

FILED

OCT 10 2012

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY: C.R.

* * * *

In the Matter of the Accusation of)	DRE No. H-37426 LA
)	
<u>WIZARD FINANCIAL, INC.</u> and)	OAH No. 2011120750
<u>BARBARA BOBBY HARVEY,</u>)	
individually and as designated)	
officer of Wizard Financial,)	
Inc.,)	
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 August 27, 2012, 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 August 1, 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 WIZARD FINANCIAL INC.'s last known mailing address on file with the Department on August 5, 2011, and September 27, 2011. A third attempt at service was made on July 18, 2012, by certified mail.

On August 27, 2012, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent WIZARD FINANCIAL INC.'s default was entered herein.

2.

From March 1, 2006, through the present, Respondent WIZARD FINANCIAL, INC. ("WIZARD") has been licensed by the Department of Real Estate ("Department") as a corporate real estate broker.

BROKERAGE

3.

At all times mentioned, in the State of California, Respondent WIZARD engaged in the business of a real estate broker conducting licensed activities within the meaning of Business and Professions Code ("Code") Section 10131(d). Respondent WIZARD operated a mortgage and loan brokerage.

4.

On March 28, 2011, the Department completed an audit examination of the books and records of Respondent WIZARD pertaining to the real estate activities described in Paragraph 3, above, which require a real estate license. The audit examination covered a period of time beginning on January 1, 2008 to August 31, 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 LA 100038 and the exhibits and work papers attached to said Audit Report.

5.

VIOLATIONS

In the course of activities described in Paragraph 3, above, and during the examination period described in Paragraph 4, Respondent WIZARD acted in violation of the Code and the Regulations as follows:

(A) Failed to set up a trust account for trust funds received in the form of funds from lenders, monthly payments and principal payoffs, in violation of Code Section 10145 and Regulation 2832.

(B) Failed to maintain a separate record for each beneficiary or transaction, thereby failing to account for all trust funds collected, in violation of Code Section 10145 and Regulation 2831.1.

(C) Failed to maintain a written monthly reconciliation of the receipts and disbursements record and the total balance of separate beneficiary records for bank account used to handle loan activity, in violation of Code Section 10145 and Regulation 2831.2.

(D) Failed to provide the Mortgage Loan/Trust Deed Annual Report (Business Activity Report) for aspects of its business activity for the period ending in December, 2008, in violation of Code Section 10232.2(c) and Regulation 2846.7.

(E) Failed to file its Trust Account Review for the period ending on December 31, 2009, in violation of Code Section 10232.2(a) and Regulation 2846.5.

(F) Failed to file its Quarterly Reports for the first, second and third quarters of 2010, in violation of Code Section 10232.25 and Regulation 2846.8.

DISCIPLINARY STATUTES

6.

The conduct of Respondent as described in Paragraph 5, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
5(A)	Code Section <u>10145</u> and Regulation <u>2832</u>
5(B)	Code Section 10145 and Regulation <u>2831.1</u>
5(C)	Code Section 10145 and Regulation <u>2831.2</u>
5(D)	Code Section <u>10232.2(c)</u> and Regulation <u>2846.7</u>
5(E)	Code Section <u>10232.2(a)</u> and Regulation <u>2846.5</u>
5(F)	Code Section <u>10232.25</u> and Regulation <u>2846.8</u>

DETERMINATION OF ISSUES

1.

Respondent's conduct, acts and/or omissions are in violation of Code Sections 10145, 10232.2(a), 10232.2(c), and 10232.25 and Regulations 2831.1, 2831.2, 2832, 2846.5, 2846.7, and 2846.8 which constitute cause for the revocation of the real estate license and license rights of Respondent WIZARD, as aforesaid, under the provisions of Code Sections 10177(d) for violation of the Real Estate Law and 10177(g) for negligence.

2.

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

ORDER

The license and license rights of Respondent WIZARD FINANCIAL, INC. 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 October 30, 2012.

DATED: 10/9, 2012.

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105

FILED

AUG 27 2012

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) DRE NO. H-37426 LA
12)
12 WIZARD FINANCIAL, INC. and) OAH NO. 2011120750
13 BARBARA BOBBY HARVEY, individually)
13 and as designated officer of) DEFAULT ORDER
14 Wizard Financial, Inc.,)
14)
15 Respondents.)

16
17 Respondent, WIZARD FINANCIAL, INC., having failed
18 to file a Notice of Defense within the time required by
19 Section 11506 of the Government Code, is now in default.
20 It is, therefore, ordered that a default be entered on the
21 record in this matter as to WIZARD FINANCIAL, INC., only.

22 IT IS SO ORDERED

August 27, 2012.

23 Real Estate Commissioner

24
25 Dolores Weeks
26 By: DOLORES WEEKS
27 Regional Manager