

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013-1105
4
5 Telephone: (213) 576-6982
6
7

FILED
APR 22 2005
DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-30600 LA
12) L-2004020583
13 BELVEDEER HOLDING CORPORATION,)
14 dba Coldwell Banker Platinum and)
15 Platinum One Mortgage Co., and)
16 MONTE JAMES BURGHARDT,) STIPULATION
17 individually and as Designated) AND AGREEMENT
18 Officer of Belvedeer Holding)
19 Corporation and JESSE D. PEREZ,)
20 Respondents.)
21)
22)
23)
24)
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18 It is hereby stipulated by and MONTE JAMES BURGHARDT,
19 (sometimes referred to as Respondents) and the Complainant,
20 acting by and through Darlene Averetta, Counsel for the
21 Department of Real Estate, as follows for the purpose of
22 settling and disposing of the Accusation filed on January 5,
23 2004, in this matter:

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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and
3 Respondents at a formal hearing on the Accusation, which hearing
4 was to be held in accordance with the provisions of the
5 Administrative Procedure Act ("APA"), shall instead and in place
6 thereof be submitted solely on the basis of the provisions of
7 this Stipulation and Agreement ("Stipulation").

8 2. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusations, filed by the Department of Real Estate in this
11 proceeding.

12 3. On January 12, 2004, Respondent filed a Notice of
13 Defense pursuant to Section 11506 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation's Respondent hereby freely and voluntarily withdraw
16 said Notices of Defense. Respondent acknowledges that he
17 understands that by withdrawing said Notice of Defense he will
18 thereby waive his right to require the Commissioner to prove
19 the allegations in the Accusation at a contested hearing held
20 in accordance with the provisions of the APA and that he will
21 waive other rights afforded to him in connection with the
22 hearing such as the right to present evidence in defense of the
23 allegations in the Accusation and the right to cross-examine
24 witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusations filed in this
3 proceeding. In the interest of expedience and economy,
4 Respondent chooses not to contest these factual allegations,
5 but to remain silent and understands that, as a result thereof,
6 these factual statements, will serve as a prima facie basis for
7 the disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence
9 to prove such allegations.

10 5. This Stipulation and Respondent's decision not to
11 contest the Accusation is made for the purpose of reaching an
12 agreed disposition of this proceeding and is expressly limited
13 to this proceeding and any other proceeding or case in which the
14 Department of Real Estate ("Department") or another licensing
15 agency of this state, another state or the federal government
16 is involved, and otherwise shall not be admissible in any other
17 criminal or civil proceedings.

18 6. It is understood by the parties that the Real
19 Estate Commissioner may adopt the Stipulation as his decision
20 in this matter thereby imposing the penalty and sanctions on
21 Respondent's real estate licenses and license rights as set
22 forth in the below "Order". In the event that the Commissioner
23 in his discretion does not adopt the Stipulation, the
24 Stipulation shall be void and of no effect, and Respondent shall
25 retain the right to a hearing on the Accusation under all the
26 provisions of the APA and shall not be bound by any stipulation
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1 or waiver made herein.

2 7. The Order or any subsequent Order of the Real
3 Estate Commissioner made pursuant to this Stipulation shall
4 not constitute an estoppel, merger or bar to any further
5 administrative or civil proceedings by the Department of Real
6 Estate with respect to any conduct which was not specifically
7 alleged to be causes for accusation in this proceeding.

8 DETERMINATION OF ISSUES

9 By reason of the foregoing stipulations and waivers
10 and solely for the purpose of settlement of the pending
11 Accusation without a hearing, it is stipulated and agreed that
12 the following determination of issues shall be made:

13 The conduct, acts and/or omissions of Respondent
14 MONTE JAMES BURGHARDT, as set forth in the Accusation,
15 constitute cause for the suspension or revocation of all the
16 real estate licenses and license rights of Respondent MONTE
17 JAMES BURGHARDT, under the provisions of Section 10177(d)
18 of the Business and Professions Code ("Code") for violations
19 of Code Sections 10145 and 10159.5, and Sections 2731, 2834,
20 of Title 10, Chapter 6, California Code of Regulations
21 ("Regulations").
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ORDER

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2 WHEREFORE, THE FOLLOWING ORDER is hereby made:

3 I. All licenses and licensing rights of Respondent,
4 MONTE JAMES BURGHARDT under the Real Estate Law are revoked;
5 provided, however, a restricted real estate broker license
6 shall be issued to Respondent MONTE JAMES BURGHARDT pursuant
7 to Section 10156.5 of the Business and Professions Code if:

8 Respondent makes application therefor and pays to the
9 Department of Real Estate ("Department") the appropriate fee for
10 the restricted license within ninety (90) days from the
11 effective date of this Decision.

12 The restricted license issued to Respondent MONTE
13 JAMES BURGHARDT shall be subject to all of the provisions of
14 Section 10156.7 of the Business and Professions Code and to the
15 following limitations, conditions and restrictions imposed under
16 authority of Section 10156.6 of that Code:

17 1. The restricted license issued to Respondent may
18 be suspended prior to hearing by Order of the Real Estate
19 Commissioner in the event of Respondent's conviction or plea
20 of nolo contendere to a crime which is substantially related
21 to Respondent's fitness or capacity as a real estate licensee.

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1 2. The restricted license issued to Respondent may
2 be suspended prior to hearing by Order of the Real Estate
3 Commissioner on evidence satisfactory to the Commissioner that
4 Respondent has violated provisions of the California Real Estate
5 Law, the Subdivided Lands Law, or Regulations of the Real Estate
6 Commissioner or conditions attaching to the restricted license.

7 3. Respondent shall not be eligible to apply for the
8 issuance of an unrestricted real estate license nor for the
9 removal of any of the conditions, limitations or restrictions
10 of a restricted license until two (2) years has elapsed from the
11 effective date of this Decision.

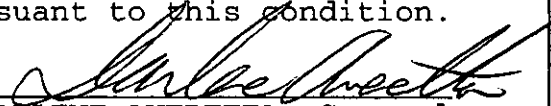
12 4. Respondent shall, within six (6) months from the
13 effective date of this Decision, take and pass the Professional
14 Responsibility Examination administered by the Department
15 including the payment of the appropriate examination fee. If
16 Respondent fails to satisfy this condition, the Commissioner may
17 order suspension of Respondent's license until Respondent passes
18 the examination.

19 II. Pursuant to Section 10148 of the Business and
20 Professions Code, Respondent MONTE JAMES BURGHARDT shall pay the
21 Commissioner's reasonable costs for (a) the audits which led to
22 this disciplinary action and, (b) a subsequent audit to
23 determine if Respondents are in compliance with the Real Estate
24 Law. In calculating the amount of the Commissioner's reasonable
25 cost, the Commissioner may use the estimated average hourly
26 salary for all persons performing audits of real estate brokers
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1 and shall include an allocation for travel time to and from the
2 auditor's place of work. The cost of the audits which led to
3 this disciplinary action are \$ 1,510.50. The Commissioner's
4 reasonable costs for a subsequent audit shall in no event exceed
5 \$ 1,510.50.

6 Respondent shall pay such cost within sixty (60) days
7 of receiving an invoice from the Commissioner detailing the
8 activities performed during the audit and the amount of time
9 spent performing those activities. The Commissioner may suspend
10 the restricted licenses issued to Respondents pending a hearing
11 held in accordance with Section 11500, et seq., of the
12 Government Code, if payment is not timely made as provided for
13 herein, or as provided for in a subsequent agreement between
14 Respondents and Commissioner. The suspension shall remain in
15 effect until payment is made in full or until Respondents enter
16 into an agreement satisfactory to the Commissioner to provide
17 for such payment, or until a decision providing otherwise is
18 adopted following a hearing held pursuant to this condition.

19 DATED: April 6, 2005

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21 DARLENE AVERETTA, Counsel
22 Department of Real Estate

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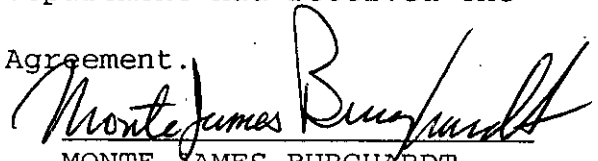
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2 I have read the Stipulation and Agreement and its
3 terms are understood by us and are agreeable and acceptable to
4 me. I understand that I am waiving rights given to me by the
5 California Administrative Procedure Act (including but not
6 limited to Sections 11506, 11508, 11509 and 11513 of the
7 Government Code), and I willingly, intelligently and voluntarily
8 waive those rights, including the right of requiring the
9 Commissioner to prove the allegations in the Accusation at a
10 hearing at which I would have the right to cross-examine
11 witnesses against me and to present evidence in defense and
12 mitigation of the charges.

13 Respondent can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of the signature page, as actually signed by Respondents,
16 to the Department at the following telephone/fax number: (213)
17 576-6917. Respondent agrees, acknowledges and understands that
18 by electronically sending to the Department a fax copy of his
19 actual signature as it appears on the Stipulation and Agreement,
20 that receipt of the faxed copy by the Department shall be as
21 binding on Respondent as if the Department had received the
22 original signed Stipulation and Agreement.

24 DATED: 4/1/05


MONTE JAMES BURGHARDT,
Respondent

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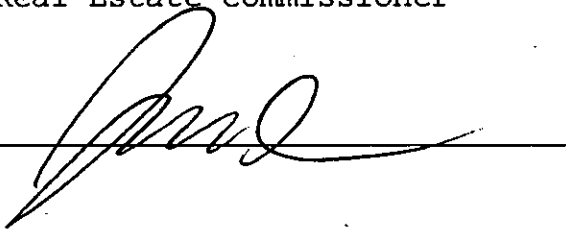
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2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision and Order in this matter, and shall
4 become effective at 12 o'clock noon on May 12, 2005.

5 IT IS SO ORDERED 4/14/05.

6 JEFF DAVI
7 Real Estate Commissioner

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6-20-10

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
BELVEDEER HOLDING CORPORAITON,)
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dba Coldwell Banker Platinum and)
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Platinum One Mortgage Co., and)
)
MONTE JAMES BURGHARDT,)
)
individually and as Designated)
)
Officer of Belvedeer Holding)
)
Corporation and JESSE D. PEREZ,)
)
_____)
Respondent(s)

Case No. H-30600 LA

OAH No. L-2004020583

FILED
SEP 15 2004
DEPARTMENT OF REAL ESTATE

By 

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on FEBRUARY 16 and 17, 2005, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

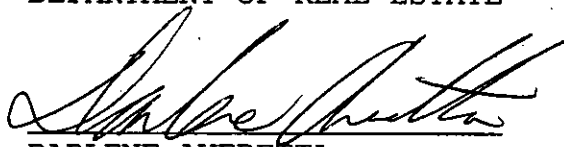
You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real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

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: September 15, 2004

By

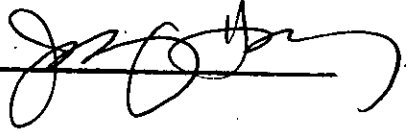


DARLENE AVERETTA
Assistant Chief Counsel

cc: Monte J. Burghardt
Sacto.
OAH
RE 501 (Rev. 8/97)

FILED
JUL 09 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-30600 LA
)
BELVEDEER HOLDING CORPORATION,)
dba Coldwell Banker Platinum and)
Platinum One Mortgage Co., and)
MONTE JAMES BURGHARDT,)
individually and as Designated)
Officer of Belvedeer Holding)
Corporation and JESSE D. PEREZ,)
)
Respondents.)
_____)

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 June 18, 2004, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions, (2) affidavits, and (3) other evidence.

FINDINGS OF FACT

1.

On January 2, 2004, Janice Waddell 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 mail, to Respondents BELVEDEER HOLDING CORPORATION (BHC) and JESSE D. PEREZ (PEREZ) at their last known main office and mailing addresses on file with the Department of Real Estate of the State of California ("Department") on, January 5, 2004 and by regular mail to PEREZ on January 23, 2004 and February 19, 2004.

On June 18, 2004, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's BHC and PEREZ' default was entered herein.

Respondent Monte James Burghardt ("Burghardt"), filed a Notice of Defense and has been severed.

2.

BHC and Burghardt individually and as designated officer of BHC, are presently licensed and/or have license rights under California Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code").

3.

At all times material herein, BHC was, and currently is, licensed by the Department of Real Estate of the State of California ("Department") as a corporate real estate broker. BHC was licensed as a corporate real estate broker through Burghardt as the designated officer and broker between July 25, 2001 and December 11, 2002. BHC'S corporate broker status has been "not broker affiliated" since December 11, 2002. BHC has two fictitious business names licensed to it through the Department: Coldwell Banker Platinum and Platinum One Mortgage Company.

4.

PEREZ, was licensed or has license rights with the Department as a real estate salesperson under the Real Estate Law (Part 1 of Division 4 of the Code). PEREZ was originally licensed by the Department on July 27, 1992. Said license has been suspended by the Department pursuant to Section 17520 of the Family Code since December 13, 2002.

5.

All further references to "Respondents," unless otherwise specified, include the parties identified in Findings 3 and 4, above, and also include the officer, directors, managers, 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, agency or employment.

6.

At all times material herein BHC engaged the business of, acted in the capacity of, advertised or assumed to act as real estate broker in the State of California, within the meaning of Section 10131(a) of the Code. Said activity included the selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, negotiating the purchase, sale or exchange of real property or business opportunities. In addition, BHC conducted escrow activities within the exemption set forth in Financial Code Section 17006(a)(4).

(Audit Violations)

7.

On or about December 9, 2003, Department Auditor Kitlin Chan ("Chan") prepared Department Audit Number LA020355 and noted violations of the Real Estate Law and Commissioner's Regulations that are set forth below, and as more specifically set forth in the December 9, 2003 Audit Report No. LA020355, and the exhibits attached to said Audit Report.

8.

During April 2003, Auditor Chan attempted to schedule an appointment to conduct an audit of Respondent BHC to determine whether BHC handled and accounted for trust funds and performed its real estate activities in accordance with the Real Estate Law and the Commissioner's Regulations. The attempts were unsuccessful. Said audit was intended to be limited to Respondent BHC'S escrow activity between the dates January 1, 2002 and March 31, 2003. It was a follow-up audit to two earlier audits,

LA 010284 and LA 010307 (both audits covering the period July 1, 2001 through January 31, 2002) which noted audit violations and resulted in the issuance of corrective action letters to BHC and Burghardt.

On April 16, 2003, Auditor Chan drove to BHC's main office address of record, 12873 Mountain Ave., Suite A-2, Chino, California. The office was closed and the space was vacant.

BHC had failed to maintain on file with the Commissioner the address of its principal place of business for brokerage activities and its current mailing address.

9.

On or about May 19, 2003, Auditor Chan reviewed bank records pertaining to trust account number 001102094 maintained by BHC at Chino Commercial Bank, 14345 Pipeline Ave., Chino, California. These records were produced by the bank in response to a Department subpoena. Said account is entitled "Belvedeer Holding Corp., dba Direct Escrow, Escrow Division-Trust Account." The signature card for said account indicates that PEREZ and an unlicensed individual, Jackie Burchell, were signatories.

Burghardt was not a signatory on the trust account and Jackie Burchell, was not covered by a fidelity bond.

10.

BHC used the fictitious business name "Direct Escrow" without first obtaining a license from the Department as required.

(Dishonest Dealing)

11.

In addition, Auditor Chan determined that escrow proceeds paid by check number 5222, in the amount of \$146,443.91 to Maximillian David Smith, have never cleared trust account number 001102094. Said check represented escrow proceeds due Smith for the sale of his real property located at 9448 Van Aken Street, Pico Rivera, California. Said escrow closed on or about June 7, 2002.

On or about June 11, 2002, Chino Commercial Bank received and processed a stop-payment request from PEREZ for check number 5222 drawn on the account of Belvedeer Holding Corp., Direct Escrow-Escrow Division Trust Account. To date Smith has not received the entire \$146,443.91 in escrow proceeds.

DETERMINATION OF ISSUES

1.

The conduct, acts and/or omissions of Respondent BHC, as described in Finding 8, herein above, are in violation of Business and Professions Code ("Code") Section 10162 and Title 10, Chapter 6, California Code of Regulations ("Regulation") Section 2715.

2.

The conduct, acts and/or omissions of Respondent BHC, as described in Finding 9, herein above, are in violation of Code Section 10145 and Regulations 2834.

3.

The conduct, acts and/or omissions of Respondent BHC, as described in Finding 10, herein above, are in violation of Code Section 10159.5 and Regulations 2731.

4.

The conduct, acts and/or omissions of Respondent BHC, as described in Findings 8 through 11, herein above, constitute cause for disciplinary action against Respondent BHC pursuant to Code Sections 10165, 10177(d) and 10177(g).

5.

The conduct, acts and/or omissions of Respondent PEREZ as described in Finding 11, herein above, constitute cause for disciplinary action against Respondent PEREZ pursuant to Code Section 10177(j).

6.

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

ORDER

ALL licenses and license rights of Respondents BELVEDEER HOLDING CORPORATION, doing business as Coldwell Banker Platinum and Platinum One Mortgage Co. and JESSE D. PEREZ, under the provisions of Part 1 of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on July 29, 2004.

DATED: July 2, 2004.

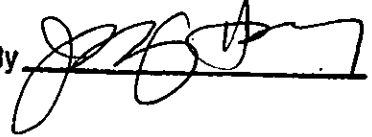
JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 (213) 576-6982

FILED
JUN 18 2004

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)
12)
13 BELVEDEER HOLDING CORPORATION,)
14 dba Coldwell Banker Platinum and)
15 Platinum One Mortgage Co., and)
16 JESSE D. PEREZ,)
17)
18 Respondents.)

NO. H-30600 LA

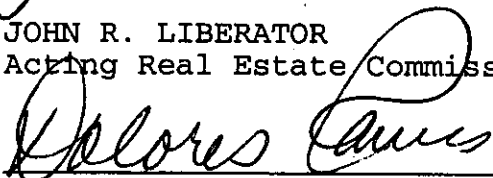
DEFAULT ORDER

16 Respondents, BELVEDEER HOLDING CORPORATION dba
17 Coldwell Banker Platinum and Platinum One Mortgage Co., and
18 JESSE D. PEREZ, having failed to file a Notice of Defense within
19 the time required by Section 11506 of the Government Code, is
20 now in default. It is, therefore, ordered that a default be
21 entered on the record in this matter.

22 IT IS SO ORDERED

June 18, 2004

23 JOHN R. LIBERATOR
24 Acting Real Estate Commissioner

25 
26 By: DOLORES RAMOS
27 Regional Manager

5070

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
BELVEDEER HOLDING CORPORATION,)
dba Coldwell Banker Platinum and)
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individually and as Designated)
Officer of Belvedeer Holding)
Corporation and JESSE D. PEREZ,)

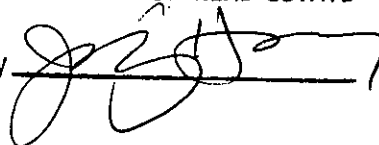
Case No. H-30600 LA

OAH No. L-2004020583

Respondents.

FILED
APR 13 2004

DEPARTMENT OF REAL ESTATE

By 

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on SEPTEMBER 22, 2004 and SEPTEMBER 23, 2004, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission 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.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: April 13, 2004

By



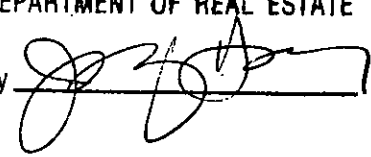
DARLENE AVERETTA
Assistant Chief Counsel

cc: Belvedeer Holding Corp.
Monte James Burghardt
Sacto.

OAH
RE 501 (Rev. 8/97)

SACTO

1 MARY E. WORK, Counsel
SBN 175887
2 Department of Real Estate
320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone (213) 576-6982
-Direct- (213) 576-6916
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FILED
JAN - 5 2004
DEPARTMENT OF REAL ESTATE
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9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) No. H-30600 LA
12 BELVEDEER HOLDING CORPORATION,)
13 dba Coldwell Banker Platinum and) ACCUSATION
Platinum One Mortgage Co., and)
14 MONTE JAMES BURGHARDT,)
individually and as Designated)
15 Officer of Belvedeer Holding)
Corporation and JESSE D. PEREZ,)
16 Respondents.)

17 The Complainant, Janice Waddell, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against BELVEDEER HOLDING CORPORATION, doing business as Coldwell
20 Banker Platinum and Platinum One Mortgage Co. ("Respondent BHC"),
21 and MONTE JAMES BURGHARDT, individually and as Designated Officer
22 of Belvedeer Holding Corporation ("Respondent BURGHARDT") and
23 JESSE D. PEREZ ("Respondent PEREZ") is informed and alleges as
24 follows:

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1.

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner, makes this Accusation in her official capacity.

2.

BELVEDEER HOLDING CORPORATION and MONTE JAMES BURGHARDT, individually and as designated officer of BHC, sometimes referred to collectively as "Respondents," are presently licensed and/or have license rights under California Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code").

3.

At all times material herein, BHC was, and currently is, licensed by the Department of Real Estate of the State of California ("Department") as a corporate real estate broker. Respondent BHC was licensed as a corporate real estate broker through BURGHARDT as the designated officer and broker responsible between July 25, 2001 and December 11, 2002. BHC'S corporate broker status has been "not broker affiliated" since December 11, 2002. BHC has two fictitious business names licensed to it through the Department: Coldwell Banker Platinum and Platinum One Mortgage Company.

4.

At all times mentioned herein, BURGHARDT was licensed by the Department, individually, as a real estate broker. While the designated broker-officer for BHC, BURGHARDT was responsible, pursuant to the provisions of Code Section 10159.2, for the

1 supervision and control of the activities requiring a real estate
2 license conducted on behalf of BHC, by their officers, agents and
3 employees as necessary to secure full compliance with the
4 provisions of the Real Estate Law.

5.

6 JESSE D. PEREZ, was licensed or has license rights with
7 the Department as a real estate salesperson under the Real Estate
8 Law (Part 1 of Division 4 of the Code). PEREZ was originally
9 licensed by the Department on July 27, 1992. Said license has
10 been suspended by the Department pursuant to Section 17520 of the
11 Family Code since December 13, 2002.

6.

13 All further references to "Respondents," unless
14 otherwise specified, include the parties identified in Paragraphs
15 2 through 5, above, and also include the officer, directors,
16 managers, employees, agents and real estate licensees employed by
17 or associated with said parties, who at all times herein
18 mentioned were engaged in the furtherance of the business or
19 operations of said parties and who were acting within the course
20 and scope of their authority, agency or employment.

21
22 FIRST CAUSE OF ACCUSATION
(AUDIT VIOLATIONS)

7.

24 At all times material herein, Respondent BHC engaged in
25 the business of, acted in the capacity of, advertised or assumed
26 to act as real estate broker in the State of California, within
27

1 the meaning of Section 10131(a) of the Code. Said activity
2 included the selling or offering to sell, buying or offering to
3 buy, soliciting prospective sellers or purchasers of, soliciting
4 or obtaining listings of, negotiating the purchase, sale or
5 exchange of real property or business opportunities. Respondent
6 BURCHARDT was the designated broker for BHC until December 11,
7 2002.

8 8.

9 During April 2003, Department Auditor Kitlin Chan
10 attempted to schedule an appointment to conduct an audit of
11 Respondent BHC to determine whether BHC handled and accounted for
12 trust funds and performed its real estate activities in
13 accordance with the Real Estate Law and the Commissioner's
14 Regulations. The attempts were unsuccessful. Said audit was
15 intended to be limited to Respondent BHC'S escrow activity
16 between the dates January 1, 2002 and March 31, 2003. It was a
17 follow-up audit to two earlier audits, LA 010284 and LA 010307
18 (both audits covering the period July 1, 2001 through January 31,
19 2002) which noted audit violations and resulted in the issuance
20 of corrective action letters to Respondents BHC and BURCHARDT.

21 9.

22 On April 16, 2003, Auditor Chan drove to Respondent
23 BHC's main office address of record, 12873 Mountain Ave., Suite
24 A-2, Chino, California. The office was closed and the space was
25 vacant.

26 ////

10.

1 On or about May 19, 2003, Auditor Chan reviewed bank
2 records pertaining to trust account number 001102094 maintained
3 by BHC at Chino Commercial Bank, 14345 Pipeline Ave., Chino,
4 California. These records were produced by the bank in response
5 to a Department subpoena. Said account is entitled "Belvedeer
6 Holding Corp., dba Direct Escrow, Escrow Division-Trust Account."
7 The signature card for said account indicates Respondent Jesse
8 Perez and another unlicensed individual, Jackie Burchell, as
9 signatories. There is no evidence that Burchell, as a signatory,
10 is covered by a fidelity bond.
11

12 11.

13 In addition, regarding the same account, escrow
14 proceeds paid by check number 5222, in the amount of \$146,443.91
15 to Maximillian David Smith, III have never cleared the account.
16 On or about June 11, 2002, Chino Commercial Bank received and
17 processed a stop-payment request from Respondent PEREZ for check
18 number 5222 drawn on the account of Belvedeer Holding Corp.,
19 Direct Escrow-Escrow Division Trust Account. Said check
20 represented escrow proceeds due Smith for the sale of his real
21 property located at 9448 Van Aken Street, Pico Rivera,
22 California. Said escrow closed on or about June 7, 2002. To
23 date, Smith has not received the entire sum due.

24 12.

25 On or about December 9, 2003, Auditor Chan prepared
26 Department Audit Number LA020355 and noted violations of the Real
27 Estate Law and Commissioner's Regulations that are set forth

1 below in Paragraphs 13 through 17, and as more specifically set
2 forth in the December 9, 2003 Audit Report No. LA020355, and the
3 exhibits attached to said Audit Report.

4 13.

5 In violation of Section 10159.2 of the Business and
6 Professions Code ("Code") and Section 2834, Title 10, Chapter 6,
7 California Code of Regulations ("Regulations"), Respondents BHC
8 and BURGHARDT as BHC'S designated officer failed to control the
9 trust fund account described in further detail above at Paragraph
10 10. Respondent BURGHARDT was not a signatory on said trust
11 account.

12 14.

13 In violation of Section 10145 of the Code and Section
14 2834(a)(3) of the Regulations, Respondents BHC and BURGHARDT as
15 BHC'S designated officer, failed to provide for examination,
16 evidence of a fidelity bond for Jackie Burchell, an unlicensed
17 individual who had signature authority on BHC'S trust account.

18 15.

19 In violation of Section 10162 of the Code and Section
20 2715 of the Regulations, Respondent BHC failed to maintain on
21 file with the Commissioner the address of its principal place of
22 business for brokerage activities and its current mailing
23 address.

24 16.

25 In violation of Section 10159.2 of the Code and Section
26 2725 of the Regulations, and until December 11, 2002, when
27

1 Respondent BURGHARDT canceled his status as the designated
2 officer for Respondent BHC, he failed to exercise reasonable
3 supervision and control over the activities of Respondent BHC.

4 17.

5 In violation of Section 10159.5 and Section 2731 of the
6 Regulations, Respondents BHC and BURGHARDT used the fictitious
7 business name "Direct Escrow" without first obtaining a license
8 to do so from the Department.

9 18.

10 The conduct, acts and/or omissions of Respondents BHC
11 and BURGHARDT, as described above in Paragraphs 8 through 16,
12 above, constitute cause for the suspension or revocation of
13 Respondents' real estate licenses and license rights under the
14 provisions of Code Sections 10165, 10177(d), 10177(g) and/or
15 10177(h).

16 IN AGGRAVATION OF THE ABOVE

17 The violations alleged above in Paragraphs 12, 13, and
18 16 were cited in a Corrective Action Letter from the Department
19 to Respondents BHC and BURGHARDT dated May 8, 2002.

20 SECOND CAUSE OF ACCUSATION
21 (DISHONEST DEALING)

22 19.

23 On or about November 16, 2002, Respondent PEREZ faxed a
24 stop-payment authorization to Chino Commercial Bank. Said
25 authorization pertained to the check described above in Paragraph
26
27

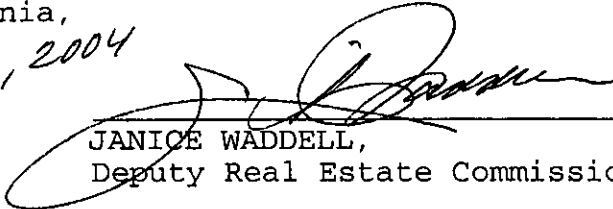
1 10. To date Respondent PEREZ has failed to pay the \$146,443.91
2 in escrow proceeds due to Smith.

3 20.

4 The conduct, acts and/or omissions of Respondent PEREZ,
5 as described above in Paragraph 19 constitutes cause under
6 Section 10177(j) of the Code for the suspension or revocation of
7 his real estate license and/or license rights.

8
9 WHEREFORE, Complainant prays that a hearing be
10 conducted on the allegations of this Accusation and that upon
11 proof thereof a decision be rendered imposing disciplinary action
12 against all licenses and license rights of Respondents BELVEDEER
13 HOLDING CORPORATION, MONTE JAMES BURGHARDT and JESSE D. PEREZ
14 under the Real Estate Law (Part 1 of Division 4 of the Business
15 and Professions Code) and for such other and further relief as
16 may be proper under other provisions of law.

17 Dated at Los Angeles, California,
18 this 2nd day of January, 2004


19 JANICE WADDELL,
20 Deputy Real Estate Commissioner

21
22
23
24 cc: Belvedeer Holding Corp.
25 Monte James Burghardt
26 Jesse D. Perez
27 Janice Waddell
SACTO
AK