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**BUREAU OF REAL ESTATE**

By *John Ruiz*

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BEFORE THE BUREAU OF REAL ESTATE  
 STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	CalBRE No. H-40107 LA
	)	
MCCABE PROPERTY MANAGEMENT, INC.	)	<u>ACCUSATION</u>
and CHARLES R. MERCER, individually and as	)	
designated officer for McCabe Property	)	
Management, Inc.,	)	
	)	
Respondents.	)	
	)	

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against MCCABE PROPERTY MANAGEMENT, INC. and CHARLES R. MERCER, individually and as designated officer of McCabe Property Management, Inc. (collectively "Respondents"), is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

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1 2.

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

4 3.

5 Respondents are presently licensed and/or have license rights under the Real Estate Law  
6 (Part 1 of Division 4 of the Code).

7 4.

8 From November 24, 2010, through the present, Respondent MCCABE PROPERTY  
9 MANAGEMENT, INC. ("MPMI") has been licensed by the Bureau of Real Estate ("Bureau") as  
10 a real estate corporation, License ID 01876668. MPMI's main office address listed with the  
11 Bureau is: 5274 West Pico Blvd. #235, Los Angeles, California 90019.

12 5.

13 From February 13, 1997, through the present, Respondent CHARLES R. MERCER  
14 ("MERCER") has been licensed by the Bureau as a real estate broker, License ID 01102094.  
15 MERCER was previously licensed as a salesperson from January 25, 1991 through February 12,  
16 1997. MERCER's main office address listed with the Bureau is: 11582 Pomelo Drive, Desert  
17 Hot Springs, California 92240.

18 6.

19 From November 24, 2010 through the present, Respondent MPMI has been licensed as  
20 real estate corporation, acting by and through Respondent MERCER as its designated broker-  
21 officer. As the broker-officer designated by Respondent MPMI pursuant to Section 10211 of the  
22 Code, MERCER was responsible for the supervision and control of the activities conducted on  
23 behalf of Respondent MPMI, by its officers and employees, as necessary to secure full  
24

1 compliance with Real Estate Law as set forth in Code Section 10159.2 and Regulation 2725.

2 7.

3 MPMI is a California corporation formed on or about December 23, 2008. Joseph  
4 McCabe ("McCabe") is the sole officer and director listed for MPMI with the Secretary of State  
5 for the State of California.

6 8.

7 At all times relevant herein, McCabe was not licensed in any capacity by the Bureau.

8 CAUSE OF ACCUSATION

9 9.

10 During the previous three years, McCabe, while doing business as MPMI, engaged in the  
11 business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the  
12 State of California, within the meaning of Code Section 10131, subdivision (b), in that MPMI  
13 offered to lease or rent, place for rent, solicit listings of rentals, solicit for prospective tenants,  
14 negotiate the leases on real property, or collect rents from real properties for others including, but  
15 not limited to, H.S.<sup>1</sup>, G.D., B.G., and Croft Villas at Melrose Place.

16 10.

17 On or about July 31, 2014, the Bureau received a complaint from H.S. against MPMI and  
18 McCabe. H.S.'s complaint alleged, among other things, that McCabe used H.S.'s confidential  
19 information to set up a bank account without H.S.'s knowledge or permission. MPMI had a  
20 Chase bank account in the name of McCabe Property Management Inc. ITS MPH  
21 ENTERPRISES GROUP, LLC, Account No. XXXXX3103. McCabe was a signer on said  
22 account. MPMI collected management fees from said account.

23 <sup>1</sup> Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full  
24 names will be provided during the discovery phase of this case to Respondents and/or their attorneys, after service of  
a timely and proper request for discovery on Complainant's counsel.

1 11.

2 In response to inquiries from the Bureau concerning H.S.'s complaint, MERCER denied  
3 that MPMI engaged in activities requiring a real estate license and claimed that property owners  
4 were informed that MPMI is a "real estate company." McCabe also denied that MPMI engaged  
5 in activities requiring a real estate license and claimed that MPMI tells perspective clients that  
6 "we are not real estate brokers or real estate agents."

7 12.

8 For an unknown period of time including October 7, 2014, MPMI advertised and  
9 solicited property management services on the website: [www.propertymanagementla.com](http://www.propertymanagementla.com),  
10 wherein MPMI claimed to be a "full service property management company" and a "fully-  
11 licensed and bonded management company with two decades of experience with Homeowners  
12 Associations (from 5 units to 600), Commercial Properties, Apart Buildings (from 4 units to 50  
13 and above), Single Family Dwellings."

14 13.

15 In an interview with a Bureau special investigator, MERCER admitted to allowing  
16 McCabe the use of MERCER's broker's license and of providing little to no supervision over  
17 McCabe's and MPMI's real estate activities. MPMI and MERCER failed to maintain copies of  
18 all documents in connection with MPMI transactions for which a real estate broker license is  
19 required.

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14.

The conduct, acts and/or omissions of Respondents MPMI and MERCER as described above in Paragraphs 9 through 13, above, are in violation of Code Section 10148 and constitute cause for the suspension or revocation of all real estate licenses and license rights of Respondents MPMI and MERCER under the provisions of Code Sections 10177(d) and/or 10177(g).

15.

The conduct, acts and/or omissions of Respondent MERCER, in allowing MPMI and McCabe to violate the Real Estate Law, as set forth above, constitutes a failure by Respondent MERCER to exercise the supervision and control over the activities of MPMI for which he is acting as the designated officer, as required by Code Section 10159.2 and Regulation 2725, and is cause to suspend or revoke the real estate license and license rights of Respondent MERCER under Code Sections 10177(h), 10177(d) and/or 10177(g).

16.

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

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1           WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this  
2 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
3 against all licenses and/or license rights of Respondents MCCABE PROPERTY  
4 MANAGEMENT, INC. and CHARLES R. MERCER, individually and as designated officer of  
5 McCabe Property Management, Inc., under the Real Estate Law (Part 1 of Division 4 of the  
6 Business and Professions Code), for the cost of investigation and enforcement as permitted by  
7 law, and for such other and further relief as may be proper under other provisions of law.

8 Dated at Los Angeles, California

9 this 21<sup>st</sup> day of December, 2015.

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13           MARIA SUAREZ  
14           Supervising Special Investigator  
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21 cc:   McCabe Property Management, Inc.  
22       Charles R. Mercer  
23       Maria Suarez  
24       Sacto.