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DEPT. OF REAL ESTATE
By *Cal Selby*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-05117 SD
	)	
	)	
PETER MARX,	)	<u>A C C U S A T I O N</u>
	)	
Respondent.	)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, acting in her official capacity, for cause of Accusation against PETER MARX ("MARX"), is informed and alleges as follows:

1.

The Complainant, Veronica Kilpatrick, acting in her official capacity as Supervising Special Investigator of the State of California, makes this Accusation.

2.

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

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3.

Respondent MARX is presently licensed and/or has license rights issued by the Department of Real Estate as a real estate broker (license no. 01131401). MARX was originally licensed as a broker on or about March 4, 1992. From on or about May 21, 2012 through the present, MARX has had the fictitious business name of "Safe Harbor Leasing and Management." From on or about January 19, 2017 through the present, MARX has had the fictitious business name of "Safe Harbor Asset Management," "Safe Harbor Management Services," and "Safe Harbor Property Management." From on or about January 1, 2000 through the present, Respondent MARX has not had any other fictitious business names registered with the Department of Real Estate.

4.

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondent," such allegation shall be deemed to mean that the officers, directors, employees, agents, and real estate licensees employed by or associated with Respondent committed such act or omission while engaged in the furtherance of the business or operations of Respondent and while acting within the course and scope of their corporate authority and employment, including, but not limited to, Genmar Real Estate Corporation ("GREC") and Ginney M. Djeddah ("Djeddah").¹

5.

At all times mentioned, in San Diego County, Respondent MARX engaged in the business of a real estate broker conducting licensed activities within the meaning of Code

¹ On or about March 12, 2012, the Department of Real Estate, in case no. H-04216 SD, filed a Decision, effective April 2, 2012, revoking GREC's real estate broker license (license no. 01316630) and Djeddah real estate broker license (license no 00883566). As more fully set forth in that Decision, revocation was based on property management audit violations, including, but not limited to, a shortage of at least \$351,332.75 as of February 26, 2010. From on or about July 6, 2004 to April 1, 2012, GREC's fictitious business name was "Safe Harbor Asset Management" and "Tenant Finders."

1 section 10131(b). Respondent MARX engaged in operating a real property management
2 company by leasing, renting, and/or offering to rent places for rent, soliciting for prospective
3 tenants, and/or collecting rents from real property.

4
5 (Trust Fund Audit)

6 6.

7 On or about January 31, 2018, the Department of Real Estate completed an audit
8 examination of the books and records of MARX to determine whether MARX handled and
9 accounted for trust funds and conducted its real estate activities in accordance with the Real
10 Estate Law and Regulations. The audit examination covered a period of time beginning on
11 January 1, 2015 and ended on August 31, 2017. The audit examination revealed violations of
12 the Code and the Regulations set forth in the following paragraphs, and more fully discussed in
13 Audit Report SD170003 and the exhibits and work papers attached to said audit report.

14
15 Bank Accounts/Trust Accounts

16 7.

17 At all times mentioned, in connection with the activities described in Paragraph
18 5, above, MARX accepted or received funds including funds in trust ("trust funds") from or on
19 behalf of actual or prospective parties, such as owners of real property, involved in property
20 management services, and thereafter made deposits and/or disbursements of such funds. From
21 time to time herein mentioned, during the audit period, said trust funds were deposited and/or
22 maintained by MARX in the bank accounts as follows:

23 "Genmar Real Estate DBA Safe Harbor Asset Management DBA Tenant Finders"

24 *****0526

25 Union Bank

26 P.O. Box 512380

27 Los Angeles, CA 90051

(BA 1)

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In the course of activities described in Paragraphs 5 and 7, above, and during the audit examination period in Paragraph 6, above, Respondent MARX acted in violation of the Code and the Regulations as set forth below:

(a)(1) Permitted, allowed, or caused the disbursement of trust funds from the bank account BA 1 where the disbursement of funds reduced the total of aggregate funds in BA 1, to an amount which, on August 31, 2017, was at least \$252,507.11 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 section 2832.1.

(a)(2) Permitted, allowed, or caused the disbursement of trust funds from the bank account BA 1 where the disbursement of funds reduced the total of aggregate funds in BA 1, to an amount which, on January 31, 2015, was at least \$208,752.46 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 section 2832.1.

(b) Failed to maintain accurate and complete control records in the form of a columnar record in chronological order of all trust funds received, deposited, and disbursed from BA 1, in violation of Code section 10145 and Regulations section 2831.

(c) Failed to maintain an accurate and complete separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited, and disbursed from BA 1, in violation of Code section 10145 and Regulations section 2831.1. As of August 31, 2017, BA 1 contained at least \$16,671.59 in unidentified and/or unaccounted for funds.

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1 (d) Failed to perform and maintain an accurate monthly reconciliation
2 comparing the balance of all separate records to the balance of the record of all trust funds
3 received and disbursed (control record) for BA 1, in violation of Code section 10145 and
4 Regulations section 2831.2.

5 (e) Permitted Djeddah, an unlicensed and unbonded person, to sign and
6 make withdrawals on BA 1, in violation of Code section 10145 and Regulations section 2834.²
7 Djeddah was removed as a signatory on or before December 18, 2017.

8 (f)(1) Placed trust funds in BA 1, which was owned by Djeddah, a non-
9 licensee, as shown by the fact Djeddah opened BA 1 and the account name was "Genmar Real
10 Estate³ DBA Safe Harbor Asset Management DBA Tenant Finders," in violation of Code
11 section 10145 and Regulations section 2832.

12 (f)(2) Failed to designate BA 1 as a trust fund account even though it held trust
13 funds, in violation of Code section 10145 and Regulations section 2832.

14 (g) Used the fictitious names of "Safe Harbor Property Management,"
15 "Genmar Real Estate," and "Tenant Finders" to conduct licensed activities, including, but not
16 limited to, property management services, without holding a license bearing said fictitious
17 business names, in violation of Code section 10159.5 and Regulations section 2731.

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26 ² Djeddah's real estate license was revoked from on or about April 2, 2012 through the present.
27 ³ Djeddah was the GREC's sole designated officer prior to both their licenses being revoked on
or about April 2, 2012.

9.

The conduct of Respondent MARX described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
8(a)	Code section 10145 and Regulations section 2832.1
8(b)	Code section 10145 and Regulations section 2831
8(c)	Code section 10145 and Regulations section 2831.1
8(d)	Code section 10145 and Regulations section 2831.2
8(e)	Code section 10145 and Regulations section 2834
8(f)	Code section 10145 and Regulations section 2832
8(g)	Code section 10159.5 and Regulations section 2731

The foregoing violations constitute cause for discipline of the real estate license and license rights of MARX under the provisions of Code sections 10177(d), 10177(g), 10177(h), and 10176(i)/10177(j) and Regulations section 2725.

(Unlicensed Activity)

10.

MARX employed and/or compensated Djeddah to conduct licensed activities, including, but not limited to, signing and withdrawing funds from BA 1, in violation of Code section 10137.

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COSTS

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Code section 10106 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 investigation and enforcement of the case.

Code section 10148(b) provides, in pertinent part, the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final decision following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or rule of the Commissioner interpreting said section.

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/or license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) of Respondent PETER MARX, for the cost of investigation and enforcement as permitted by law, audit costs as permitted by law, and for such other and further relief as may be proper under applicable provisions of law.

Dated at San Diego, California: December 10, 2019.


Veronica Kilpatrick
Supervising Special Investigator

cc: Peter Marx
Veronica Kilpatrick
Sacto
Enforcement
Audits – Godswill Keraoru