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FILED  
DEC 13 2010  
DEPARTMENT OF REAL ESTATE

By C-2

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )

No. H-36971 LA

WILSHIRE REALTORS INCORPORATED, )  
dba Wilshire Realtors and )  
Wilshire Realty; )

A C C U S A T I O N

WILLIAM LYNN BORLAND, )  
individually and as former )  
designated officer of Wilshire )  
Realtors Incorporated; )

and WILLIAM LENARD SCHWARZ, )  
individually and as former )  
designated officer of Wilshire )  
Realtors Incorporated, )

Respondents. )

The Complainant, Robin Trujillo, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against WILSHIRE REALTORS INCORPORATED, dba Wilshire Realtors  
and Wilshire Realty; WILLIAM LYNN BORLAND, individually and as  
former designated officer of Wilshire Realtors Incorporated; and

1 WILLIAM LENARD SCHWARZ, individually and as former designated  
2 officer of Wilshire Realtors Incorporated, alleges as follows:

3 1.

4 The Complainant, Robin Trujillo, acting in her  
5 official capacity as a Deputy Real Estate Commissioner of the  
6 State of California, makes this Accusation against WILSHIRE  
7 REALTORS INCORPORATED, WILLIAM LYNN BORLAND and WILLIAM LENARD  
8 SCHWARZ (collectively "Respondents").

9 2.

10 All references to the "Code" are to the California  
11 Business and Professions Code and all references to  
12 "Regulations" are to Title 10, Chapter 6, California Code of  
13 Regulations.

14 3.

15 From June 6, 1997 through the present, Respondent  
16 WILSHIRE REALTORS INCORPORATED ("WILSHIRE REALTORS") has been  
17 licensed or has license rights issued by the Department of Real  
18 Estate ("Department") as a real estate corporation.

19 4.

20 From June 6, 1997 through July 27, 2009, Respondent  
21 WILSHIRE REALTORS was authorized to act by and through  
22 Respondent WILLIAM LYNN BORLAND as its broker designated  
23 pursuant to Code Section 10159.2 to be responsible for ensuring  
24 compliance with the Real Estate Law.

25 5.

26 From September 16, 1999 through October 6, 2008,  
27 Respondent WILSHIRE REALTORS was authorized to act by and

1 through Respondent WILLIAM LENARD SCHWARZ as its broker  
2 designated pursuant to Code Section 10159.2 to be responsible  
3 for ensuring compliance with the Real Estate Law.

4 6.

5 From May 3, 1997 through the present, Respondent  
6 WILLIAM LYNN BORLAND ("BORLAND") has been licensed or has  
7 license rights issued by the Department as a real estate broker.

8  
9 7.

10 From January 14, 1969 through the present, Respondent  
11 WILLIAM LENARD SCHWARZ ("SCHWARZ") has been licensed or has  
12 license rights issued by the Department as a real estate broker.

13 8.

14 All further references to "Respondents" include the  
15 parties listed in Paragraphs 3 through 7, above, as well as the  
16 officers, agents and employees of the parties listed in  
17 Paragraphs 3 through 7, above.

18 9.

19 At all times mentioned herein, in the State of  
20 California, Respondents engaged in the business of a real estate  
21 broker conducting activities requiring a real estate license  
22 within the meaning of Code Sections 10131 and 10131.2. For  
23 compensation or in expectation of compensation and for fees  
24 often collected in advance, Respondents were selling, offering  
25 to sell, soliciting prospective sellers or purchasers of,  
26 soliciting or obtaining listings of, or negotiating the

27

1 purchase, sale or exchange of real property or a business  
2 opportunity.

3 FIRST CAUSE OF ACCUSATION  
4 (Advance Fee Violation/Misrepresentation)

5 10.

6 On May 1, 2005, Respondents entered into a written  
7 agreement with The Yucca Group, LLC dba Metro Modern Development  
8 ("MMD") wherein Respondents would market and sell residential  
9 condominium properties located at 6735 Yucca Avenue, Hollywood,  
10 California.

11 11.

12 Respondents engaged in the business of claiming,  
13 demanding, charging receiving, collecting or contracting for the  
14 collection of advance fees, within the meaning of Code Section  
15 10026, by collecting advance monthly fees or commissions prior  
16 to the sale of the condominiums.

17 12.

18 Respondents agreed to credit 100% of the monthly fees  
19 back to MMD from commissions owed on closed escrows from the  
20 sale of the condominiums.

21 13.

22 Prior to December 28, 2007, MMD advanced fees to  
23 Respondents in the amount of \$98,475.85. Sales of seven  
24 condominium units closed escrow on December 28, 2007.  
25 Respondents received commissions on said sales of \$100,325 paid  
26 from said escrows. Thereafter, Respondents failed to credit the  
27 full 100% of monthly fees advanced to them by MMD.

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14.

On June 11, 2009, a default judgment was issued by the Superior Court of California, Los Angeles County, in Case No. BC397282, entitled *The Yucca Group, LLC dba Metro Modern Developers v. Wilshire Realty, et al.*, against Respondent WILSHIRE REALTORS for \$52,055.26 plus post-judgment interest.

15.

Respondents charged and collected the advance fees described above, for listing, advertising, or offering to sell real property and soliciting prospective sellers or purchasers of, or negotiating the purchase, sale or exchange of real property within the meaning of Code Section 10026.

16.

Respondents WILSHIRE REALTORS, BORLAND and SCHWARZ failed to submit a written agreement described in Paragraph 10, above, to the Commissioner ten days before using it, in violation of Code Section 10085 and Regulation 2970.

17.

The conduct, acts and/or omissions of Respondents, as set forth above, is cause for the suspension or revocation of the licenses and license rights of Respondents pursuant to Code Sections 10085, 10177(d) and/or 10177(g).

18.

The conduct, acts and/or omissions of Respondents, as set forth above, constitutes making a substantial misrepresentation, false promise or dishonest dealing and is

1 cause for the suspension or revocation of the licenses and  
2 license rights of Respondents pursuant to Code Sections  
3 10176(a), (b) and/or (i).

4  
5 SECOND CAUSE OF ACCUSATION  
6 (Accounting for Advance Fees)

7 19.

8 There is hereby incorporated in this Second, separate  
9 Cause of Accusation, all of the allegations contained in  
10 Paragraphs 1 through 18, above, with the same force and effect  
11 as if herein fully set forth.

12 20.

13 Code Section 10146 requires brokers who contract for  
14 or collect advance fees from a principal to deposit such amounts  
15 in a trust account. Such funds are trust funds and may be  
16 withdrawn therefrom for the benefit of the agent only when  
17 actually expended for the benefit of the principal or five days  
18 after the verified accounts have been mailed to the principal.

19 21.

20 Respondents failed to furnish verified accountings to  
21 the principal, MMD, as required pursuant to Code Section 10146.  
22 The conduct, acts and/or omissions of Respondents, as set forth  
23 above, is cause for the suspension or revocation of the licenses  
24 and license rights of Respondents pursuant to Code Sections  
25 10146, 10177(d) and/or 10177(g).

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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 the license and license rights of Respondents WILSHIRE REALTORS INCORPORATED, dba Wilshire Realtors, Wilshire Realty; WILLIAM LYNN BORLAND, individually and as former designated officer of Wilshire Realtors Incorporated; and WILLIAM LENARD SCHWARZ, individually and as former designated officer of Wilshire Realtors Incorporated, 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 9 day of December, 2010.

  
ROBIN TRUJILLO  
Deputy Real Estate Commissioner

cc: Wilshire Realtors Incorporated  
William Lynn Borland  
William Lenard Schwarz  
Robin Trujillo  
Sacto