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FILED

MAY -5 2011

DEPARTMENT OF REAL ESTATE
BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

To: CARLSBERG REALTY (MARYLAND) INC., CARLSBERG MANAGEMENT COMPANY and WILLIAM WARREN GEARY, JR.	No. H-37253 LA ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Commissioner ("Commissioner") of the California Department of Real Estate ("Department") caused an investigation to be made of the activities of CARLSBERG REALTY (MARYLAND) INC. ("CARLSBERG REALTY"), CARLSBERG MANAGEMENT COMPANY ("CARLSBERG MANAGEMENT") and WILLIAM WARREN GEARY, JR. ("GEARY"). Based on that investigation, the Commissioner has determined that (a) CARLSBERG REALTY and GEARY have engaged in or are engaging in acts or are attempting to engage in the business of, acting in the capacity of, and/or advertising or assuming to act as real estate brokers in the State of California within the meaning of Business and Professions Code Sections 10131(a) (solicitation, negotiation and/or sale real property as the agent of others) and under the exemption in California Financial Code Section 17006(a)(4) (performing escrows where the broker is a party, or the broker is performed acts requiring a real estate license ; and (b) CARLSBERG MANAGEMENT and GEARY have engaged in or are engaging in acts or are

attempting to engage in the business of, acting in the capacity of, and/or advertising or assuming to act as real estate brokers in the State of California within the meaning of Business and Professions Code Sections 10131(b) (offer, lease, rent, or solicit listing for places to rent, or collected rents as the agent of others);

Based on that investigation, the Commissioner has determined that CARLSBERG REALTY, CARLSBERG MANAGEMENT and GEARY have engaged in or are engaging in acts or are attempting to engage in practices constituting violations of the California Business and Professions Code ("Code") and/or Title 10, California Code of Regulations ("Regulations"). Based on the findings of that investigation, set forth below, the Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

FINDINGS OF FACT

1. CARLSBERG REALTY was licensed or had license rights issued by the Department as a corporate real estate broker. On December 5, 2005, CARLSBERG REALTY was originally licensed as a corporate real estate broker.

2. At all times mentioned, CARLSBERG MANAGEMENT was licensed or had license rights issued by the Department as a corporate real estate broker. On August 11, 1975, CARLSBERG MANAGEMENT was originally licensed as a corporate real estate broker.

3. At all times mentioned, GEARY was licensed or had license rights issued by the Department as a real estate broker. On December 5, 1977, GEARY was originally licensed as a real estate broker.

4. At all times material herein, CARLSBERG REALTY and CARLSBERG MANAGEMENT were licensed by the Department as a corporate real estate broker by and through GEARY, as the designated officer and broker responsible, pursuant to Code Sections 10159.2 and 10211 of the Business and Professions Code for supervising the activities requiring a real estate license conducted on behalf CARLSBERG REALTY and CARLSBERG MANAGEMENT by their officers, agents and employees, including GEARY, as herein set forth.

5. CARLSBERG REALTY and CARLSBERG MANAGEMENT are owned by GEARY, who is their president and treasurer.

CARLSBERG REALTY (MARYLAND) INC.

Audit

6. On September 2, 2010, the Department completed an audit examination of the books and records of CARLSBERG REALTY pertaining to the real estate resales and broker-controlled escrow activities described above. The audit examination covered a period of time beginning on April 1, 2007 to February 28, 2010. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 090208 & LA 090228 and the exhibits and work papers attached to said audit report.

Trust Accounts

7. At all times mentioned, in connection with the activities described in Paragraph 4, above, CARLSBERG REALTY accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions handled by CARLSBERG REALTY including property owners and tenants. CARLSBERG REALTY maintained two trust accounts:

"Carlsberg Realty, Inc.,
Town & Country Escrow Division Trust Account
776020613"
First Regional Bank
Santa Monica, CA 90405
(T/A #1)

"Carlsberg Realty, Inc.,
Town & Country Escrow Division Trust Account
776020591"

First Regional Bank
Santa Monica, CA 90405
(T/A #2)

Violations of the Real Estate Law

8. In the course of activities and during the examination period described here in above, Respondents CARLSBERG REALTY and GEARY, acted in violation of the Code and the Regulations in that Respondents:

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

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

(b) Failed to maintain an accurate and complete control record in the form of a columnar record in chronological order of all "Trust Funds Received - Not Placed In Broker's Trust Account, in violation of Code Section 10145 and Regulations 2831, 2950(d) and 2951.

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

and 2951.

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

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

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

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

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

(i) CARLSBERG REALTY mixed and commingled trust funds and personal funds and made unauthorized disbursals of beneficiary trust funds by transferring trust funds to and from T/A #1 and T/A #2, and vice-versa, then transferring said trust funds to CARLSBERG REALTY 's B/A #1, CARLSBERG REALTY's main bank account for its property management activities issuing checks therefrom GEARY's operating expenses for several entities owned by

him, in violation of Code Sections 10145, 10176(e), 10176(i) and/or 10177(g) and Regulation 2950(g).

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

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

CARLSBERG MANAGEMENT COMPANY

Audit

9. On September 30, 2010, the Department completed an audit examination of the books and records of CMC pertaining to the property management activities described in Paragraph 4, that require a real estate license. The audit examination covered a period of time beginning on July 1, 2007 to April 30, 2010. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 090257 and the exhibits and work papers attached to said audit report.

Trust Accounts

10. At all times mentioned, in connection with the activities described herein above, CARLSBERG MANAGEMENT accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties to transactions, handled by CARLSBERG MANAGEMENT including property owners and tenants, buyers and sellers. CARLSBERG MANAGEMENT maintained eight trust accounts of which four are scheduled below:

"CMC Realty Inc.,
776032115"

First Regional Bank
Santa Monica, CA 90405
(B/A #1)

"Carlsberg Management Company
CMC-Ocean Walk Shoppes
76012033"
First Regional Bank
Santa Monica, CA 90405
(B/A #2)

"Carlsberg Management Company/
AAF Rancho Carlsbad Golf Course
776028398"
First Regional Bank
Santa Monica, CA 90405
(B/A #3)

"Carlsberg Management Company
CMC-Price/O'Brien Apartments
776014079"
First Regional Bank
Santa Monica, CA 90405
(B/A #4)

11. In the course of activities and during the examination period described herein above, Respondents CARLSBERG MANAGEMENT and GEARY, acted in violation of the Code and the Regulations in that Respondents:

(a)(1) Permitted, allowed or caused the disbursement of trust funds from B/A #1, where the disbursement of funds reduced the total of aggregate funds in B/A #1, to an amount which, on April 30, 2010, the cutoff date of the audit examination, was $2,588,107.37, less than

the existing aggregate trust fund liability to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, in violation of Code Sections 10145, 10176(i) and/or 10177(g) and Regulation 2832.1.

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

(a)(3) Caused a $11,000.00 discrepancy to exist in B/A #3, the AAF Rancho Carlsbad Gold Course trust account, where such discrepancy was caused by the disbursement of trust funds from B/A #3 to B/A #1, without first obtaining the prior written consent of the owners of said trust funds in B/A #3, in violation of Code Sections 10145, 10176(i) and/or 10177(g) and Regulations 2950(g) and 2951.

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

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

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

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

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

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

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

(h) Failed to disclose that CARLSBERG MANAGEMENT charged property owners service fees and charges for which no agreement or authorization existed. CARLSBERG MANAGEMENT charged property owner Price Apt LLC a maintenance fee in the amount of $350.00 for use of CARLSBERG MANAGEMENT 's computer. CARLSBERG MANAGEMENT also charged property owner Ocean Walk Shoppes a $5,000.00 administration fee for at the end of year where the administration fee was neither authorized nor contained in the management agreement between CARLSBERG MANAGEMENT and Ocean Walk Shoppes,

in violation of Code Section 10176(g).

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

Slush Fund

12. Respondents CARSLBERG REALTY (MARYLAND) INC., CARLSBERG MANAGEMENT COMPANY and WILLIAM WARREN GEARY JR., made unauthorized transfers of 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, which constitutes the use of client trust funds as a slush fund.

CONCLUSIONS OF LAW

13. The conduct of Respondents CARLSBERG REALTY and GEARY, as alleged and described in Finding 8, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
(a)	Code Section 10145 and Regulations 2832.1, 2950(g) and 2951
(b)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
(c)	Code Section 10145 and Regulations 2832(d), 2950(d) and 2951
(d)	Code Section 10176(a)

(e)	Code Section 10145 and Regulation 2832(a), 2950(d) and 2951
(f)	Code Section 10145 and Regulations 2834(a), 2950(d) and 2951
(g)	Code Section 10145 and Regulation 2831.1, 2950(d) and 2951
(h)	Code Section 10145 and Regulations 2832(e), 2950(f) and 2951
(i)	Code Sections 10145, 10176(e), 10176(i) and/or 10177(g)
(j)	Code Section 10145, 10176(g) and Regulation 2950(h)
(k)	Code Section 10159.5 and Regulation 2731

14. The conduct of Respondents CARLSBERG MANAGEMENT and GEARY, as alleged and described in Paragraph 11, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
(a)	Code Sections 10145, 10176(i) and/or 10177(g) and Regulation 2832.1
(b)	Code Section 10145, 10176(i) and/or 10177(g) and Regulation 2831
(c)	Code Section 10145, 10176(i) and/or 10177(g) and Regulation 2831.2
(d)	Code Sections 10145, 10176(a) and Regulation 2831.1
(e)	Code Sections 10145, 10176(i) and/or 10177(g) and Regulation 2832(a)
(f)	Code Section 10145 and Regulations 2834(a)
(g)	Code Section 10145(a)
(h)	Code Section 10176(g)

(i) Code Sections 10145, 10176(e), 10176(i) and/or 10177(g)

15. The use of client trust funds as a slush fund is in violation of, and would be cause for disciplinary action pursuant to Code Sections:

(a) 10176(a) for substantial misrepresentation.

(b) 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.

(c) 10176(e) for commingling beneficiary trust funds.

(d) 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.

(e) 10176(i) for conversion of trust funds.

(f) 10176(i) for concealment of trust fund status by falsification of trust fund accounting records.

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

(h) 10177(i) for breach of fiduciary for the slush fund defalcation scheme; and

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

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DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby ordered that:

CARLSBERG REALTY (MARYLAND) INC., CARLSBERG MANAGEMENT COMPANY and WILLIAM WARREN GEARY, JR., desist and refrain from performing any acts within the State of California for which a real estate broker license is required, unless they are in compliance with the Real Estate Law.

DATED: 4-26, 2011.

JEFF DAVI
Real Estate Commissioner

cc: CARLSBERG REALTY (MARYLAND) INC.
CARLSBERG MANAGEMENT COMPANY
WILLIAM WARREN GEARY, JR.
200 17th Street
Manhattan Beach, CA 90266