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John

FILED

OCT 17 2013

BUREAU OF REAL ESTATE

By *James B. [Signature]*

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-38024 LA
)	
)	
MAXIMUM REALTY AND)	
INVESTMENTS CORPORATION;)	
and KENNETH JAMES PELTZ,)	

Respondent.

ORDER DENYING RECONSIDERATION

On July 29, 2013, a Decision was rendered to become effective September 9, 2013. Said Decision was stayed by separate order to October 9, 2013, and further stayed to October 21, 2013.

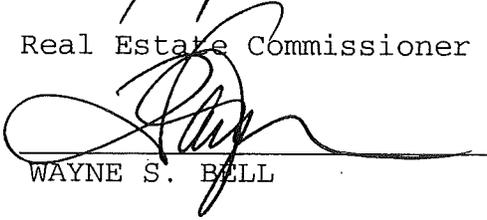
On September 12, 2013, Respondent Peltz petitioned for reconsideration of the Decision of July 29, 2013.

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I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of July 29, 2013 and reconsideration is hereby denied.

IT IS SO ORDERED 10/14/2013

Real Estate Commissioner

WAYNE S. BELL

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BUREAU OF REAL ESTATE

By: *Jane B. Han*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-38024 LA
)	
)	
MAXIMUM REALTY AND)	
INVESTMENTS CORPORATION;)	
and KENNETH JAMES PELTZ,)	
)	
)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On July 29, 2013, a Decision was rendered to become effective September 9, 2013, and was stayed by separate order to October 9, 2013.

IT IS HEREBY ORDERED that the effective date of the Decision of July 29, 2013, is stayed for a period of 10 days to consider Respondents' Petition for Reconsideration.

The Decision of July 29, 2013, shall become effective at 12 o'clock noon on October 21, 2013.

IT IS SO ORDERED *September 18, 2013*

WAYNE S. BELL
Real Estate Commissioner

By: *Dolores Weeks*
DOLORES WEEKS
Regional Manager

Facts

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SEP - 5 2013

BUREAU OF REAL ESTATE

By Laura B. Don

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-38024 LA
)	
MAXIMUM REALTY AND)	
INVESTMENTS CORPORATION;)	
and KENNETH JAMES PELTZ,)	
)	
)	
)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On July 29, 2013, a Decision was rendered to become effective September 9, 2013.

IT IS HEREBY ORDERED that the effective date of the Decision of July 29, 2013, is stayed for a period of 30 days.

The Decision of July 29, 2013, shall become effective at 12 o'clock noon on October 9, 2013.

IT IS SO ORDERED September 5, 2013

WAYNE S. BELL
Real Estate Commissioner

By: Dolores Weeks
DOLORES WEEKS
Regional Manager

**BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation of:

MAXIMUM REALTY AND
INVESTMENTS CORPORATION;
and KENNETH JAMES PELTZ
individually and as designated officer of
Maximum Realty and Investments
Corporation,

Respondents.

Case No. H-38024 LA

OAH No. 2012050403

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings on June 11, 2013, in Los Angeles, California.

Complainant was represented by James R. Peel, Counsel for the Department of Real Estate.

Kenneth James Peltz (respondent Peltz) appeared personally at the hearing and represented himself. Respondent Maximum Realty Investments Corporation (respondent Maximum) did not appear at the hearing.

Evidence was received and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant Robin R. Trujillo made the Accusation in her official capacity as Deputy Real Estate Commissioner of the State of California.

2. Respondent Maximum is presently licensed or has license rights as a corporate real estate broker under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code). Respondent Maximum was originally licensed on June 15, 2007. At all relevant times, respondent Peltz was the Vice President and designated officer of respondent Maximum.

3. Respondent Peltz is presently licensed or has license rights as a real estate broker under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code). Respondent Peltz has been licensed since 1978. In 1991, the Department suspended respondent Peltz's license for 30 days.

4. At all times relevant to the Accusation, respondent Maximum with respondent Peltz as vice president and designated officer, was engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker within the meaning of Business and Professions Code section 10131, subdivision (b). Respondent Maximum, through its employee and/or officer Angel Menjivar, in expectation of compensation, solicited and offered to negotiate a refinance loan and loan modification on real property located at 6132 Mayflower, Maywood, California.

5. The owner of the property, Patricia Mazo, paid advance fees totaling \$18,290 to respondent Maximum based on Mr. Menjivar's representation that he would obtain a loan modification for Ms. Mazo. Ms. Mazo dealt with Angel Menjivar throughout the purported loan modification process. Mr. Menjivar advised Ms. Mazo not to pay her monthly mortgage because, according to Mr. Menjivar, Ms. Mazo would have a better chance of obtaining a loan modification on the existing mortgage. In fact, Mr. Menjivar and respondent Maximum put very little effort in attempting to obtain the loan modification for Ms. Mazo. As a result of Mr. Menjivar's advice to Ms. Mazo that she not pay her monthly mortgage and his failure to obtain a loan modification, the mortgagor initiated foreclosure proceedings on Ms. Mazo's home.

6. Respondent Maximum did not deposit the advance fees paid by Ms. Mazo into a trust account, in violation of Business and Professions Code section 10146 and California Code of Regulations, title 10, sections 2832 and 2972.

7. Respondent Maximum misappropriated the funds it received from Ms. Mazo without her knowledge or permission, in violation of Business and Professions Code section 10176, subdivision (i), and 10177, subdivision (j).

8. Respondent Maximum failed to provide to the Real Estate Commissioner, advance fee agreements for review and approval 10 day prior to their use, in violation of Business and Professions Code section 10085 and California Code of Regulations, title 10, section 2970.

9. On January 4, 2010, the Secretary of State of the State of California suspended the corporate rights, powers and privileges of respondent Maximum. This suspension constitutes a violation of California Code of Regulations, title 10, section 2742, subdivision (c).

10. Respondents used an unlicensed fictitious business name (Releif [sic] Investment Group), in violation of California Code of Regulations, title 10, section 2731.

11. Respondent Peltz admitted that respondent Maximum did not have a trust account. Respondent Peltz was not aware that Mr. Menjivar was engaged in the business of loan modifications. In fact, respondent Peltz had very little knowledge of the day-to-day operations of respondent Maximum. The evidence established that respondent Peltz was not providing adequate supervision over the employees and the real estate business and transactions being conducted by respondent Maximum. Respondent Peltz testified that he is or has been the designated officer for 10 other corporate real estate brokers. In a December 3, 2010 letter, respondent Peltz informed Mr. Menjivar that he (Peltz) was terminating their business relationship and that as of December 31, 2010, respondent Peltz would no longer be the designated officer of respondent Maximum.

12. Respondent Peltz could not provide the corporate files of real estate transactions to the Department's auditor because, according to respondent Peltz, the files of the corporation had been destroyed. He became aware of the destruction of the files when he visited the office and found the office completely empty.

LEGAL CONCLUSIONS

Respondent Maximum Realty Investments Corporation

1. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Maximum Realty Investments Corporation, under Business and Professions Code sections 10176, subdivision (i) and 10177, subdivision (j), for engaging in fraudulent conduct as set forth in Factual Finding 7; under section 10177, subdivision (d), for willfully violating the Real Estate Law as set forth in Factual Findings 5 through 8; and under section 10177, subdivision (g), for demonstrating negligence in performing a loan modification as set forth in Factual Findings 5 through 10.

2. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Maximum Realty Investments Corporation, under Business and Professions Code section 10177, subdivision (d), for willfully violating sections 10085 and 10146, and California Code of Regulations, title 10, sections 2731, 2742, subdivision (c), 2832, 2970 and 2972. The basis for each violation is set forth in Factual Findings 5 through 10.

Respondent Kenneth J. Peltz

3. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Kenneth James Peltz, under Business and Professions Code sections 10159.2, in that he failed to provide adequate supervision and control over the business and real estate activities of respondent Maximum; and under section 10177, subdivision (g), in that respondent Peltz demonstrated negligence in supervising the employees and the real estate activities of respondent Maximum.

4. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Kenneth James Peltz, under Business and Professions Code sections 10159.2 and 10177, subdivision (d), in that his failure to properly supervise respondent Maximum's real estate activities and transactions resulted in violations of sections 10085 and 10146, and California Code of Regulations, title 10, sections 2731, 2742, subdivision (c), 2832, 2970 and 2972. The basis for each of these violations is set forth in Factual Findings 5 through 10.

5. Cause does not exist to suspend or revoke the real estate broker's license and licensing rights of respondent Kenneth James Peltz under Business and Professions Code sections 10177, subdivisions (j). Complainant did not prove by clear and convincing evidence that respondent Peltz personally engaged in fraudulent conduct or was aware that employees or officers of the respondent Maximum were engaged in fraudulent activities.

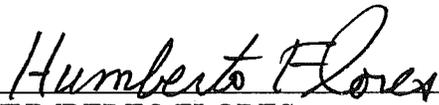
6. Respondent Peltz's failure to provide adequate supervision over the business activities and real estate transactions of respondent Maximum resulted in a mishandling of client funds and foreclosure proceedings against Ms. Mazo's home, causing her to suffer significant financial harm. In fact, respondent Peltz's lack of supervision was such that he was completely unaware that respondent Maximum and Mr. Menjivar were engaged in attempting to negotiate loan modifications. Respondent Peltz argued that the accusation should be dismissed because as designated officer of the respondent Maximum, he had no legal duty or obligation to the homeowner. This argument is rejected. Respondent Peltz, as the designated officer of respondent Maximum, had a duty to comply with the statutes and regulations that govern licensed real estate brokers. Respondent Peltz failed to comply with the relevant statutes and regulations as set forth in the Factual Findings and Legal Conclusions. Under the facts of this case, revocation is the appropriate discipline.

ORDER

1. The license and licensing rights of respondent Maximum Realty Investments Corporation are revoked.

2. The real estate broker license and licensing rights of respondent Kenneth James Peltz are revoked.

DATED: July 11, 2013


HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

Safe Flag

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APR 05 2012

1 JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
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Los Angeles, CA 90013-1105
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4 Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

DEPARTMENT OF REAL ESTATE
BY: *Zou Jen*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-38024 LA
)	
12	MAXIMUM REALTY AND)	<u>A C C U S A T I O N</u>
	INVESTMENTS CORPORATION;)	
13	and KENNETH JAMES PELTZ)	
	individually and as)	
14	designated officer of)	
	Maximum Realty and)	
15	Investments Corporation,)	
)	
16)	
	Respondents,)	
17)	
)	
18)	

19
20 The Complainant, Robin Trujillo, a Deputy Real Estate
21 Commissioner of the State of California, for cause of accusation
22 against MAXIMUM REALTY AND INVESTMENTS CORPORATION, and KENNETH
23 JAMES PELTZ individually and as designated officer of Maximum
24 Realty and Investments Corporation, alleges as follows:
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1 1. The Complainant, Robin Trujillo, acting in her
2 official capacity as a Deputy Real Estate Commissioner of the
3 State of California, makes this Accusation against MAXIMUM REALTY
4 AND INVESTMENTS CORPORATION, and KENNETH JAMES PELTZ.

5 2. MAXIMUM REALTY AND INVESTMENTS CORPORATION, and
6 KENNETH JAMES PELTZ individually and as designated officer of
7 Maximum Realty and Investments Corporation (hereinafter referred
8 to as "Respondents") are presently licensed and/or have license
9 rights under the Real Estate Law (Part 1 of Division 4 of the
10 Business and Professions Code, hereinafter Code).

11 3. Respondent MAXIMUM REALTY AND INVESTMENTS
12 CORPORATION (MAXIMUM REALTY) was licensed as a real estate broker
13 on or about June 15, 2007.

14 4. Respondent PELTZ had his real estate broker license
15 suspended for 30 days as a result of the Decision in Case No. H-
16 24569 LA on or about July 8, 1991.

17 5. During April, 2009, through 2010, for or in
18 expectation of compensation, Respondents solicited and negotiated
19 a re-finance loan and loan modification on real property located
20 at 6132 Mayflower, Maywood, California for borrower Patricia M.
21 Respondents collected advance fees from Patricia M. Patricia M.
22 did not obtain a re-finance or modification of her loan.

23 6. Respondents violated Code Section 10146 and
24 Regulations 2832 and 2972 by collecting advance fees from the
25 borrower and not depositing the fees into a real estate broker
26 trust account or providing an accounting.

27

1 7. Respondents misappropriated the funds they received
2 from the borrower without the knowledge or permission of the
3 borrower.

4 8. Respondents violated Code Section 10085 and
5 Regulation 2970 by failing to provide advance fee
6 material/agreements to be used to the Commissioner for review and
7 approval ten days prior to their use.

8 9. Respondent MAXIMUM REALTY violated Regulation
9 2742(c) by being suspended by the California Secretary of State.

10 10. Respondents violated Regulation 2731 by using the
11 unlicensed fictitious business name "Releif" Investment Group".

12 11. The conduct of Respondents, as alleged above,
13 subjects their real estate licenses and license rights to
14 suspension or revocation pursuant to Section 10176(i) of the
15 Business and Professions Code, and Sections 10177(d) and/or
16 10177(g) for violation of Code Sections 10085, 10146, and
17 Regulations 2731, 2742(c), 2832, 2970 and 2972.

18 12. The conduct of Respondent PELTZ, as alleged above,
19 subjects his real estate licenses and license rights to
20 disciplinary action under Section 10159.2 of the Business and
21 Professions Code, and Code Sections 10177(d), 10177(g), and
22 10177(h).

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1 COST RECOVERY

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

9 WHEREFORE, Complainant prays that a hearing be
10 conducted on the allegations of this Accusation and that upon
11 proof thereof, a decision be rendered imposing disciplinary
12 action against all licenses and license rights of Respondents
13 MAXIMUM REALTY AND INVESTMENTS CORPORATION, and KENNETH JAMES
14 PELTZ individually and as designated officer of Maximum Realty
15 and Investments Corporation under the Real Estate Law (Part 1 of
16 Division 4 of the Business and Professions Code), for the cost of
17 investigation and enforcement as permitted by law, and for such
18 other and further relief as may be proper under other applicable
19 provisions of law.

20 Dated at Los Angeles, California

21 this 4 day of April, 2012.

22 
23 _____
24 ROBIN TRUJILLO
25 Deputy Real Estate Commissioner

26 cc: Maximum Realty and Investments Corporation
27 Kenneth James Peltz
Maria Suarez
Sacto.