

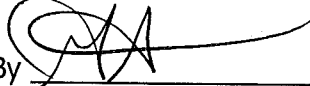
FILED

February 15, 2012

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DEPARTMENT OF REAL ESTATE

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By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

EAGLE ESTATES, INC. and,
FREDERICK CHARLES BRADLEY,

Respondents.

No. H-4301 SD

ACCUSATION

The Complainant, DOLORES WEEKS, a Deputy Real Estate Commissioner of the State of California for cause of Accusation against EAGLE ESTATES, INC. (herein "EAGLE"), and FREDERICK CHARLES BRADLEY (herein "BRADLEY") collectively (herein "Respondents"), is informed and alleges as follows:

1

The Complainant, DOLORES WEEKS, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in her official capacity.

2

Respondents EAGLE and BRADLEY are presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

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At all times mentioned, EAGLE was and is licensed by the Department of Real Estate (herein "the Department") as a corporate real estate broker dba Era Eagle Estate, Inc. and Era Eagle Estates Realty.

4

At all times mentioned herein, BRADLEY was licensed by the Department as a real estate broker.

5

At all times during the audit period, BRADLEY was licensed by the Department as the designated broker/officer of EAGLE. As the designated broker/officer, BRADLEY was responsible, pursuant to Section 10159.2 of the California Business and Professions Code (herein "the Code"), for the supervision of the activities of the officers, agents, real estate licensees and employees of EAGLE for which a real estate license is required to ensure the compliance of the corporation with the Real Estate law and the Regulations.

6

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(b) of the Code, including the operation and conduct of a property management business wherein Respondent leased, rented, or offered to lease or rent, solicited listings for lease or rent, collected rents from tenants or lessees, or performed other services for real property owners and tenants or lessees, all for or in expectation of compensation and Section 10131(a) of the Code, including the operation and conduct of a residential resale business with the public wherein he sells or offers to sell, buys or offers to buy, solicits prospective sellers or purchases of, solicits or obtains listings of, or negotiates the purchase, sale or exchange of real property or a business opportunity for compensation or in expectation of compensation.

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Whenever reference is made in an allegation in this Accusation to an act or omission of EAGLE, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with EAGLE committed such act or omission while engaged in furtherance of the business or operations of EAGLE and while acting within the course and scope of their corporate authority and employment.

FIRST CAUSE OF ACTION

Beginning on or about June 20, 2011, and intermittently through June 23, 2011, the Department conducted an audit of EAGLE's real estate business for the period of January 1, 2010, to April 30, 2011, as set forth in Audit Nos. SD10-0091(PM), SD10-0092(OA) and SD10-0093(BE), dated August 30, 2011. During the course of the real estate activities described in Paragraph 5, above, EAGLE received and disbursed funds held in trust on behalf of others.

EAGLE maintained four (4) bank accounts at City National Bank, 2011 Palomar Airport Rd, #100, Carlsbad, California 92011:

(1) Trust Account #1 was designated as "Eagle Estates Inc. dba Era Eagle Estates Realty (Property Management Trust Account)", Account No.

XXXXXX9972;

(2) Bank Account #1 was designated as "Eagle Estates Inc. dba Era Eagle Estates Realty (Property Mgmt for Rent Account)", Account No. XXXX3325;

(3) Bank Account #2 was designated as "Eagle Estates Inc. dba Era Eagle Estates Realty (Property Mgmt for Deposits Account)", Account No. XXXX3368;
and

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1 (4) Trust Account #2 was designated as "Eagle Estates Inc. dba Era Eagle
2 Estates Realty (Escrow Trust Account)", Account No. XXXX1227.
3 From time to time EAGLE made disbursements from said funds.

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5 The following facts were ascertained by the audit for the period referred to above.

6 a. EAGLE failed to have Bank Account #1 and Bank Account #2 designated as
7 a trust accounts as required by Section 2832, Title 10, Chapter 6 of the California
8 Code of Regulations (herein "the Regulations");

9 b. Trust Fund Accountability was established for Bank Account #1 and as of
10 April 29, 2011, a shortage of \$2,050.00 was discovered, in violation of Section
11 10145 of the Code;

12 c. EAGLE failed to obtain the written consent of every owner of trust funds to
13 allow the balance of the trust account to fall to an amount less than the existing
14 aggregate trust fund liability of the broker to all owners of the funds in violation
15 of Section 2832.1 of the Regulations. After discovery, EAGLE failed to notify
16 owners of the trust funds of the trust account shortages;

17 d. EAGLE failed to maintain a record of all trust funds received and disbursed
18 for Trust Account #2 as required by Section 2831 of the Regulations;

19 e. EAGLE failed to maintain separate beneficiary records for Trust Account
20 #1, Trust Account #2, Bank Account #1 and Bank Account #2 as required by
21 Section 2831.1 of the Regulations;

22 f. EAGLE failed to perform the required monthly reconciliations comparing
23 the balance of the control records to the total balance of the beneficiary records for
24 Trust Account #1, Trust Account #2, Bank Account #1 and Bank Account #2, as
25 required by Section 2831.2 of the Regulations.

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The acts and omissions of Respondent EAGLE described in Paragraph 10, above, constitute violations of Sections 2831 (Control Records), 2831.1 (Separate Beneficiary Records), 2831.2 (Monthly Reconciliations), 2832 (Trust Fund Designation) and 2832.1 (Written Consent Trust Fund Owners) of the Regulations and Section 10145 (Trust Fund Handling) of the Code and constitute grounds for disciplinary action under Sections 10177(d) (Willful Disregard/Violation of Real Estate Law) or, in the alternative, 10177(g) (Negligence/Incompetence Real Estate Licensee) of the Code.

SECOND CAUSE OF ACTION

Complainant refers to Paragraphs 1 through 11, above, and incorporates them herein by reference.

At all times herein above mentioned, BRADLEY was responsible, as the designated broker officer of EAGLE, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. BRADLEY failed to exercise reasonable supervision and control over the property mortgage loan brokering activities of EAGLE. In particular, BRADLEY permitted, ratified and/or caused the conduct described in the First Cause of Action, above, to occur, and failed to take reasonable steps, including but not limited to the handling of trust funds, supervision of employees, and the implementation of policies, rules, procedures, and systems to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

The above acts and/or omissions of BRADLEY violate Section 10159.2 of the Code and Section 2725 of the Regulations and constitute grounds for disciplinary action under Section 10177(h) of the Code.

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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the reasonable cost of investigation and litigation of this case, including agency attorney's fees and for such other and further relief as may be proper under the provisions of law.


DOLORES WEEKS
Deputy Real Estate Commissioner

Dated at San Diego California,
this 14th day of February, 2012.