

FILED

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BUREAU OF REAL ESTATE

By *[Signature]*

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8 **BEFORE THE BUREAU OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of

No. H-39736 LA

12 **MAXIM PROPERTIES; POLLY**
13 **ELLEN WATTS, individually and**
14 **as Designated Officer of Maxim**
15 **Properties; and DAVID RANDALL**
16 **WEHRLY, individually and as former**
17 **Designated Officer of Maxim**
18 **Properties,**

A C C U S A T I O N

19 Respondents.

20 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
21 of California, for cause of Accusation against MAXIM PROPERTIES, POLLY ELLEN
22 WATTS, individually and as designated officer of Maxim Properties, and DAVID RANDALL
23 WEHRLY, individually and as former designated officer of Maxim Properties, is informed and
24 alleges as follows:

25 1.

26 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
27 of California, makes this Accusation in her official capacity.

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2.

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

3.

Respondent MAXIM PROPERTIES ("MAXIM") is licensed by the Bureau of Real Estate ("Bureau") as a corporate real estate broker. Respondent MAXIM was originally licensed as a corporate real estate broker on August 7, 1987, with Respondent DAVID RANDALL WEHRLY ("WEHRLY") as its designated officer. Respondent WEHRLY was a licensed officer of MAXIM continuously from August 7, 1987, to October 7, 2014. Beginning August 27, 2012, and continuing to the present, Respondent MAXIM maintained the licensed fictitious business name of Maxim Properties Escrow Division, a non-independent broker escrow.

4.

Respondent WEHRLY has been licensed by the Bureau as a real estate salesperson since March 28, 1986, and as a real estate broker since May 26, 1987. Respondent's real estate broker license is due to expire on July 8, 2015.

5.

Respondent POLLY ELLEN WATTS ("WATTS") is licensed by the Bureau as a real estate broker. Respondent WATTS was originally licensed as a real estate salesperson on August 30, 1985, and as a real estate broker on July 10, 2001. Respondent's real estate broker license is due to expire on July 9, 2017. Respondent WATTS has been a licensed officer of MAXIM beginning December 2, 2009, and continuing to the present day.

6.

At all times mentioned, in the City of Redondo Beach, County of Los Angeles, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the meaning of Code Section 10131(a), including the solicitation for

1 listings of and the negotiation of the purchase and sale of real property as the agent of others by
2 and through licensed corporate real estate broker MAXIM, and the conducting of broker-
3 controlled escrow activities under the real estate broker license of Respondent MAXIM pursuant
4 to Financial Code Section 17006(a)(4).

5 7.

6 On May 13, 2014, the Bureau completed an audit examination of the books and
7 records of Respondent MAXIM, with regard to the real estate sales and broker-controlled escrow
8 activities described in paragraph 6, above. The audit examination covered the period of time
9 from January 1, 2012, to June 30, 2013. The primary purpose of the examination was to
10 determine Respondents' compliance with the Real Estate Law. The audit examination revealed
11 numerous violations of the Code and the Regulations as set forth in the following paragraphs,
12 and more fully discussed in Audit Report LA 120322 and the exhibits and work papers attached
13 to said audit report.

14 FIRST CAUSE OF ACCUSATION

15 (Audit of MAXIM)

16 Bank and Trust Accounts

17 8.

18 At all times herein relevant, in connection with the activities described in
19 Paragraph 6, above, MAXIM accepted or received funds including funds to be held in trust
20 (hereinafter "trust funds") from or on behalf of actual or prospective parties in connection with
21 real estate purchase and sales transactions. Thereafter MAXIM made deposits and disbursements
22 of such trust funds. From time to time herein mentioned during the audit period, said trust funds
23 were deposited and/or maintained by MAXIM in the following bank accounts:

24 Maxim Properties
25 Escrow Division
26 Account No. 00-83XXXX (Redacted for security)
27 East West Bank

1 Los Angeles, CA

2 (B/A #1 - MAXIM's general bank account used to deposit broker escrow trust funds)

3 Maxim Properties
4 Escrow Division Escrow Trust Account
5 Account No. 90XXXX (Redacted for security)
6 First California Bank
7 Westlake Village, CA

8 (T/A #1 - MAXIM's trust account used for broker escrow trust funds)

9 Maxim Properties
10 Escrow Division - Trust Account
11 Account No. 001XXXX (Redacted for security)
12 US Bank
13 St. Paul, MN

14 (T/A #2 - MAXIM's trust account used for broker escrow trust funds)

15 Violations

16 9.

17 With respect to the licensed activities referred to in Paragraph 6, and the audit
18 examination including the exhibits and work papers referenced in Paragraph 7, it is alleged that

19 Respondents:

20 (a) Failed to maintain an accurate record of trust funds received and disbursed
21 for all bank accounts handling trust funds in violation of Code Section 10145 and Regulations
22 2831 and 2950(d);

23 (b) Failed to maintain a separate record for each beneficiary of trust funds in
24 violation of Code Section 10145 and Regulations 2831.1, 2950(d), and 2951;

25 (c) Allowed unlicensed and unbonded corporate officers of MAXIM, Gregory
26 L. Geiser, Darin S. Puhl, and Wade Brandenberger to be signors on B/A #1, T/A #1, and T/A #2
27 in violation of Code Section 10145 and Regulations 2834 and 2951;

(d) Failed to maintain a monthly reconciliation of the separate record to the

1 control record of trust funds handled through all bank accounts in violation of Code Section
2 10145 and Regulations 2831.2, 2950(d), and 2951;

3 (e) Used the fictitious business names "Wedgewood," and "Wedgewood
4 Enterprises Corporation" to conduct broker escrow activities without first obtaining a license
5 from the Bureau to conduct real estate activities under those fictitious business names, in
6 violation of Code Section 10159.5 and Regulation 2731;

7 (f) Failed to disclose to all parties involved in real estate activities that
8 Respondents had an interest as an owner in the escrow operation, in violation of Regulation
9 2950(h);

10 (g) Received a fee, compensation or commission pursuant to the terms of an
11 exclusive listing agreement that did not set forth a definite, specified date of final and complete
12 termination in violation of Code Section 10176(f);

13 (h) Failed to contain a notice in the requisite 10-point boldface type alerting
14 the seller that the amount of a broker's commission is negotiable in violation of Code Section
15 10147.5(a);

16 (i) Failed to notify the Bureau of a change of address of its branch office
17 location by the next business day in violation of Code Section 10163 and Regulation 2715;

18 (j) Failed to maintain employment agreements with real estate salespersons in
19 violation of Regulation 2726; and

20 (k) As to Respondents WATTS and WEHRLY, failed to exercise reasonable
21 supervision over the activities of MAXIM, and over its employees, to ensure compliance with the
22 Real Estate Laws and the Commissioner's Regulations in violation of Code Sections 10159.2
23 and 10177(h) and Regulation 2725.

24 10.

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

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PARAGRAPH

PROVISIONS VIOLATED

9(a)

Code Section 10145
Regulations 2831 and 2950(d)

9(b)

Code Section 10145
Regulations 2831.1, 2950(d), and 2951

9(c)

Code Section 10145
Regulations 2834 and 2951

9(d)

Code Section 10145
Regulations 2831.2, 2950(d), and 2951

9(e)

Code Section 10159.5
Regulation 2731

9(f)

Regulation 2950(h)

9(g)

Code Section 10176(f)

9(h)

Code Section 10147.5(a)

9(i)

Code Section 10163
Regulation 2715

9(j)

Regulation 2726

Table: Earnest Money Deposits Collected

Prospective Homebuyer	Date	Earnest Money Deposit
Yadira R.	November 27, 2012	\$4,000.00
Anthony & Guadalupe L.	September 20, 2012	\$4,000.00
Ismael & Yolanda P.	September 17, 2012	\$6,000.00
Kathleen C.	April 8, 2013	\$3,000.00
Juan R.	March 19, 2013	\$3,750.00
Richard S.	May 11, 2012	TBD
Judith P.	August 9, 2013	\$7,000.00
Santos & Juan D.	November 29, 2012	\$10,000.00

13.

In aggravation, Respondent failed and refused to return the earnest money deposits to the prospective purchasers shown in the following table:

Carbajal G.	November 3, 2011	\$2,500.00
Guadalupe & Damien M.	March 14, 2011	\$6,000.00
Paul H.	March 14, 2011	\$2,350.00
Maribel L.	December 7, 2010	\$7,500.00
Margareth T.	December 8, 2009	\$2,056.00
Alejandro M.	November 10, 2009	\$5,000.00
Alejandro P.	December 10, 2007	\$1,390.00
Carlos S.	April 12, 2004	\$4,000.00
Nicholas V.	June 18, 2010	\$6,600.00
Mary C.	June 5, 2010	\$3,500.00

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 the license and license rights of Respondents MAXIM PROPERTIES, POLLY
4 ELLEN WATTS, individually and as designated officer of Maxim Properties, and DAVID
5 RANDALL WEHRLY, individually and as former designated officer of Maxim Properties, under
6 the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the costs of
7 investigation and enforcement as provided by law, for costs of the audit, and for such other and
8 further relief as may be proper under other applicable provisions of law.

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10 Dated at Los Angeles, California: 20 January 2015.

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14 _____
15 Maria Suarez
16 Deputy Real Estate Commissioner

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23 cc: Maxim Properties
24 Polly Ellen Watts
25 David Randall Wehrly
26 Maria Suarez
27 Sacto
 Audits – Anna Hartoonian