

*Sento*

**FILED**

AUG -8 2011

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
)  
CARLSBERG REALTY (MARYLAND) INC. dba )  
Coldwell Banker Commercial Carlsberg )  
and Coldwell Banker Town & Country; )  
CARLSBERG MANAGEMENT COMPANY dba )  
Cannery Village Sales and Rancho )  
Carlsbad Home Sales; and )  
WILLIAM WARREN GEARY JR., as )  
designated officer of Carlsberg )  
Realty Inc. and Carlsberg )  
Management Company, )  
)  
Respondents. )

No. H-36932 LA

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On November 22, 2010, an Accusation was filed in this matter against Respondent CARLSBERG REALTY (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY.

On June 28, 2011, Respondents petitioned the Commissioner to voluntarily surrender their real estate broker license rights pursuant to Section 10100.2 of the Business and Professions Code.

1 IT IS HEREBY ORDERED that CARLSBERG REALTY (MARYLAND)  
2 INC. and CARLSBERG MANAGEMENT COMPANY's petition for voluntary  
3 surrender of their real estate broker license and/or license  
4 rights are accepted as of the effective date of this Order as set  
5 forth below, based upon the understanding and agreement expressed  
6 in Respondent's Declaration dated June 28, 2011, (attached as  
7 Exhibit "A" hereto). Respondents' license certificate, pocket  
8 card and any branch office license certificate shall be sent to  
9 the below listed address so that they reach the Department on or  
10 before the effective date of this Order:  
11

12 Department of Real Estate  
13 Atten: Licensing Flag Section  
14 P.O. Box 187000  
Sacramento, CA 95818-7000

15 This Order shall become effective at 12 o'clock noon on  
16 August 29, 2011.

17 DATED: 7/29, 2011  
18

19 BARBARA J. BIGBY  
20 Acting Real Estate Commissioner

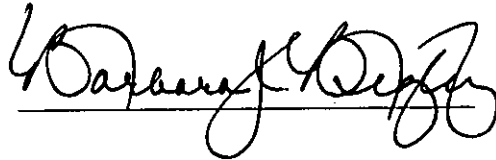
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EXHIBIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
)  
CARLSBERG REALTY (MARYLAND) INC. dba )  
Coldwell Banker Commercial Carlsberg )  
and Coldwell Banker Town & Country; )  
CARLSBERG MANAGEMENT COMPANY dba )  
Cannery Village Sales and Rancho )  
Carlsbad Home Sales; and )  
WILLIAM WARREN GEARY JR., as )  
designated officer of Carlsberg )  
Realty Inc. and Carlsberg )  
Management Company, )  
)  
Respondents. )

No. H-36932 LA

DECLARATION

My name is William Warren Geary Jr. and I am the  
designated officer of CARLSBERG REALTY (MARYLAND) INC. and  
CARLSBERG MANAGEMENT COMPANY which are licensed as real estate  
brokers and/or have license rights with respect to said  
licenses. I am acting on behalf of and am authorized and  
empowered to sign this declaration on behalf of CARLSBERG REALTY  
(MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY. CARLSBERG

1 REALTY (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY are  
2 represented in this matter by Mary E. Work, Esq.

3           In lieu of proceeding in this matter in accordance  
4 with the provisions of the Administrative Procedures Act  
5 (Sections 11400 et seq., of the Government Code) CARLSBERG  
6 REALTY (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY wish to  
7 voluntarily surrender the real estate licenses issued by the  
8 Department of Real Estate ("Department"), pursuant to Business  
9 and Professions Code Section 10100.2.

10           I understand that CARLSBERG REALTY (MARYLAND) INC. and  
11 CARLSBERG MANAGEMENT COMPANY, by so voluntarily surrendering  
12 their licenses, can only have them reinstated in accordance with  
13 the provisions of Section 11522 of the Government Code. I also  
14 understand that by so voluntarily surrendering their license  
15 rights, CARLSBERG REALTY (MARYLAND) INC. and CARLSBERG  
16 MANAGEMENT COMPANY agree to the following:

17           The filing of this Declaration shall be deemed as  
18 their petition for voluntary surrender. It shall also be deemed  
19 to be an understanding and agreement by CARLSBERG REALTY  
20 (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY that, they  
21 waive all rights they have to require the Commissioner to prove  
22 the allegations contained in the Accusation ("Accusation") filed  
23 in this matter at a hearing held in accordance with the  
24 provisions of the Administrative Procedures Act (Government Code  
25 Sections 11400 et seq.), and that they also waive other rights  
26 afforded to them in connection with the hearing such as the  
27 right to discovery, the right to present evidence in defense of

1 the allegations in the Accusation and the right to cross examine  
2 witnesses.

3 I further agree on behalf of CARLSBERG REALTY  
4 (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY that upon  
5 acceptance by the Commissioner, as evidenced by an appropriate  
6 order, all affidavits and all relevant evidence obtained by the  
7 Department in this matter prior to the Commissioner's  
8 acceptance, and all allegations contained in the Accusation  
9 filed in the Department Case No. H-36932 LA, may be considered  
10 by the Department to be true and correct for the purpose of  
11 deciding whether or not to grant reinstatement of CARLSBERG  
12 REALTY (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY's  
13 licenses pursuant to Government Code Section 11522.

14 This Declaration is not an admission by CARLSBERG  
15 REALTY (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY as to  
16 the allegations in the Accusation. This Declaration is made for  
17 the purpose of reaching a resolution of allegations contained in  
18 the DRE Case number H-36932 LA, and is expressly limited to this  
19 proceeding and any other proceeding or case in which the  
20 Department of Real Estate is a party and shall not otherwise be  
21 admissible or relied upon by any third parties for any purpose.

22  
23 I further agree on behalf of CARLSBERG REALTY  
24 (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY to pay the  
25 Commissioner's reasonable cost for the audit which led to this  
26 action. In calculating the amount of the Commissioner's  
27 reasonable cost, the Commissioner may use the estimated average

1 hourly salary for all persons performing audits of real estate  
2 brokers, and shall include an allocation for travel time to and  
3 from the auditor's place of work. I will pay such cost within 60  
4 days of receiving an invoice from the Commissioner detailing the  
5 activities performed during the audit and the amount of time  
6 spent performing those activities.

7 I am aware that if CARLSBERG REALTY (MARYLAND) INC.  
8 and CARLSBERG MANAGEMENT COMPANY petitions for reinstatement in  
9 the future, that payment of the audit costs will be a condition  
10 of reinstatement.

11 I declare under penalty of perjury under the laws of  
12 the State of California that the above is true and correct and  
13 that I am acting freely and voluntarily on behalf of CARLSBERG  
14 REALTY (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY to  
15 surrender their licenses and all license rights attached  
16 thereto.

17  
18 Manhattan Beach, June 28, 2011  
19 Date and Place

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23  
24 William J. G.  
25 BY: WILLIAM WARREN GEARY JR.  
26 Designated Officer of  
27 Carlsberg Realty (Maryland) Inc.  
and Carlsberg Management Company

FILED

AUG -8 2011

DEPARTMENT OF REAL ESTATE  
BY: [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )

CARLSBERG REALTY (MARYLAND) INC. dba )  
Coldwell Banker Commercial Carlsberg )  
and Coldwell Banker Town & Country; )  
CARLSBERG MANAGEMENT COMPANY dba )  
Cannery Village Sales and Rancho )  
Carlsbad Home Sales; and )  
WILLIAM WARREN GEARY JR., as )  
designated officer of Carlsberg )  
Realty Inc. and Carlsberg )  
Management Company, )

No. H-36932 LA

Respondents. )

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On November 22, 2010, an Accusation was filed in this matter against Respondent WILLIAM WARREN GEARY JR.

On June 28, 2011, Respondent petitioned the Commissioner to voluntarily surrender his real estate broker license rights pursuant to Section 10100.2 of the Business and Professions Code.

1 IT IS HEREBY ORDERED that Respondent WILLIAM WARREN  
2 GEARY JR.'s petition for voluntary surrender of his real estate  
3 broker license rights is accepted as of the effective date of  
4 this Order as set forth below, based upon the understanding and  
5 agreement expressed in Respondent's Declaration dated June 28,  
6 2011, (attached as Exhibit "A" hereto). Respondent's license  
7 certificate, pocket card and any branch office license  
8 certificate shall be sent to the below listed address so that  
9 they reach the Department on or before the effective date of this  
10 Order:

11  
12 Department of Real Estate  
13 Atten: Licensing Flag Section  
14 P.O. Box 187000  
Sacramento, CA 95818-7000

15 This Order shall become effective at 12 o'clock noon on  
16 August 29, 2011.

17 DATED: 7/29, 2011

18  
19 BARBARA J. BIGBY  
Acting Real Estate Commissioner

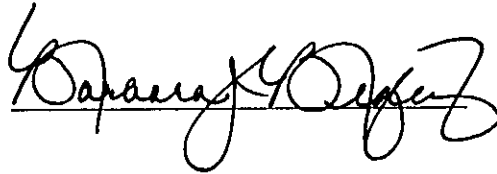
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EXHIBIT "A"

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

CARLSBERG REALTY (MARYLAND) INC. dba  
Coldwell Banker Commercial Carlsberg  
and Coldwell Banker Town & Country;  
CARLSBERG MANAGEMENT COMPANY dba  
Cannery Village Sales and Rancho  
Carlsbad Home Sales; and  
WILLIAM WARREN GEARY JR., as  
designated officer of Carlsberg  
Realty Inc. and Carlsberg  
Management Company,

No. H-36932 LA

Respondents.

DECLARATION

My name is WILLIAM WARREN GEARY JR. and I am currently  
licensed as a real estate broker and/or have license rights with  
respect to said license. I am represented by Mary E. Work, Esq.

In lieu of proceeding in this matter in accordance with  
the provisions of the Administrative Procedure Act (Sections  
11400 et seq., of the Government Code), I wish to voluntarily

1 surrender my real estate license(s) issued by the Department of  
2 Real Estate ("Department"), pursuant to Business and Professions  
3 Code Section 10100.2.

4 I understand that by so voluntarily surrendering my  
5 license(s), I may be relicensed as a broker or as a salesperson  
6 only by petitioning for reinstatement pursuant to Section 11522  
7 of the Government Code. I also understand that by so voluntarily  
8 surrendering my license(s), I agree to the following:

9 1. The filing of this Declaration shall be deemed as  
10 my petition for voluntary surrender.

11 2. It shall also be deemed to be an understanding and  
12 agreement by me that I waive all rights I have to require the  
13 Commissioner to prove the allegations contained in the Accusation  
14 filed in this matter at a hearing held in accordance with the  
15 provisions of the Administrative Procedure Act (Government Code  
16 Sections 11400 et seq.), and that I also waive other rights  
17 afforded to me in connection with the hearing such as the right  
18 to discovery, the right to present evidence in defense of the  
19 allegations in the Accusation and the right to cross-examine  
20 witnesses.

21 3. I further agree that upon acceptance by the  
22 Commissioner, as evidenced by an appropriate order, all  
23 affidavits and all relevant evidence obtained by the Department  
24 in this matter prior to the Commissioner's acceptance, and all  
25 allegations contained in the Accusation filed in the Department  
26 Case No. H-36932 LA, may be considered by the Department to be  
27 true and correct for the purpose of deciding whether to grant

1 relicensure or reinstatement pursuant to Government Code Section  
2 11522.

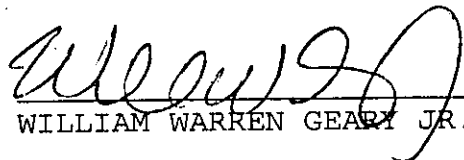
3 4. This Declaration is not an admission by WILLIAM  
4 WARREN GEARY JR. as to the allegations in the Accusation. This  
5 Declaration is made for the purpose of reaching a resolution of  
6 allegations contained in the DRE Case number H-36932 LA, and is  
7 expressly limited to this proceeding and any other proceeding or  
8 case in which the Department of Real Estate is a party and shall  
9 not otherwise be admissible or relied upon by any third parties  
10 for any purpose.

11 5. I further agree on behalf of CARLSBERG REALTY  
12 (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY to pay the  
13 Commissioner's reasonable cost for the audit which led to this  
14 action. In calculating the amount of the Commissioner's  
15 reasonable cost, the Commissioner may use the estimated average  
16 hourly salary for all persons performing audits of real estate  
17 brokers, and shall include an allocation for travel time to and  
18 from the auditor's place of work. I will pay such cost within 60  
19 days of receiving an invoice from the Commissioner detailing the  
20 activities performed during the audit and the amount of time  
21 spent performing those activities.

22 I am aware that if CARLSBERG REALTY (MARYLAND) INC.  
23 and CARLSBERG MANAGEMENT COMPANY petitions for reinstatement in  
24 the future, that payment of the audit costs will be a condition  
25 of reinstatement.  
26  
27

1 I freely and voluntarily surrender all my licenses and  
2 license rights under the Real Estate Law.

3 I declare under penalty of perjury under the laws of  
4 the State of California that the above is true and correct and  
5 that this declaration was executed on June 28,  
6 2011, at Manhattan Beach, California.

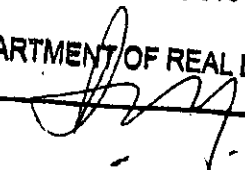
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10 WILLIAM WARREN GEARY JR.  
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ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)  
-or- (213) 576-6982 (office)

**FILED**

NOV 22 2010

DEPARTMENT OF REAL ESTATE  
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

No. H-36932 LA

CARLSBERG REALTY (MARYLAND) INC. dba )  
Coldwell Banker Commercial Carlsberg )  
and Coldwell Banker Town & Country; )  
CARLSBERG MANAGEMENT COMPANY dba )  
Cannery Village Sales and Rancho )  
Carlsbad Home Sales; and )  
WILLIAM WARREN GEARY JR., as )  
designated officer of Carlsberg )  
Realty Inc. and Carlsberg )  
Management Company, )

ACCUSATION

Respondents. )

The Complainant, Robin Trujillo, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against CARLSBERG REALTY (MARYLAND) INC., CARLSBERG MANAGEMENT  
COMPANY and WILLIAM WARREN GEARY JR., as designated officer of  
Carlsberg Realty (Maryland) Inc. and Carlsberg Management Company  
alleges as follows:

///

1. 1

2 The Complainant, Robin Trujillo, makes this Accusation  
3 in her official capacity.

2. 4

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

3. 8

9 A. At all times mentioned, CARLSBERG REALTY (MARYLAND)  
10 INC. ("CRMI") was licensed or had license rights issued by the  
11 Department of Real Estate ("Department") as a corporate real  
12 estate broker. On December 5, 2005, CRMI was originally licensed  
13 as a corporate real estate broker.

14 B. At all times mentioned, CARLSBERG MANAGEMENT  
15 COMPANY ("CMC") was licensed or had license rights issued by the  
16 Department as a corporate real estate broker. On August 11,  
17 1975, CMC was originally licensed as a corporate real estate  
18 broker.

19 C. At all times mentioned, WILLIAM WARREN GEARY JR.  
20 ("GEARY") was licensed or had license rights issued by the  
21 Department as a real estate broker. On December 5, 1977, GEARY  
22 was originally licensed as a real estate broker.

23 D. At all times material herein, CRMI and CMC were  
24 licensed by the Department as a corporate real estate broker by  
25 and through GEARY, as the designated officer and broker  
26 responsible, pursuant to Code Sections 10159.2 and 10211 of the  
27 Business and Professions Code for supervising the activities

1 requiring a real estate license conducted on behalf CRMI and CMC  
2 by their officers, agents and employees, including GEARY, as  
3 herein set forth.

4 E. CRMI and CMC are owned by WILLIAM WARREN GEARY JR.,  
5 who is their president and treasurer.

6 Brokerage

7 4.

8 A. CARLSBERG REALTY (MARYLAND) INC. At all times  
9 mentioned, in the City and County of Los Angeles, Respondents  
10 CRMI and GEARY engaged in the business of, acted in the capacity  
11 of, advertised or assumed to act as real estate brokers within  
12 the meaning of Code Section 10131(A), including the operation and  
13 conduct of a commercial and residential resale brokerage with the  
14 public wherein, for or in expectation of compensation, for  
15 another or others, Respondents engaged in the business of, acted  
16 in the capacity of, advertised or assumed to act as a real estate  
17 broker, including the solicitation for listings of and the  
18 negotiation of the sale of real property as the agent of others.

19 B. CARLSBERG MORTGAGE COMPANY. At all times  
20 mentioned, in the City and County of Los Angeles, Respondents CMC  
21 and GEARY engaged in the business of, acted in the capacity of,  
22 advertised or assumed to act as real estate brokers within the  
23 meaning of Code Section 10131(b), including the operation and  
24 conduct of a property management brokerage with the public  
25 wherein, for or in expectation of compensation, for another or  
26 others, Respondents leased or rented or offered to lease or rent,  
27 or placed for rent, or solicited listings of places for rent, or

1 solicited for prospective tenants, or collected rents from real  
2 property, or improvements thereon; and

3 C. In addition, CRMI conducted broker-controlled  
4 escrows through its escrow division under the exemption set forth  
5 in California Financial Code Section 17006(a)(4) for real estate  
6 brokers performing escrows incidental to a real estate  
7 transaction where the broker is a party and where the broker is  
8 performing acts for which a real estate license is required.

9 FIRST CAUSE OF ACCUSATION

10 CARLSBERG REALTY (MARYLAND) INC.

11 Audit

12 5.

13 On September 2, 2010, the Department completed an audit  
14 examination of the books and records of CRMI pertaining to the  
15 real estate resales and broker-controlled escrow activities  
16 described in Paragraph 4, that require a real estate license.  
17 The audit examination covered a period of time beginning on April  
18 1, 2007 to February 28, 2010. The audit examination revealed  
19 violations of the Code and the Regulations as set forth in the  
20 following paragraphs, and more fully discussed in Audit Report LA  
21 090208 & LA 090228 and the exhibits and work papers attached to  
22 said audit report.

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1        Violations of the Real Estate Law

2                                7.

3                In the course of activities described in Paragraphs 4  
4 and 6, above, and during the examination period described in  
5 Paragraph 5, Respondents CRMI and GEARY, acted in violation of  
6 the Code and the Regulations in that Respondents:

7                (a)(1) Permitted, allowed or caused the disbursement of  
8 trust funds from T/A #1, where the disbursement of funds reduced  
9 the total of aggregate funds in T/A #1, to an amount which, on  
10 February 28, 2010, the cutoff date of the audit examination, was  
11 \$100,606.22, less than the existing aggregate trust fund  
12 liability to every principal who was an owner of said funds,  
13 without first obtaining the prior written consent of the owners  
14 of said funds, in violation of Code Section 10145 and Regulations  
15 2832.1, 2950(g) and 2951.

16                (a)(2) Permitted, allowed or caused the disbursement of  
17 trust funds from T/A #2, where the disbursement of funds reduced  
18 the total of aggregate funds in T/A #1, to an amount which, on  
19 February 28, 2010, was \$36,596.90, less than the existing  
20 aggregate trust fund liability to every principal who was an  
21 owner of said funds, without first obtaining the prior written  
22 consent of the owners of said funds, in violation of Code Section  
23 10145 and Regulations 2832.1, 2950(g) and 2951.

24                (b) Failed to maintain an accurate and complete control  
25 record in the form of a columnar record in chronological order of  
26 all "Trust Funds Received - Not Placed In Broker's Trust Account,  
27 in violation of Code Section 10145 and Regulations 2831, 2950(d)

1 and 2951.

2 (c) Failed to place trust funds, including security  
3 deposits and tenant rents, accepted on behalf of another into the  
4 hands of the owner of the funds, a neutral escrow depository or  
5 into a trust fund account in the name of the trustee at a bank or  
6 other financial institution not later than three business days  
7 following receipt of the funds by the broker or by the broker's  
8 salesperson, in violation of Code Section 10145 and Regulation  
9 2832(d), 2950(d) and 2951.

10 (d) Misrepresented to sellers Jones, Luna and Engelhard  
11 that CRMI held their earnest money deposits, in violation of Code  
12 Section 10176(a).

13 (e) Failed to place trust funds from borrowers into a  
14 trust account in the name of the broker as trustee at a bank or  
15 other financial institution in connection with CRMI's escrow  
16 activities, in violation of Code Section 10145 and Regulations  
17 2832(a), 2950(d) and 2951.

18 (f) Permitted Esther Cordéro, an unlicensed and  
19 unbonded employee of CRMI, to be an authorized signatory on the  
20 trust accounts, into which were deposited trust funds for buyers  
21 and sellers, in violation of Code Section 10145 and Regulations  
22 2834(a), 2950(d) and 2951.

23 (g) Failed to maintain a separate record for each  
24 beneficiary or transaction, thereby failing to account for all  
25 trust funds received, deposited and disbursed for the trust  
26 accounts, in violation of Code Section 10145 and Regulations  
27 2831.1, 2950(d) and 2951.

1 (h) While acting in the capacity of an escrow holder in  
2 two purchase and sale transactions (escrow Numbers 3055 and  
3 1458), failed to place trust funds, including earnest money  
4 deposits, accepted on behalf of another into the hands of the  
5 owner of the funds, a neutral escrow depository or into a trust  
6 fund account in the name of the broker at a bank or other  
7 financial institution not later than the next business day  
8 following receipt of the funds by the broker or by the broker's  
9 salesperson, in violation of Code Section 10145 and Regulations  
10 2832(e), 2950(f) and 2951.

11 (i) CRMI mixed and commingled trust funds and personal  
12 funds and made unauthorized disbursements of beneficiary trust funds  
13 by transferring trust funds to and from T/A #1 and T/A #2, and  
14 vice-versa, then transferring said trust funds to CMC's B/A #1,  
15 CMC's main bank account for its property management activities  
16 issuing checks therefrom GEARY's operating expenses for several  
17 entities owned by him, in violation of Code Sections 10145,  
18 10176(e), 10176(i) and/or 10177(g) and Regulation 2950(g).

19 (j) CRMI Failed to disclose in writing to all parties  
20 of GEARY's financial interest and ownership of CRMI's escrow  
21 division, in violation of Code Sections 10145, 10176(g) and  
22 Regulation 2950(h).

23 (k) Used the fictitious name of "Town & Country Escrow  
24 Division", to conduct licensed activities including realty  
25 resales and broker-controlled escrows without holding a license  
26 bearing said fictitious business name, in violation of Code  
27 Section 10159.5 and Regulation 2731.

1        Disciplinary Statutes And Regulations

2                                8.

3                The conduct of Respondents CRMI and GEARY, as alleged  
4 and described in Paragraph 7, above, violated the Code and the  
5 Regulations as set forth below:

6 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7	
8        7(a)	Code Section 10145 and Regulations
9	2832.1, 2950(g) and 2951
10	
11       7(b)	Code Section 10145 and Regulations
12	2831, 2950(d) and 2951
13	
14       7(c)	Code Section 10145 and Regulations
15	2832(d), 2950(d) and 2951
16	
17       7(d)	Code Section 10176(a)
18	
19       7(e)	Code Section 10145 and Regulation
20	2832(a), 2950(d) and 2951
21	
22       7(f)	Code Section 10145 and Regulations
23	2834(a), 2950(d) and 2951
24	
25       7(g)	Code Section 10145 and Regulation
26	2831.1, 2950(d) and 2951
27	

1	7(h)	Code Section 10145 and Regulations
2		2832(e), 2950(f) and 2951
3		
4	7(i)	Code Sections 10145, 10176(e),
5		10176(i) and/or 10177(g)
6		
7	7(j)	Code Section 10145, 10176(g) and
8		Regulation 2950(h)
9		
10	7(k)	Code Section 10159.5 and Regulation
11		2731

12

13 The foregoing violations constitute cause for the suspension or

14 revocation of the real estate license and license rights of CRMI

15 and GEARY under the provisions of Code Sections 10176(a),

16 10176(e), 10176(g), 10176(i), 10177(d) and/or 10177(g).

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1	"CMC Realty Inc., 776032115"	
2	First Regional Bank	
3	Santa Monica, CA 90405	(B/A #1)
4		
5	"Carlsberg Management Company CMC-Ocean Walk Shoppes 76012033"	
6	First Regional Bank	
7	Santa Monica, CA 90405	(B/A #2)
8		
9	"Carlsberg Management Company/ AAF Rancho Carlsbad Golf Course 776028398"	
10	First Regional Bank	
11	Santa Monica, CA 90405	(B/A #3)
12		
13	"Carlsberg Management Company CMC-Price/O'Brien Apartments 776014079"	
14	First Regional Bank	
15	Santa Monica, CA 90405	(B/A #4)
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1           Violations of the Real Estate Law

2                               11.

3           In the course of activities described in Paragraphs 4  
4 and 10, above, and during the examination period described in  
5 Paragraph 9, Respondents CMC and GEARY, acted in violation of the  
6 Code and the Regulations in that Respondents:

7           (a)(1) Permitted, allowed or caused the disbursement of  
8 trust funds from B/A #1, where the disbursement of funds reduced  
9 the total of aggregate funds in B/A #1, to an amount which, on  
10 April 30, 2010, the cutoff date of the audit examination, was  
11 \$2,588,107.37, less than the existing aggregate trust fund  
12 liability to every principal who was an owner of said funds,  
13 without first obtaining the prior written consent of the owners  
14 of said funds, in violation of Code Sections 10145, 10176(i)  
15 and/or 10177(g) and Regulation 2832.1.

16           (a)(2) Caused a \$1,931,000.00 discrepancy to exist in  
17 B/A #2, the CMC-Ocean Walk Shoppes trust account, where such  
18 discrepancy was caused by the disbursement of trust funds from  
19 B/A #2 to B/A #1, without first obtaining the prior written  
20 consent of the owners of said trust funds in B/A #2, in violation  
21 of Code Sections 10145, 10176(i) and/or 10177(g).

22           (a)(3) Caused a \$11,000.00 discrepancy to exist in B/A  
23 #3, the AAF Rancho Carlsbad Gold Course trust account, where such  
24 discrepancy was caused by the disbursement of trust funds from  
25 B/A #3 to B/A #1, without first obtaining the prior written  
26 consent of the owners of said trust funds in B/A #3, in violation  
27 of Code Sections 10145, 10176(i) and/or 10177(g) and Regulations

1 2950(g) and 2951.

2 (a) (4) Caused a \$1,100.00 discrepancy to exist in B/A  
3 #3, CMC-Price/O'Brien Apartments trust account, where such  
4 discrepancy was caused by the disbursement of trust funds from  
5 B/A #3 to B/A #1, without first obtaining the prior written  
6 consent of the owners of said trust funds in B/A #4, in violation  
7 of Code Sections 10145, 10176(i) and/or 10177(g).

8 (b) Failed to maintain an accurate and complete control  
9 record in the form of a columnar record in chronological order of  
10 all trust funds received, deposited and disbursed by B/A #1  
11 through B/A #4, in violation of Code Sections 10145, 10176(i)  
12 and/or 10177(g) and Regulation 2831.

13 (c) Failed to perform a monthly reconciliation of the  
14 balance of all separate beneficiary or transaction records  
15 maintained pursuant to Regulation 2831.1 with the record of all  
16 trust funds received, deposited and disbursed by B/A #1, in  
17 violation of Code Section 10145 and Regulation 2831.2.

18 (d) Failed to maintain a separate record for each  
19 beneficiary or transaction, thereby failing to account for all  
20 trust funds received, deposited and disbursed for the trust  
21 accounts, in violation of Code Section 10145 and Regulation  
22 2831.1.

23 (e) Failed to place trust funds into a trust account in  
24 the name of the broker as trustee at a bank or other financial  
25 institution in connection with CMC's property management  
26 activities, in violation of Code Section 10145 and Regulation  
27 2832(a). B/A #1 through B/A 4 were not designated as trust

1 accounts. B/A #1 was not in the name of the broker.

2 (f) Permitted Esther Cordero and Kathryn Schiebel,  
3 unlicensed and unbonded employees of CMC, to be an authorized  
4 signatory on the trust accounts and permitted Gerald Cockrell, an  
5 unlicensed and unbonded person, into which were deposited trust  
6 funds for property owners and tenants, in violation of Code  
7 Section 10145 and Regulation 2834(a).

8 (g) Trust funds, including but not limited to rents,  
9 that had been deposited into CRMI's T/A #1 and T/A #2, and CMC's  
10 B/A #2 through B/A #4, and subsequently transferred to B/A #1,  
11 CMC's and GEARY's operating account, it appeared that the banks,  
12 American Patriot Bank (Acct. #6623512) and First Community Bank  
13 (Acct. #2011294) were located in the states of Tennessee and  
14 Kansas respectively and the investors for the corresponding out-  
15 of-state banks were not the exempt institutional investors, in  
16 violation of the trust fund handling procedures of Code Section  
17 10145(a).

18 (h) Failed to disclose that CMC charged property owners  
19 service fees and charges for which no agreement or authorization  
20 existed. CMC charged property owner Price Apt LLC a maintenance  
21 fee in the amount of \$350.00 for use of CMC's computer. CMC also  
22 charged property owner Ocean Walk Shoppes a \$5,000.00  
23 administration fee for at the end of year where the  
24 administration fee was neither authorized nor contained in the  
25 management agreement between CMC and Ocean Walk Shoppes, in  
26 violation of Code Section 10176(g).

27

1 (i) CMC mixed and commingled trust funds and personal  
2 funds and made unauthorized disbursements of beneficiary trust funds  
3 by transferring trust funds to and from T/A #1 and T/A #2, and  
4 vice-versa, then transferring said trust funds to CMC's B/A #1,  
5 CMC's main bank account for its property management activities  
6 issuing checks therefrom GEARY's operating expenses for several  
7 entities owned by him, in violation of Code Sections 10145,  
8 10176(e), 10176(i) and/or 10177(g).

9  
10 Disciplinary Statutes and Regulations

11 12.

12 The conduct of Respondents CMC and GEARY, as alleged  
13 and described in Paragraph 11, above, violated the Code and the  
14 Regulations as set forth below:

15 PARAGRAPH

PROVISIONS VIOLATED

16 11(a)

Code Sections 10145, 10176(i)  
17 and/or 10177(g) and Regulation  
18 2832.1

19  
20 11(b)

Code Section 10145, 10176(i) and/or  
21 10177(g) and Regulation 2831

22  
23 11(c)

Code Section 10145, 10176(i) and/or  
24 10177(g) and Regulation 2831.2  
25  
26  
27

1	11(d)	Code Sections 10145, 10176(a) and
2		Regulation 2831.1
3		
4	11(e)	Code Sections 10145, 10176(i)
5		and/or 10177(g) and Regulation
6		2832(a)
7		
8	11(f)	Code Section 10145 and Regulations
9		2834(a)
10		
11	11(g)	Code Section 10145(a)
12		
13		
14	11(h)	Code Section 10176(g)
15		
16	11(i)	Code Sections 10145, 10176(e),
17		10176(i) and/or 10177(g)
18		
19	The foregoing violations constitute cause for the suspension or	
20	revocation of the real estate license and license rights of CMC	
21	and GEARY under the provisions of Code Sections 10176(e),	
22	10176(g), 10176(i), 10177(d) and 10177(g).	
23	///	
24	///	
25	///	
26	///	
27		

THIRD CAUSE OF ACTION

Slush Fund

13.

The conduct of Respondents CARSLBERG REALTY (MARYLAND) INC., CARLSBERG MANAGEMENT COMPANY and WILLIAM WARREN GEARY JR., of making unauthorized transfers trust funds from protected beneficiary trust accounts to fund Respondents' personal, business and investment ventures, accompanied by falsification of trust funds records to deceive the trust fund owner-beneficiaries as to the true status of their defalcated trust funds, constitutes the use of client trust funds as a slush fund, is in violation of Code Sections:

1. 10176(a) for substantial misrepresentation.
2. 10176(b) for making false promises of a character likely to influence, persuade or induce buyers and sellers, property owners and renters into believing their escrowed funds, deposits and rents maintained in bona fide trust accounts.
3. 10176(e) for commingling beneficiary trust funds.
4. 10176(i) for fraud and dishonest dealing in connection with the ongoing systematic scheme to convert client-beneficiary trust funds for use as a private banking reserve fund for Respondents' own purposes.
5. 10176(i) for conversion of trust funds.
6. 10176(i) for concealment of trust fund status by falsification of trust fund accounting records..

1 7. 10176(i) for fraud in concealment the conversion of  
2 trust funds by classifying \$1,931,000.00 as a loan to  
3 Respondents.

4 8. 10177(i) for breach of fiduciary for the slush fund  
5 defalcation scheme; and

6 9. 10177(g) for negligence or incompetence in exposing  
7 client trust funds to seizure for by federal and California tax  
8 authorities and general creditors by Respondents, transfer to  
9 unprotected non trust fund accounts.

10 Negligence

11 14.

12  
13 The overall conduct of Respondents CARSLBERG REALTY  
14 (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY and WILLIAM  
15 WARREN GEARY JR. constitutes negligence and is cause for the  
16 suspension or revocation of the real estate license and license  
17 rights of said Respondents pursuant to Code Section 10177(g).

18 Fiduciary Duty

19 15.

20 The overall conduct of Respondents CARSLBERG REALTY  
21 (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY and WILLIAM  
22 WARREN GEARY JR. constitutes a breach of fiduciary duty with  
23 respect to the said Respondent's real estate consumers and  
24 clientele. This conduct and violation are cause for the  
25 suspension or revocation of the real estate license and license  
26 rights of said Respondents pursuant to Code Section 10176(i).

27 ///

THIRD CAUSE OF ACTION

Failure to Supervise

16.

The overall conduct of Respondent WILLIAM WARREN GEARY JR. constitutes a failure on his part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of CARLSBERG REALTY (MARYLAND) INC. and CARLSBERG MANAGEMENT COMPANY, as required by Code Section 10159.2. This conduct is cause for the discipline of the real estate license and license rights of Respondent pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

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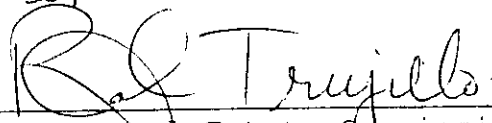
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1           WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against the license and license rights of Respondents  
5 CARLSBERG REALTY (MARYLAND) INC., CARLSBERG MANAGEMENT COMPANY  
6 and WILLIAM WARREN GEARY JR., under the Real Estate Law (Part 1  
7 of Division 4 of the Business and Professions Code) and for such  
8 other and further relief as may be proper under other applicable  
9 provisions of law., including but not limited to 1) Restorral of  
10 converted trust funds in the amount of \$2,588,107.37, 2)  
11 Restitution to trust fund beneficiaries, and 3) audit costs for  
12 LA 090257 (property management audit) and LA 090208 and LA 090228  
13 (realty resales audit).

14 Dated at Los Angeles, California

15 this 19th day of November 2010.

16   
17 \_\_\_\_\_  
18 Deputy Real Estate Commissioner

19  
20  
21  
22 cc: Carlsberg Realty (Maryland) Inc.  
23 Carlsberg Management Company  
24 c/o William Warren Geary Jr. D.O.  
25 Robin Trujillo  
26 Enforcement - Kimberly Wessler  
27 Sacto  
Audits - Manijeh Khazrai