bank, 8840 South  
2 La Cienega Blvd., Inglewood, California ("TA#1").

3 8.

4 Respondents TRG and BURTON acted in violation of the  
5 Code and the Regulations as set forth below, and as more  
6 specifically set forth in Audit Report No. LA 010469 and  
7 LA 010470, dated October 3, 2002, and the exhibits attached to  
8 said Audit Report, in that Respondents:

9 (a) As of April 30, 2002, T/A #1 had a shortage in the  
10 amount of approximately \$9,547.09. As of June 30, 2002, T/A #1  
11 had a shortage in the amount of approximately \$37,769.54. As of  
12 July 30, 2002, T/A #1 had a shortage in the amount of  
13 approximately \$6,322.78. Respondents caused, permitted and/or  
14 allowed the withdrawal or disbursement of trust funds from T/A #1  
15 without the prior written consent of every principal who then was  
16 an owner of funds in the account thereby reducing the balance of  
17 funds in the said account to an amount less than the existing  
18 aggregate trust fund liability of the broker to all owners of  
19 said trust funds, in violation of Code Section 10145 and  
20 Regulations 2832.1 and 2951.

21 (b) Failed to perform monthly reconciliation of the  
22 columnar records for TA#1, reconciling the control record  
23 balances with the separate record balances, monthly, during the  
24 audit period, in violation of Code Section 10145 and  
25 Regulations 2831.2 and 2951;

26 (c) Allowed a non-licensee to be a signatory on the  
27 trust account, in violation of Code Section 10145 and

1 Regulations 2834 and 2951;

2 (d) Respondent BURTON failed to exercise reasonable  
3 supervision and establish policies for reviewing the handling  
4 of the trust account, in violation of Code Section 10159.2 and  
5 Regulation 2725;

6 (e) Failed to maintain accurate control records, due  
7 to various recording errors, in violation of Code Section 10145  
8 and Regulation 2831;

9 (f) Failed to maintain complete separate record of  
10 each beneficiary in connection with his broker-escrow activity,  
11 in violation of Code Section 10145 and Regulation 2951 and  
12 2831.1;

13 (g) The account containing the trust funds were in  
14 the name of the broker but was not designated as a trust  
15 account and trust funds were not deposited by the next working  
16 day after receipt, in violation of Code Section 10145 and  
17 Regulation 2832 and 2950(f); and

18 (h) Failed to maintain evidence of advising all  
19 parties that TRG held a financial interest in the agency  
20 holding the escrow, in violation of Regulation 2950(h).

21 9.

22 The conduct, acts and omissions of Respondents TRG  
23 and BURTON, as described in Paragraphs 1 through 8, violated  
24 the Code and the Regulations as set forth above and constitutes  
25 cause for the suspension or revocation of all real estate  
26 licenses and license rights of Respondents under the provisions  
27 of Code Sections 10177(d) and/or 10177(g).

1 Respondent BURTON, as the officer designated by TRG  
2 as the person responsible for the supervision and control of  
3 the activities conducted on behalf of the corporation by its  
4 officers and employees as necessary to secure full compliance  
5 with Real Estate Law as set forth in Sections 10159.2 of the  
6 Code failed in said duties as set forth herein above. This is  
7 further cause to discipline the license and license rights of  
8 Respondent BURTON pursuant to Code Sections 10177(d), 10177(g)  
9 and/or 10177(h).

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1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all licenses and/or license rights of  
5 Respondents TRG REALESTATE GROUP, INC., a corporation and doing  
6 business as The Realestate Group, Inc. and CHARLES WILLIAM  
7 BURTON, individually and as designated officer of TRG  
8 Realestate Group, Inc., doing business as The Realestate Group-  
9 Escrow Division, The Realestate Group, and West Bay Mortgage  
10 Co., under the Real Estate Law (Part 1 of Division 4 of the  
11 Business and Professions Code), and for such other and further  
12 relief as may be proper under other applicable provisions of  
13 law.

14 Dated at Los Angeles, California

15 this 7<sup>th</sup> day of October, 2003.

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18   
19 Deputy Real Estate Commissioner

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22  
23  
24 cc: TRG Realestate Group, Inc.  
25 Charles William Burton  
26 Maria Suarez  
27 Sacto.  
LA Audit/Thomas  
EE