

FILED

MAR 22 2013

DEPARTMENT OF REAL ESTATE

By *L. Jones*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

MAYA DEVELOPMENT INC. and
DANIEL LIEBERMAN,

Respondents.

No. H-11491 SF

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on January 30, 2013, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent DANIEL LIEBERMAN's (Respondent or LIEBERMAN) express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On December 10, 2012, Robin S. Tanner made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified and regular mail, to Respondent's last known mailing address on file with the Department of Real Estate (Department) on December 24, 2012.

On January 30, 2013, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (Code) as a real estate broker.

3

At all times mentioned, Maya Development Inc. (Maya) was and is licensed by the Department as a real estate broker corporation.

4

At all times mentioned until October 23, 2012, LIEBERMAN was 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 Maya 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, Respondent, acting on behalf of Maya, 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.

7

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.

While acting as a real estate broker as described in Paragraph 6, Respondent, on behalf of Maya, 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 Respondent as described in Paragraph 8 were deposited or caused to be deposited by Respondent into trust accounts which were maintained by Respondent, on behalf of Maya, for the handling of trust funds, and thereafter from time-to-time Respondent 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

In the course of the activities described in Paragraph 6, Respondent, on behalf of Maya:

(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;

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

(f) operated the real estate business, under the fictitious business name of "Aeris Properties" without obtaining a license bearing said fictitious business name in violation of Section 10159.5 of the Code and Section 2731 of the Regulations.

Respondent LIEBERMAN failed to exercise reasonable supervision over the acts of Maya in such a manner as to allow the acts and events described above to occur.

The acts and/or omissions of LIEBERMAN as described above constitute failure on the part of LIEBERMAN, as designated broker-officer for Maya, to exercise reasonable supervision and control over the licensed activities of Maya required by Section 10159.2 of the Code.

DETERMINATION OF ISSUES

1

Factual Finding 10(a) establishes cause for disciplinary action against Respondent pursuant to Section 10177(d) of the Code in conjunction with Section 2831 of the Regulations.

2

Factual Finding 10(b) establishes cause for disciplinary action against Respondent pursuant to Section 10177(d) of the Code in conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

3

Factual Finding 10(c) establishes cause for disciplinary action against Respondent pursuant to Section 10177(d) of the Code in conjunction with Section 2834 of the Regulations.

4

Factual Finding 10(d) establishes cause for disciplinary action against Respondent pursuant to Section 10177(d) of the Code in conjunction with Section 10148 of the Code.

5

Factual Finding 10(e) establishes cause for disciplinary action against Respondent pursuant to Section 10177(d) of the Code in conjunction with Section 10163 of the Code.

6

Factual Finding 10(f) establishes cause for disciplinary action against Respondent pursuant to Section 10177(d) of the Code in conjunction with Section 10159.5 of the Code and Section 2731 of the Regulations.

7

Factual Findings 10 through 12 establish cause for disciplinary action against Respondent pursuant to Section 10177(g) and Section 10177(h) of the Code, and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

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The standard of proof applied was clear and convincing proof to a reasonable certainty.

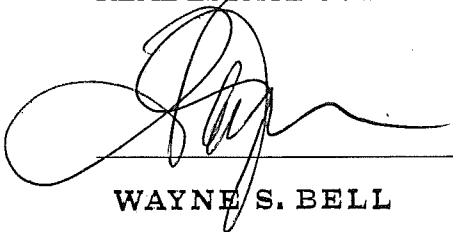
ORDER

All licenses and licensing rights of Respondent under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on APR 11 2013.

DATED: 3/19/2013

REAL ESTATE COMMISSIONER



WAYNE S. BELL