

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
LONG BEACH PROPERTY MANAGEMENT )  
and ELAINE W. HUTCHISON, )  
Individually and as Designated )  
Officer of Long Beach Property )  
Management, )  
Respondents. )

No. H-22544 LA

DECISION

The Proposed Decision dated November 25, 1986,  
of Robert Arnold, Regional Manager, Department of Real Estate, is  
hereby adopted as the Decision of the Real Estate Commissioner in  
the above-entitled matter.

This Decision shall become effective at 12 o'clock noon  
on February 17, 1987.

IT IS SO ORDERED 12 15 86

JAMES A. EDMONDS, JR.  
Real Estate Commissioner

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of ) No. H-22544 LA  
LONG BEACH PROPERTY MANAGEMENT )  
and ELAINE W. HUTCHISON, )  
Individually and as Designated )  
Officer of Long Beach Property )  
Management, )  
Respondents. )

PROPOSED DECISION

This matter was presided over by Robert Arnold, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Los Angeles, California, on November 25, 1986.

Robert E. Baker, Counsel, represented the complainant. Respondents were represented by their counsel, Barry H. Lawrence, of Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey.

The matter was submitted upon the written Stipulation of the parties, and pursuant thereto, the following Decision is proposed, certified and recommended for adoption:

I

The complainant, Randolph Brendia, a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

II

From on or about December 28, 1984, LONG BEACH PROPERTY MANAGEMENT (hereinafter Respondent LBPM), a California corporation, was and now is licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker by and through ELAINE W. HUTCHISON (hereinafter Respondent HUTCHISON) as designated officer.

III

From on or about December 28, 1984, Respondent HUTCHISON was, and now is, licensed by the Department as a real estate broker, individually and as designated officer of Respondent LBPM.

#### IV

All further references herein to Respondents include the parties identified in Findings II and III above, and shall be deemed to refer also to the officers, directors, employees, agents, and real estate licensees employed by or associated with said parties, who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority and employment.

#### V

At all times herein 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, including the operation of a real property management business with the public wherein they negotiated the sale, purchase or exchange of leases on real properties or collected rent from real properties on behalf of others for or in expectation of compensation.

#### VI

During 1984 and 1985, in connection with the aforesaid real property management activities, Respondent accepted or received funds in trust (hereinafter trust funds) from on or behalf of owners and their tenants and thereafter made disbursements of such funds.

#### VII

At all times herein mentioned, Respondents maintained one trust bank account with National Bank of Long Beach known as LBPM Trust Account, Account number 411-012557 (hereinafter TA #1) as its depository for trust funds received in connection with its property management activities.

#### VIII

In connection with the trust funds described in Findings VI and VII, above, Respondents disbursed or allowed the disbursement of trust funds, from TA #1, without the prior written consent of every principal who then was an owner of funds in said account where the disbursements of said funds reduced the balance of funds in TA #1 to an amount which was, on May 31, 1985, less than the Respondents' existing trust fund liability to all owners of said funds. Immediately thereafter, of LBPM's own volition, said TA #1 was restored to its proper balance.

## IX

From May 1, 1983, to December 27, 1984, Respondent LBPM engaged in the real property management business described in Paragraph V, above, without being licensed as a corporate real estate broker.

### DETERMINATION OF ISSUES

#### I

The acts and omissions of Respondent LBPM, as set forth in Findings VIII and IX are in violation of Section 10130 of the Code and Section 2832.1 of the Regulations and are grounds for the suspension or revocation of Respondent LBPM's license and license rights under the provisions of Section 10177(f) of the Code.

#### II

The acts and omissions of Respondent HUTCHISON, as set forth in Finding VIII demonstrate a lack of supervision by her over the activities of LBPM and are grounds for the suspension or revocation of Respondent HUTCHISON's licenses and license rights under the provisions of Section 10177(h) of the Code.

### ORDER

WHEREFORE, THE FOLLOWING ORDER IS HEREBY MADE:

A. The real estate broker and designated officer licenses and all other license rights of HUTCHISON under the Real Estate Law are hereby revoked.

B. A restricted real estate broker and/or restricted designated officer license shall be issued to HUTCHISON pursuant to Section 10156.5 of the Business and Professions Code if she makes application and pays the fee for the license(s) to the Department of Real Estate within six (6) months from the effective date of the Decision.

C. The restricted license(s) issued to HUTCHISON shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under the authority of Section 10156.6 of said Code:

1. The restricted license(s) shall not confer any property right in the privileges to be exercised thereunder and the Real Estate Commissioner may by appropriate order suspend prior to hearing the right of HUTCHISON to exercise any privileges granted under the(se) restricted license(s) in the event of:

(a) The conviction of HUTCHISON  
including a plea of nolo contendere  
of a crime which bears a significant  
relation to her fitness or capacity  
as a real estate licensee.

(b) The receipt of evidence satisfactory  
to the Real Estate Commissioner that  
HUTCHISON has violated provisions of the  
California Real Estate Law, the  
Subdivided Lands Law, Regulations of the  
Real Estate Commissioner, or conditions  
attaching to said restricted license(s).

2. HUTCHISON shall submit to the Department of  
Real Estate a Trust Funds Position Statement  
as of the last day of each March, June,  
September and December for so long as said  
restricted license(s) shall remain in effect.  
The Position Statement shall consist of the  
following:

(a) A schedule of trust fund accountability  
with the following information for each  
transaction in which HUTCHISON is  
accountable as agent or trustee to the  
owner of funds:

- (1) Account numbers;
- (2) Type of transaction (purchase and  
sale, property management, loan  
negotiation, loan collection, etc.);
- (3) Name of principal or beneficiary;
- (4) Description of real property;
- (5) Trust fund liability.

(b) A report of trust funds in the custody  
and control of HUTCHISON as of the  
accounting date consisting of:

- (1) A copy of HUTCHISON's trust  
accounts' bank statements showing  
the balance of funds in the accounts  
as of the accounting date.
- (2) A schedule of uncleared checks drawn  
on the accounts adjusting the  
accounts to their true balance as of  
the accounting date.

- (c) A copy of HUTCHISON's (i) trust fund records maintained pursuant to Regulation 2831 and (ii) separate records maintained pursuant to Regulation 2831.1.
- (d) A statement explaining any discrepancy between the total liability shown under (a) above and the adjusted trust accounts' balances shown under (b) above.

The Trust Funds Position Statement shall be submitted by HUTCHISON to the Los Angeles Office of the Department of Real Estate not later than 60 days after each accounting date. If HUTCHISON has no trust fund liability as of accounting date, her report to the Department shall so state.

HUTCHISON shall certify under penalty of perjury the completeness and accuracy of each Position Statement.

- 3. HUTCHISON shall not be eligible to apply for the issuance of any unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license(s) until one (1) year has elapsed from the date of issuance of the restricted license(s) to HUTCHISON.
- 4. Respondent shall, within 9 months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that she has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence, upon said suspension of her license.

## II

A. The corporate real estate broker license and all other license rights of LBPM under the Real Estate Law are hereby revoked.

B. A restricted corporation real estate broker license shall be issued to LBPM pursuant to Section 10156.5 of the Business and Professions Code if LBPM makes application and pays the fee for the license to the Department of Real Estate within six (6) months from the effective date of the Decision.

C. The restricted license issued to LBPM shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under the authority of Section 10156.6 of said Code:

1. The restricted license shall not confer any property right in the privileges to be exercised thereunder and the Real Estate Commissioner may by appropriate order suspend prior to hearing the right of LBPM to exercise any privileges granted under the restricted license in the event of the receipt of evidence satisfactory to the Real Estate Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to said restricted license.
2. LBPM shall submit to the Department of Real Estate a Trust Funds Position Statement as of the last day of each March, June, September and December for so long as said restricted license shall remain in effect. The Position Statement shall consist of the following:
  - (a) A schedule of trust fund accountability with the following information for each transaction in which LBPM is accountable as agent or trustee to the owner of funds:
    - (1) Account numbers;
    - (2) Type of transaction (purchase and sale, property management, loan negotiation, loan collection, etc.);
    - (3) Name of principal or beneficiary;


- (4) Description of real property;
- (5) Trust fund liability.
- (b) A report of trust funds in the custody and control of LBPM as of the accounting date consisting of:
  - (1) A copy of LBPM's trust accounts' bank statements showing the balance of funds in the accounts as of the accounting date.
  - (2) A schedule of uncleared checks drawn on the accounts adjusting the balance as of the accounting date.
- (c) A copy of LBPM's (i) trust funds records maintained pursuant to Regulation 2831 and (ii) separate records maintained pursuant to Regulation 2831.1.
- (d) A statement explaining any discrepancy between the total liability shown under (a) above and the adjusted trust accounts' balances shown under (b) above.

The Trust Funds Position Statement shall be submitted by LBPM to the Los Angeles Office of the Department of Real Estate not later than 60 days after each accounting date. If LBPM has no trust fund liability as of an accounting date, its report to the Department shall so state.

The designated officer of LBPM shall certify under penalty of perjury the completeness and accuracy of each Position Statement.

- 3. LBPM shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until at least one (1) year has elapsed from the date of the restricted license to LBPM.

DATED: 4/25/86

  
ROBERT ARNOLD  
Regional Manager  
Department of Real Estate



*Sacto*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

SEP 16 1986

In the Matter of the Accusation of  
LONG BEACH PROPERTY MANAGEMENT,  
et al.,

*K. Friederholt*  
Case No. H-22544 LA

L-37785

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

TO THE ABOVE NAMED RESPONDENT:

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Department of  
Real Estate at Office of Administrative Hearings  
314 West First Street, Los Angeles, CA 90012

on the 20th & 21st day of January, 1987, at the hour of 9:00 a.m.,  
or as soon thereafter as the matter can be heard, upon the charges made in the  
Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel,  
but you are neither required to be present at the hearing nor to be represented by  
counsel. If you are not present in person, nor represented by counsel at the hearing,  
the Department may take disciplinary action against you upon any express admissions,  
or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to  
cross-examine all witnesses testifying against you. You are entitled to the issuance  
of subpoenas to compel the attendance of witnesses and the production of books,  
documents or other things by applying to the Department of Real Estate.

DATED: SEP 16 1986

Elaine W. Hutchison  
Long Beach Property Management  
Sacto.  
OAH  
RM

JAMES A. EDMONDS, JR.  
DEPARTMENT OF REAL ESTATE

By *Robert E. Tate* Counsel

*facts log*

ROBERT E. BAKER, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012  
(213) 620-4790

FILED  
MAY 21 1986

DEPARTMENT OF REAL ESTATE  
*R. H. DeChet*

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	No. H-22544 LA
LONG BEACH PROPERTY MANAGEMENT;	)	
and ELAINE W. HUTCHISON,	)	<u>A C C U S A T I O N</u>
Individually and as Designated	)	
Officer of Long Beach Property	)	
Management,	)	
	)	
Respondent.	)	

The complainant, Randolph Brendia, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against LONG BEACH PROPERTY MANAGEMENT and ELAINE W. HUTCHISON, Individually and as Designated Officer of Long Beach Property Management, alleges as follows:

I

The complainant, Randolph Brendia, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

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1 II

2 From on or about December 28, 1984, LONG BEACH PROPERTY  
3 MANAGEMENT (hereinafter Respondent LBPM), a California corporation,  
4 was and now is licensed by the Department of Real Estate of the  
5 State of California (hereinafter "Department") as a corporate  
6 real estate broker by and through ELAINE W. HUTCHISON (hereinafter  
7 Respondent HUTCHISON) as designated officer.

8 III

9 From on or about December 28, 1984, Respondent HUTCHISON  
10 was, and now is, licensed by the Department as a real estate broker,  
11 individually and as designated officer of Respondent LBPM.

12 IV

13 All further references herein to Respondents include the  
14 parties identified in Paragraphs II and III above, and shall be  
15 deemed to refer also to the officers, directors, employees, agents  
16 and real estate licensees employed by or associated with said  
17 parties, who at all times herein mentioned were engaged in the  
18 furtherance of the business or operations of said parties and who  
19 were acting within the course and scope of their authority and  
20 employment.

21 V

22 At all times herein mentioned, Respondents engaged in  
23 the business of, acted in the capacity of, advertised or assumed  
24 to act as real estate brokers in the State of California within the  
25 meaning of Section 10131(b) of the Code, including the operation  
26 of a real property management business with the public wherein  
27 they negotiated the sale, purchase or exchange of leases on real

1 properties or collected rent from real properties on behalf of  
2 others for or in expectation of compensation.

3 VI

4 During 1984 and 1985, in connection with the aforesaid  
5 real property management activities, Respondents accepted or  
6 received funds in trust (hereinafter trust funds) from or on  
7 behalf of owners and their tenants and thereafter made disburse-  
8 ments of such funds.

9 VII

10 At all times herein mentioned, Respondents maintained  
11 one trust bank account with National Bank of Long Beach known as  
12 LBPM Trust Account, Account number 411-012557 (hereinafter TA #1)  
13 as its depository for trust funds received in connection with its  
14 property management activities.

15 VIII

16 In connection with the trust funds described in  
17 Paragraphs VI and VII, above:

18 (a) Respondents disbursed or allowed the disbursement  
19 of trust funds, from TA#1, without the prior written consent of  
20 every principal who then was an owner of funds in said account  
21 where the disbursements of said funds reduced the balance of  
22 funds in TA #1 to an amount which was, as of May 31, 1985,  
23 approximately \$40,278.00 less than the Respondents' existing trust  
24 fund liability to all owners of said funds.

25 (b) During 1984 and 1985, Respondent placed into TA #1,  
26 and thereafter disbursed out of TA #1, funds belonging to a  
27 limited partnership owning commercial real property commonly

1 known as Broadway Plaza. At all times herein mentioned, Respondent  
2 HUTCHISON was a shareholder of one of the corporate partners in  
3 the aforesaid limited partnership.

4 IX

5 From May 1, 1983 to December 27, 1984, Respondents  
6 engaged in the real property management business described in  
7 Paragraph V, above, without being licensed as a corporate real  
8 estate broker and/or without being the holder of a license bearing  
9 the fictitious name of LBPM. Among the properties managed by  
10 Respondent LBPM during this period of time were properties located  
11 at 3301 E. 2nd, Long Beach, 4812 Falcon, Long Beach and 44 Alamitos,  
12 Long Beach, owned by Michael Anderson, Ronald Karncy and Ronald Gruber.

13 X

14 The acts described, above in Paragraph IX, are acts  
15 requiring a real estate broker license under Section 10131(b) of  
16 the Code.

17 XI

18 The conduct of Respondents, as alleged above in  
19 Paragraph VIII, (a) is in violation of Section 2832.1 of Title 10,  
20 Chapter 6, California Administrative Code and is a basis for the  
21 suspension or revocation of the licenses and license rights of  
22 Respondents pursuant to Section 10177(d) of the Code.

23 XII

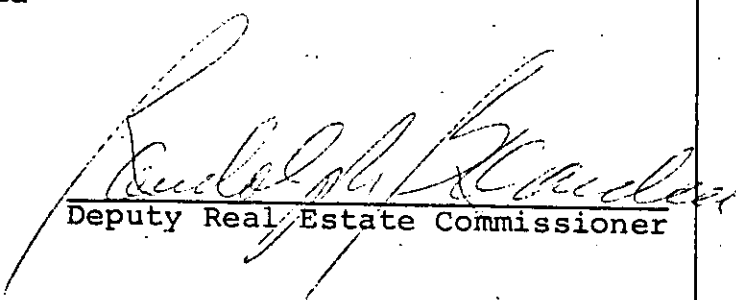
24 The conduct of Respondents, as alleged above in  
25 Paragraph VIII (b) constitutes commingling and is a basis for the  
26 suspension or revocation of the licenses and license rights of  
27 Respondents pursuant to Section 10176(e) of the Code.

XIII

The conduct of Respondents, as alleged above in Paragraphs IX and X, is in violation of Sections 10130 and 10159.5 of the Code and is a basis for the suspension or revocation of the license and license rights of Respondents pursuant to Section 10177(d) and (f) of the Code.

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 respondents LONG BEACH PROPERTY MANAGEMENT and ELAINE W. HUTCHISON under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California  
this 21st day of May, 1986.

  
Deputy Real Estate Commissioner

cc: Long Beach Property Management  
Elaine W. Hutchison  
Sacto.  
RM