

**FILED**

STATE OF CALIFORNIA

DEC 01 2011

\* \* \* \*

DEPARTMENT OF REAL ESTATE

BY: 

In the Matter of the Accusation of )  
 )  
 EDDY GUILLERMO MARIN, doing )  
 business as Wilshire Park )  
 Realty, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

No. H-37379 LA

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 September 12, 2011, 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.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondents.

FINDINGS OF FACT

I

On June 27, 2011, Robin Trujillo 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 Respondent's last known mailing addresses on file with the Department on July 8, 2011.

Respondent failed to file a Notice of Defense within the time required by Section 11506 of the Government Code. Respondent's default was entered herein on September 12, 2011.

## II

Respondent EDDY GUILLERMO MARIN, individually, and doing business as Wilshire Park Realty, 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 (hereinafter "Code") as a real estate broker.

## III

The evidence established that at all times herein mentioned Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Code Section 10131(a), including soliciting sellers and buyers for the listing, sale and purchase of real property and negotiating the sale and purchase of real property on behalf of buyers and sellers.

## IV

The evidence established that on or about February 5, 2010, the final judgment of the Superior Court of the State of California, County of Los Angeles, Case No. BC 416225, was entered against Respondent based on the grounds of fraud, misrepresentation, or deceit with reference to a transaction for which a real estate license is required. By its terms the judgment against Respondent included an award of **punitive damages** in the amount of \$58,500.

## V

The facts set forth in Paragraph IV, above, constitute cause under Section 10177.5 of the Code for the suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

## VI

The evidence established that on or about May 25, 2010, the Department completed an audit examination of the books and records of Respondent pertaining to the real estate activities described in Paragraph III, above, covering a period from May 1, 2007, to April 30, 2010. The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in Audit Report No. LA 090229 along with the exhibits and work papers attached to the audit report:

(a) Failed to maintain a control record in the form of a columnar record of trust funds received and disbursed for the \$19,500 of Jorge Munguia ("Munguia"), in violation of Code Section 10145 and Section 2831 of Title 10, Chapter 6, California Code of Regulations ("Regulations").

(b) Failed to deposit Munguia's funds in the amount of \$19,500 in a trust account and to use said funds for the benefit of Munguia, and instead used Munguia's funds for Respondent's own benefit, in violation of Code Sections 10176(i) and 10145 and Section 2832 of the Regulations.

(c) Failed to timely notify the Department of the employment and termination of salesperson Hector A. Vasquez as is required by Code Section 10161.8 and Section 2752 of the Regulations.

(d) Failed to have in his possession the original salesperson license certificate for salesperson Lindy Michelle Laurin at Respondent's main business location in violation of Code section 10160 and Section 2753 of the Regulations.

(e) Failed to maintain a written broker-salesman agreement with his salesperson, Lindy Michelle Laurin, in violation of Code Section 10177(h) and Section 2726 of the Regulations.

(f) Failed to exercise reasonable control and supervision over the activities conducted by his employees and/or licensees as necessary to secure full compliance with the Real Estate Law in violation of Code Section 10177(h) and Section 2725 of the Regulations.

## VII

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondent under the provisions of Code Sections 10176(i) for fraud or dishonest dealing, 10177(d) for violation of the Real Estate Law, 10177(g) for

negligence or incompetence, and 10177(h) for failure to supervise.

DETERMINATION OF ISSUES

I

Respondent EDDY GUILLERMO MARIN is in violation of Code Section 10177.5, as set forth in Findings IV and V, above, which justifies the suspension or revocation of his licenses and/or license rights under the provisions of Code Sections 10177.5 for fraud judgment in a civil action and 10177(d) for violation of the Real Estate Law.

II

Respondent EDDY GUILLERMO MARIN is in violation of the Code Sections 10145, 10161.8, and 10160 and Sections 2725, 2726, 2752, 2753, 2831, 2832 of the Regulations, as set forth in Finding VI, above, which justifies the suspension or revocation of his licenses and/or license rights under the provisions of Code Section which justifies the suspension or revocation of its licenses and/or license rights under the provisions of Code Sections 10177(d) for violation of the Real Estate Law, 10177(g) for negligence or incompetence, 10177(h) for failure to exercise reasonable supervision over his salespersons and 10176(i) for fraud or dishonest dealing.

III

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

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ORDER

The licenses and license rights of Respondent EDDY GUILLERMO MARIN, 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 DEC 21 2011.

DATED: 11/17/11.

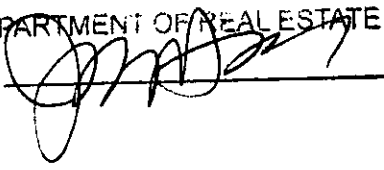
Barbara J. Bigby  
Acting Real Estate Commissioner



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

**FILED**

SEP 12 2011

DEPARTMENT OF REAL ESTATE  
BY: 

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

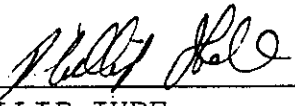
9 \* \* \* \*

10  
11 In the Matter of the Accusation of )  
12 ) NO. H-37379 LA  
13 EDDY GUILLERMO MARIN, doing )  
14 Business as Wilshire Park ) DEFAULT ORDER  
15 Realty, )  
16 Respondent. )

16 Respondent, EDDY GUILLERMO MARIN dba Wilshire Park  
17 Realty, having failed to file a Notice of Defense within the  
18 time required by Section 11506 of the Government Code, is now  
19 in default. It is, therefore, ordered that a default be  
20 entered on the record in this matter.

21  
22 IT IS SO ORDERED SEPTEMBER 12, 2011.

23 BARBARA J. BIGBY  
24 Acting Real Estate Commissioner

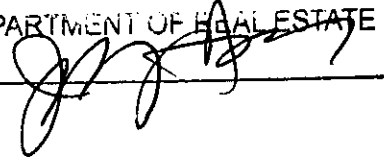
25   
26 By: PHILLIP IHDE  
27 Regional Manager

1 CHERYL D. KEILY SBN# 94008  
2 Department of Real Estate  
3 320 West 4th Street, Suite 350  
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6905

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JUL 08 2011

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9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of ) No. H- 37379 LA  
13 )  
14 EDDY GUILLERMO MARIN, doing ) A C C U S A T I O N  
15 business as Wilshire Park )  
16 Realty, )  
17 )  
18 Respondent. )  
19 )  
20 )  
21 )

22 The Complainant, Robin Trujillo, a Deputy Real Estate  
23 Commissioner of the State of California, for cause of Accusation  
24 against EDDY GUILLERMO MARIN, doing business as Wilshire Park  
25 Realty, (hereafter "Respondent") is informed and alleges as  
26 follows:  
27

1.

28 The Complainant, Robin Trujillo, a Deputy Real Estate  
29 Commissioner of the State of California, makes this Accusation  
30 in her official capacity.

31 ///

2.

1 Respondent is presently licensed and/or has license  
2 rights under the Real Estate Law (Part 1 of Division 4 of the  
3 Business and Professions Code, hereinafter "Code"), as a real  
4 estate broker.  
5

3.

6  
7 At all times material herein, Respondent engaged  
8 in the business of, acted in the capacity of, advertised or  
9 assumed to act as real estate broker in the State of California,  
10 within the meaning of Code Section 10131(a), including  
11 soliciting sellers and buyers for the listing, sale and purchase  
12 of real property and negotiating the sale and purchase of real  
13 property on behalf of buyers and sellers.  
14

15  
16 FIRST CAUSE OF ACCUSATION  
(Fraud Judgment - Code Section 10177.5)

4.

17  
18 On or about February 5, 2010, the final judgment of  
19 the Superior Court of the State of California, County of Los  
20 Angeles, Case No. BC 416225, was entered against Respondent  
21 based on the grounds of fraud, misrepresentation, or deceit with  
22 reference to a transaction for which a real estate license is  
23 required. By its terms the judgment against Respondent included  
24 an award of punitive damages in the amount of \$58,500.  
25

5.

26  
27 The facts set forth in Paragraph 4, above, constitute



1 cause under Section 10177.5 of the Code for the suspension or  
2 revocation of all licenses and license rights of Respondent  
3 under the Real Estate Law.

4 SECOND CAUSE OF ACCUSATION  
5 (Audit Violations)

6 6.

7 Complainant hereby incorporates by reference the  
8 allegations set forth in Paragraphs 1 through 5, above.

9 7.

10 On or about May 25, 2010, the Department  
11 completed an audit examination of the books and records of  
12 Respondent pertaining to the real estate activities described in  
13 Paragraph 3, above, covering a period from May 1, 2007, to April  
14 30, 2010. The audit examination revealed violations of the Code  
15 and the Regulations, as set forth in the following paragraphs,  
16 and more fully discussed in Audit Report No. LA 090229 along  
17 with the exhibits and work papers attached to the audit report:

18 (a) Failed to maintain a control record in the form of  
19 a columnar record of trust funds received and disbursed for the  
20 \$19,500 of Jorge Munguia ("Munguia), in violation of Code  
21 Section 10145 and Section 2831 of Title 10, Chapter 6,  
22 California Code of Regulations ("Regulations").

23 (b) Failed to deposit Munguia's funds in the amount  
24 of \$19,500 in a trust account and to use said funds for the  
25 benefit of Munguia, and instead used Munguia's funds for  
26

27

1 Respondent's own benefit, in violation of Code Sections 10176(i)  
2 and 10145 and Section 2832 of the Regulations.

3 (c) Failed to timely notify the Department of the  
4 employment and termination of salesperson Hector A. Vasquez as  
5 is required by Code Section 10161.8 and Section 2752 of the  
6 Regulations.

7 (d) Failed to have in his possession the original  
8 salesperson license certificate for salesperson Lindy Michelle  
9 Laurin at Respondent's main business location in violation of  
10 Code section 10160 and Section 2753 of the Regulations.

11 (e) Failed to maintain a written broker-salesman  
12 agreement with his salesperson, Lindy Michelle Laurin, in  
13 violation of Code Section 10177(h) and Section 2726 of the  
14 Regulations.

15 (f) Failed to exercise reasonable control and  
16 supervision over the activities conducted by his employees  
17 and/or licensees as necessary to secure full compliance with the  
18 Real Estate Law in violation of Code Sections 10159.2 and  
19 10177(h) and Section 2725 of the Regulations.  
20

21 DISCIPLINE STATUTES AND REGULATIONS

22 8.

23 The conduct of Respondent described in Paragraph 7,  
24 above, violated the Code and the Regulations as set forth below:

25 PARAGRAPH

PROVISIONS VIOLATED

26 7(a)

Code Section 10145 and Section  
27 2831 of the Regulations

- 1           7(b)                           Code Sections 10176(i) and 10145
- 2   and Section 2832 of the
- 3   Regulations
  
- 4           7(c)                           Code Section 10161.8 and Section
- 5   2752 of the Regulations
  
- 6           7(d)                           Code Section 10160 and Section
- 7   2753 of the Regulations
  
- 8
- 9           7(e)                           Code Section 10177(h) and Section
- 10    2726 of the Regulations
  
- 11          7(f)                           Code Sections 10159.2 and 10177(h)
- 12    and    Section 2725 of the
- 13    Regulations

14

15                   The foregoing violations constitute cause for the

16 suspension or revocation of the real estate license and license

17 rights of Respondent under the provisions of Code Sections

18 10177(d) for violation of the Real Estate Law and/or 10177(g)

19 for negligence or incompetence.

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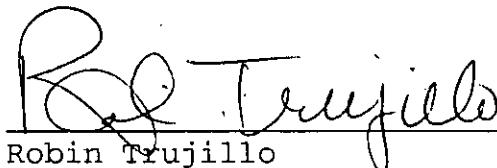
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27    ///

1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all licenses and/or license rights of Respondent  
5 EDDY GUILLERMO MARIN under the Real Estate Law and for such  
6 other and further relief as may be proper under applicable  
7 provisions of law.

8 Dated at Los Angeles, California

9 this 27 day of June, 2011.

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14   
15 Robin Trujillo  
16 Deputy Real Estate Commissioner  
17  
18  
19  
20  
21  
22

23 cc: EDDY GUILLERMO MARIN  
24 Robin Trujillo  
25 Sacto.  
26  
27