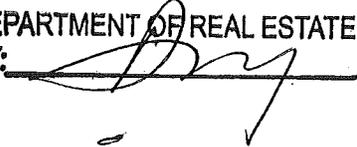


**FILED**

AUG - 1 2013

DEPARTMENT OF REAL ESTATE  
BY: 

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7  
8  
9 BEFORE THE BUREAU OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of	)	
	)	
13 CAPITAL EXECUTIVE REALTY INC.,	)	No. H-38980 LA
14 doing business as ERA Capital	)	
14 Executive Realty; and	)	<u>ACCUSATION</u>
	)	
15 MELVIN JAMES BURRELL, individually	)	
16 and as designated officer of Capital	)	
16 Executive Realty Inc.,	)	
	)	
17 Respondents,	)	

18  
19 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State  
20 of California, for cause of Accusation against CAPITAL EXECUTIVE REALTY INC. ("CERP")  
21 and MELVIN JAMES BURRELL ("BURRELL"), individually and as designated officer of  
22 Capital Executive Realty Inc. (collectively "Respondents"), is informed and alleges as follows:

23 1.

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

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7 2.

From March 21, 2003, Respondent CERI has been licensed as a real estate corporation. At all times relevant herein, CERI was acting by and through Respondent BURRELL as its designated broker-officer from its inception on March 21, 2003, pursuant to Business and Professions Code (“Code”) Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

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13 3.

From November 16, 1990, through the present, Respondent BURRELL has been licensed as a real estate broker.

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20 4.

CERI is owned equally by BURRELL, its chief executive officer and his wife, Rochelle Janet Burrell, its chief financial officer and real estate salesperson licensed under BURRELL’s individual license.

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26 5.

Whenever reference is made in an allegation in this Accusation to an act or omission of “Respondents”, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondents committed such act or omission while engaged in the furtherance of the business or operations of Respondents and while acting within the course and scope of their corporate authority and employment including Gary Hunter, Elizabeth Broderick, and BURRELL.

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FIRST CAUSE OF ACCUSATION

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32 6.

At all times mentioned, in the City of Torrance, County of Los Angeles, Respondents CERI and BURRELL acted as real estate brokers and conducted licensed activities within the meaning of:

A. Code Section 10131(a). Respondents engaged in the business of a residential resale brokerage and acted in the capacity of, advertised or assumed to act as a real estate broker,

1 including the solicitation and negotiation of the sale of real property as the agent of others; and

2  
3 B. In addition, CERI conducted broker-controlled escrows through its escrow  
4 division, Capital Executive Realty Inc. dba CER Escrow Division Trust Account, under the  
5 exemption set forth in California Financial Code Section 17006(a)(4) for real estate brokers  
6 performing escrows incidental to a real estate transaction where the broker is a party and where  
7 the broker is performing acts for which a real estate license is required.

8 Audit

9 7.

10 On January 24, 2013, the BUREAU completed an audit examination of the books  
11 and records of Respondent CERI pertaining only to the broker-controlled escrow activities  
12 described in Paragraph 6, which require a real estate license. The audit examination covered a  
13 period of time beginning on January 1, 2010 and ending on June 30, 2012. The audit  
14 examination revealed violations of the Code and the Title 10, Chapter 6, California Code of  
15 Regulations ("Regulations") set forth in the following paragraphs, and more fully set forth in  
16 Audit Report LA120002 and the exhibits and work papers attached thereto.  
17

18 Trust Account

19 8.

20 At all times mentioned, in connection with the activities described in Paragraph 6,  
21 above, CERI accepted or received funds including funds in trust (hereinafter "trust funds") from  
22 or on behalf of actual or prospective parties to real estate transactions, including escrow services  
23 provided by CERI's in-house escrow division. Thereafter CERI made deposits and or  
24 disbursements of such trust funds. From time to time herein mentioned during the audit period,  
25 said trust funds were deposited and/or maintained by CERI in the trust account herein set forth.  
26



1 10145 and Regulations 2832.1, 2950(g) and 2951. On July 26, 2012, \$29,209.08 relating to  
2 escrow #507-BG of the \$31,388.33 was corrected, leaving a balance of \$2,179.25.

3  
4 (b) Failed to maintain a separate record for each beneficiary or transaction for  
5 escrow trust accounts TA 1 and TA 1, in violation of Code Section 10145 and Regulations  
6 2831.1, 2950(d) and 2951;

7 (c) Failed to perform a monthly reconciliation of the balance of all separate  
8 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of  
9 all trust funds received and disbursed by escrow trust accounts TA 1 and TA 2, in violation of  
10 Code Section 10145 and Regulations 2831.2, 2950(d) and 2951;

11  
12 (d) Failed to maintain a control record in the form of a columnar record in  
13 chronological order for escrow trust accounts TA 1 and TA 2, in violation of Code Section 10145  
14 and Regulations 2831, 2950(d) and 2951;

15 (e) Permitted Rochelle Janet Burrell, a real estate salesperson not licensed under  
16 CERI, and Lee Owens, escrow officer, an unlicensed and unbonded person, to be authorized  
17 signatories on escrow trust accounts TA 1 and TA 2, in violation of Code Section 10145 and  
18 Regulation 2834(a); and

19  
20 (f) Respondent BURRELL failed to exercise reasonable control and supervision  
21 over the activities conducted by CERI's employees and/or licensees as necessary to secure full  
22 compliance with the Real Estate laws especially in regard to trust fund handling for broker-  
23 controlled escrows, as required under Code Section 10159.2 and Regulation 2725, in violation  
24 of Code Section 10177(h).

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10.

The conduct of Respondents CERI and BURRELL, described in Paragraph 9, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9(a)	Code Section 10145 and Regulations 2832.1, 2950(g) and 2951
9(b)	Code Section 10145 and Regulations 2831.1 2950(d) and 2951
9(c)	Code Section 10145 and Regulations 2831.2, 2950(d) and 2951
9(d)	Code Section 10145 and Regulations 2831, 2950(d) and 2951
9(e)	Code Section 10145 and Regulations 2834, 2950(d) and 2951
9(f)	Code Sections 10159.2 and 10177(h) and Regulation 2725 (BURRELL)

The foregoing violations constitute cause for discipline of the real estate licenses and license rights of Respondents CERI and BURRELL under the provisions of Code Sections 10177(d) and/or 10177(g), and 10177(h) (BURRELL).

SECOND CAUSE OF ACCUSATION  
(California Secretary of State Suspension)

11.

On February 26, 2002, CERI was suspended by the California Secretary of State for non payment of Franchise Tax Fees, in violation of Code Section 10177(d) and Regulation 2742(c).

THIRD CAUSE OF ACCUSATION  
(Negligence)

12.

The overall conduct of Respondents CERI and BURRELL constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

1 FOURTH CAUSE OF ACCUSATION  
2 (Fiduciary Duty)

3 13.

4 The conduct, acts and omissions of Respondents CERI and BURRELL constitute  
5 a breach of fiduciary duty, owed to CERI's clients and trust fund beneficiaries of good faith, trust  
6 confidence and candor, within the scope of their contractual and escrow relationship, in violation  
7 of Code Section 10177(g) and constitutes cause for discipline of the real estate license and  
8 license rights of said Respondents pursuant to the provisions of said Code Section.

9 FIFTH CAUSE OF ACCUSATION  
10 (Supervision and Compliance)

11 14.

12 The overall conduct of Respondent BURRELL constitutes a failure on said  
13 Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable  
14 supervision and control over the licensed activities of CERI as required by Code Section 10159.2  
15 and Regulation 2725, and to keep CERI in compliance with the Real Estate Law, and is cause for  
16 discipline of the real estate license and license rights of Respondents pursuant to the provisions of  
17 Code Sections 10177(d), 10177(g) and 10177(h).

18 15.

19 Code Section 10106 provides, in pertinent part, that in any order issued in  
20 resolution of a disciplinary proceeding before the BUREAU of Real Estate, the Commissioner  
21 may request the administrative law judge to direct a licensee found to have committed a violation  
22 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement  
23 of the case.

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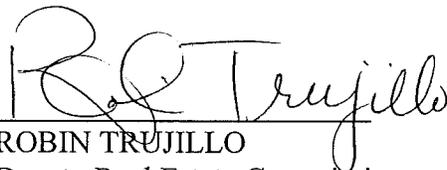
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1                   WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against all licenses and/or license rights of Respondents CAPITAL EXECUTIVE  
4 REALTY INC. and MELVIN JAMES BURRELL, individually and as designated officer of  
5 Capital Executive Realty Inc. under the Real Estate Law (Part 1 of Division 4 of the California  
6 Business and Professions Code) and for such other and further relief as may be proper under other  
7 applicable provisions of law, including, but not limited to, costs of audit, investigation and  
8 enforcement, and verification of cure of the trust fund shortage.  
9

10 Dated at Los Angeles, California.  
11

12 this 30 day of July, 2013.  
13

14   
15 ROBIN TRUJILLO  
16 Deputy Real Estate Commissioner  
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22

23 cc: Capital Executive Realty Inc.  
24 Melvin James Burrell  
25 Robin Trujillo  
26 Audits – Godswill Keraoru  
Sacto