

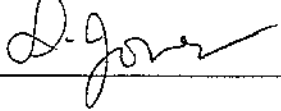
FILED

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007

December 24, 2012

DEPARTMENT OF REAL ESTATE

6 Telephone: (916) 227-0789
7 (916) 227-0781 (Direct)

By 

8 Fax: (916) 227-9458

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)

No. H-11491 SF

13 MAYA DEVELOPMENT INC.)
14 and DANIEL LIEBERMAN,)

ACCUSATION

15 Respondents.)

16 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
17 the State of California, for cause of Accusation against MAYA DEVELOPMENT INC., and
18 DANIEL LIEBERMAN (Respondents), is informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 1

21 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
22 the State of California, makes this Accusation in her official capacity.

23 2

24 Respondents are presently licensed and/or have license rights under the Real
25 Estate Law, Part 1 of Division 4 of the Business and Professions Code (Code).

26 ///

27 ///

3

At all times mentioned, Respondent MAYA DEVELOPMENT INC. (MAYA) was and is licensed by the State of California Department of Real Estate (Department) as a real estate broker corporation.

4

At all times mentioned, Respondent DANIEL LIEBERMAN (LIEBERMAN) was and is licensed by the Department as the designated broker officer of MAYA. As said designated officer-broker, LIEBERMAN was responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of LIEBERMAN for which a license is required.

5

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

6

At all times mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers in the State of California, within the meaning of Section 10131(b) of the Code in the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents leased or rented and offered to lease or rent, and placed for rent, and solicited listings of places for rent, and solicited for prospective tenants of real property or improvements thereon, and collected rents from real property or improvements thereon.

///

///

On or about March 15, 2012, and continuing intermittently through April 2, 2012, an audit was conducted of the records of MAYA. The auditor herein examined the records for the period of July 1, 2009, through February 29, 2012.

FIRST CAUSE OF ACTION

Each and every allegation in Paragraphs 1 through 7, inclusive, is incorporated by this reference as if fully set forth herein.

While acting as a real estate broker as described in Paragraph 6, Respondents accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time to time made disbursements of said trust funds.

The trust funds accepted or received by Respondents as described in Paragraph 9 were deposited or caused to be deposited by Respondents into trust accounts which were maintained by Respondents for the handling of trust funds, and thereafter from time-to-time Respondents made disbursements of said trust funds, identified as follows:

ACCOUNT # 1	
Bank Name and Location:	Citibank P.O. Box 226526 Dallas, TX 75260
Account No.:	XXXXXX2621
Entitled:	Maya Development Inc. dba Aeris Prop Escrow for Central Apartments

///

///

ACCOUNT # 2	
Bank Name and Location:	Citibank P.O. Box 226526 Dallas, TX 75260
Account No.:	XXXXXX2860
Entitled:	Maya Development Inc. dba Aeris Prop Escrow for Buchanan Gardens Apartments

ACCOUNT # 3	
Bank Name and Location:	Bank of Marin 1450 Grant Avenue Novato, CA 94945
Account No.:	XXXX-XX7821
Entitled:	Charles H. Grieve dba Lund Garden Apartments

11

In the course of the activities described in Paragraph 6, Respondents:

(a) failed to maintain an accurate written control record, for Account #1, of all trust funds received and disbursed, containing all information required by Section 2831 of Title 10 of the California Code of Regulations (Regulations);

(b) failed to deposit trust funds into one or more trust funds accounts in the name of Respondent as trustee at a bank or other financial institution, in conformance with Section 10145 of the Code and Section 2832 of Title 10 of the Regulations;

(c) caused, permitted, and/or allowed, the possible withdrawal of trust funds from Account #1 and #2 by a person who was not licensed by the Department and not covered by a fidelity bond in violation of Section 2834 of the Regulations;

(d) failed to retain for three years, as required by Section 10148(a) of the Code, two-sided copies of cancelled checks from Account #1, #2, and #3, in connection with transactions for which a real estate license is required;

///

1 (e) failed to obtain a branch license from the Department for the branch
2 offices located at 189 Vernon Terrace, Oakland, 250 Grand Avenue, Oakland, 2118 Canoas
3 Garden Avenue, San Jose, 3600 Pennsylvania Avenue, Fremont, 2605 Haste Street, Berkley,
4 1704 Central Avenue, Alameda, 3771 High Street, Oakland, 90 Lund Avenue, Hayward, 1715
5 Central Avenue, Alameda as required by Section 10163 of the Code; and

6 (f) operated the real estate business under the fictitious business names of
7 "Aeris Properties" without obtaining a license bearing said fictitious business name in violation
8 of Section 2731 of the Regulations.

9 12

10 The facts alleged in the First Cause of Action are grounds for the suspension or
11 revocation of Respondents licenses and license rights under the following sections of the Code
12 and Regulations:

13 (1) As to Paragraph 11(a), under Section 10177(d) of the Code in conjunction
14 with Section 2831 of the Regulations;

15 (2) As to Paragraph 11(b), under Section 10177(d) of the Code in
16 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

17 (3) As to Paragraph 11(c), under Section 10177(d) of the Code in conjunction
18 with Section 2834 of the Regulations;

19 (4) As to Paragraph 11(d), under Section 10177(d) of the Code in
20 conjunction with Section 10148 of the Code;

21 (5) As to Paragraph 11(e), under Section 10177(d) of the Code in conjunction
22 with Section 10163 of the Code; and

23 (6) As to Paragraph 11(f), under Section 10177(d) of the Code in conjunction
24 with Section 10159.5 of the Code and Section 2731 of the Regulations.

25 ///

26 ///

27 ///

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and license rights of Respondent under the Code, for the cost of
4 investigation and enforcement as permitted by law, and for such other and further relief as may
5 be proper under the provisions of law.

6
7 
8 ROBIN S. TANNER
9 Deputy Real Estate Commissioner

10 Dated at Oakland, California,
11 this 10th day of December, 2012

12
13 DISCOVERY DEMAND

14 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of
15 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
16 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
17 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
18 Office of Administrative Hearings deems appropriate.
19
20
21
22
23
24
25
26
27