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**FILED**

**FEB 16 2017**

**BUREAU OF REAL ESTATE**

By John Aguil

8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \* \*

11  
12 In the Matter of the Accusation of ) No. H-40549 LA  
13 SILVESTRE MEDEL, ) ACCUSATION  
14 Respondent. )  
15 \_\_\_\_\_)

16 The Complainant, Maria Suarez, a Supervising Special Investigator, for cause of  
17 Accusation against SILVESTRE MEDEL, is informed and alleges as follows:

18 1.

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

21 LICENSE HISTORY

22 2.

23 Licensee

24 SILVESTRE MEDEL (“MEDEL” or “Respondent”) has been licensed by the  
25 Bureau of Real Estate (“Bureau” or “BRE”) as a real estate salesperson since February 14,  
26 2007, BRE license ID 01782189. Respondent’s license will expire on March 9, 2019. From  
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1 July 29, 2014 to February 13, 2015 and from March 10, 2015 to March 16, 2015, Respondent  
2 was employed by real estate corporation R M E G Realty Incorporated, BRE license ID  
3 01525011. From March 17, 2015 to October 15, 2015, Respondent was employed by  
4 Excellence R E Real Estate Inc., BRE license ID 01914184. From October 16, 2015 to October  
5 9, 2016, Respondent was employed by real estate broker Alfonso Guerrero, BRE license ID  
6 01846543. From October 10, 2016 to and including the present, Respondent is employed by  
7 MAXRES Inc., BRE license ID 01280965.

8 3.

9 Unlicensed

10 Investors Choice Realty, Inc., a.k.a. Investors Choice Realty, is not now, and has  
11 never been, licensed by the Bureau in any capacity. According to the February 4, 2015  
12 Statement of Information ("SOI") filed by Investors Choice Realty, California Corporate  
13 Number 3668320, Respondent is its Chief Executive Officer, Secretary, Chief Financial Officer  
14 and sole Director. Carlos Saltos ("Saltos") is listed on the SOI as the agent for service of  
15 process. Saltos is not now, and has never been, licensed by the Bureau in any capacity.  
16 Charter-AP is not now, and has never been, licensed by the Bureau in any capacity.

17 FACTS DISCOVERED BY THE BUREAU

18 4.

19 Anayanett D.'s Transaction

20 A. In or about June 2015, Respondent represented Anayanett D. ("A.D.") and her  
21 boyfriend Angel A. ("A.A.") in A.A.'s purchase of a home. Respondent asked A.A. and A.D.  
22 to pay him \$5,000 as security deposit and down payment for the purchase, and assured A.A. and  
23 A.D. that their checks would not be cashed until the purchase was finalized and escrow had  
24 closed.

25 B. On or about June 6, 2015, A.A. signed a "Residential Purchase Agreement  
26 and Joint Escrow Instructions (C.A.R. Form RPA-CA, Revised 11/14)" ("RPA") for the  
27  
28

1 purchase of a property located on Cimarron Street in Los Angeles ("Cimarron property"). The  
2 RPA listed Excellence Real Estate and Respondent as the "Selling Firm," and indicated that  
3 Buyer's Initial Deposit of \$5,000 was to be delivered to the Escrow Holder. Also on or about  
4 June 6, 2015, A.A. signed as Buyer a "Disclosure Regarding Real Estate Agency Relationship  
5 (C.A.R. Form AD, Revised 12/14)" ("Disclosure") that listed Respondent as the Salesperson for  
6 Buyer's Agent Excellence Real Estate. On or about June 6, 2015, A.A. as Buyer also signed a  
7 "Possible Representation of More Than One Buyer or Seller – Disclosure and Consent (C.A.R.  
8 Form PRBS, 11/14)" ("PRBS") that listed Respondent and Excellence Real Estate as Buyer's  
9 real estate broker.

10 C. On or about June 10, 2015, pursuant to the RPA and Respondent's  
11 instructions, A.D. and A.A. paid Respondent \$5,000 by two checks:

- 12 1. Check No. 105 in the amount \$2,000, payable to "Escrow," and
- 13 2. Check No. 106 in the amount \$3,000, payable to "Investors Choice  
14 Realty."

15 D. According to A.D.'s bank statement for the period ending June 30, 2015,  
16 Check No. 106 was cashed on or about June 12, 2015.

17 E. A.A. and A.D. made multiple unsuccessful attempts via telephone, text  
18 message, and e-mail, to contact Respondent in the three weeks subsequent to the check being  
19 cashed. When Respondent finally responded, he informed A.A. and A.D. that the Cimarron  
20 property had been sold to someone else.

21 F. On or about July 24, 2015, A.A. and A.D. filed an investigative report with the  
22 Los Angeles Police Department regarding Respondent and the \$5,000 that Respondent depicted  
23 as deposit and down payment.

24 G. On or about August 31, 2015, A.D. filed a Licensing Subdivider Complaint  
25 RE 519 ("Complaint") with the BRE regarding Respondent and the amounts that they paid to  
26 Respondent.

1 H. On or about November 4, 2015, Respondent paid A.D. \$500 by money order,  
2 Serial Number 23228700390. On or about December 16, 2015, Respondent delivered to BRE  
3 Special Investigator Ray Dagnino a cashiers check, Check No. 040000169262 in the amount  
4 \$1,500 payable to A.D.

5 5.

6 Hercilia V. and Cynthia V.'s Transaction

7 A. Hercilia V. ("H.V.") and her daughter Cynthia V. ("C.V.") met Respondent at  
8 an open house in or about June 2015, where Respondent represented he could assist H.V. and  
9 C.V. in purchasing a property.

10 B. H.V. and C.V. became interested in a property that Respondent showed to  
11 them. Respondent asked H.V. and C.V. to pay him \$1,000 to start paperwork towards the  
12 purchase of the property. On or about June 17, 2015, pursuant to the Respondent's instructions,  
13 H.V. and C.V. paid \$1,000 by money order, Serial Number 22984302036, payable to "Charter-  
14 AP" in the amount \$1,000.

15 C. Respondent later informed H.V. and C.V. that the price of that property had  
16 increased due to an increase in taxes, to which H.V. and C.V. responded that they were  
17 interested in pursuing other properties.

18 D. On or about June 24, 2015, H.V. and C.V. signed a RPA for the purchase of a  
19 property located on 87th Place in Los Angeles ("87<sup>th</sup> property"). The RPA listed Excellence  
20 Real Estate and Respondent as the Selling Firm, and indicated that Buyer's Initial Deposit was  
21 \$3,000. Also on or about June 24, 2015, H.V. and C.V. signed as Buyers a Disclosure that  
22 listed Respondent as the Salesperson for Agent Excellence Real Estate. On or about June 24,  
23 2015, H.V. and C.V. as Buyers also signed a PRBS that listed Respondent and Excellence Real  
24 Estate as Buyer's real estate broker.

25 E. Respondent subsequently informed H.V. and C.V. that the 87<sup>th</sup> property price  
26 had increased and instructed them to pay \$2,000. On or about July 4, 2015, pursuant to  
27  
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1 Respondent's instructions, H.V. and C.V. paid Respondent \$2,000 by Check No. 1160, payable  
2 to "Investors Choice Realty." Shortly thereafter, Respondent's assistant called H.V. and C.V. to  
3 ask them to sign documents at Respondent's office. Each time H.V. and C.V. arrived at  
4 Respondent's office, Respondent was never there. When Respondent called H.V. and C.V. and  
5 asked for \$3,000 for escrow, H.V. and C.V. paid Respondent \$3,000 by Check No. 1161,  
6 payable to "Jean Allen Escrow."

7 F. Respondent indicated to H.V. that she needed to sign documents for a divorce  
8 since her husband did not qualify for the loan. C.V. and H.V. went to Respondent's office to  
9 sign the documents and were informed that the divorce would show that H.V. was not married  
10 and that her husband was not part of the purchase. Respondent also indicated that C.V.'s job at  
11 McDonald's was not helpful for C.V. to qualify, so he would list that she worked forty (40)  
12 hours per week at a restaurant owned by his friend.

13 G. C.V. and H.V.'s final contact from Respondent was an e-mail addressed to  
14 C.V. in which he asked them to sign a cancellation due to a deadline that had not been met.

15 H. When C.V. and H.V. called Respondent regarding the cancellation, he  
16 responded that he was waiting for the escrow. C.V. sent an e-mail to Jean Allen Escrow  
17 requesting a refund, but was told that the seller did not agree with the cancellation instructions.

18 I. On or about December 3, 2015, C.V. and H.V. filed a Complaint with the BRE  
19 regarding Respondent and the amounts that they paid Respondent.

20 J. On or about December 4, 2015, Respondent delivered to BRE Special  
21 Investigator Ray Dagnino a cashiers check, Check No. 000010563807 in the amount \$3,000  
22 payable to H.V.

23 6.

24 To date, Respondent has not provided to A.D. and A.A. or H.V. and C.V. any  
25 accounting of the funds he accepted from them; Respondent has not provided any information  
26 regarding where the funds were deposited and how, when and to whom they were disbursed.



1 conduct of any activity for which a license is required under the Real Estate Law unless the  
2 licensee is the holder of a license bearing the fictitious name. (b) The Bureau shall issue a  
3 license required under the Real Estate Law only in the legal name of the licensee or in the  
4 fictitious business name of a broker who presents evidence of having complied with the  
5 provisions of Sections 17910 and 17917 of the Code.”

6 10.

7 Grounds for Revocation or Suspension - §10176

8 Pursuant to Code Section 10176, “The commissioner may, upon his or her own  
9 motion, and shall, upon the verified complaint in writing of any person, investigate the actions  
10 of any person engaged in the business or acting in the capacity of a real estate licensee within  
11 this state, and he or she may temporarily suspend or permanently revoke a real estate license at  
12 any time where the licensee, while a real estate licensee, in performing or attempting to perform  
13 any of the acts within the scope of this chapter has been guilty of any of the following:

14 (a) Making any substantial misrepresentation.

15 ...

16 (i) Any other conduct, whether of the same or a different character than specified  
17 in this section, which constitutes fraud or dishonest dealing...”

18 11.

19 Further Grounds for Disciplinary Action – B & P §10177

20 Pursuant to Code Section 10177, “The commissioner may suspend or revoke the  
21 license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny  
22 the issuance of a license to an applicant, who has done any of the following:

23 ...

24 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
25 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and  
26

1 regulations of the commissioner for the administration and enforcement of the Real Estate Law  
2 and Chapter 1 (commencing with Section 11000) of Part 2.”

3 ...

4 (j) Engaged in any other conduct, whether of the same or a different character  
5 than specified in this section, that constitutes fraud or dishonest dealing...”

6 CAUSES FOR DISCIPLINE

7 12.

8 Respondent MEDEL, while participating in and providing real estate activities  
9 pursuant to Code Section 10131(a), without proper licensing by the Bureau, was employed by,  
10 and accepted compensation from, a person other than the broker under whom he was at the time  
11 licensed, a violation of **Code Sections 10137, 10176(a), 10176(i), 10177(d), and 10177(j).**

12 13.

14 Respondent MEDEL contracted for and accepted funds belonging to others in  
15 connection with a transaction, and failed to deposit all those funds that were not placed into a  
16 neutral escrow depository or into the hands of the broker’s principal, into a trust fund account  
17 maintained in a bank or recognized depository in this state, in violation of **Code Section**  
18 **10145(c).**

19 14.

20 At all times mentioned herein, Respondent SILVESTRE MEDEL used the  
21 unlicensed fictitious business names “Investors Choice Realty” and “Charter-AP” without first  
22 obtaining a license from the Bureau bearing such fictitious business names, in violation of **Code**  
23 **Section 10159.5 and Regulation 2731.**

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26 ///



15.

The conduct, acts and/or omissions of Respondent SILVESTRE MEDEL, as set forth above, are cause for the suspension or revocation of the license and license rights of Respondent pursuant to **Code Sections 10130, 10137, 10176(a), 10176(i), 10177(d), (10177(j), 10145(c), and 10159.5 and Regulation 2731.**

COSTS


16.

California Business and Professions **Code Section 10106** provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, 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 investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all the licenses and license rights of Respondent SILVESTRE MEDEL under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this 30<sup>th</sup> day of January, 2017.

  
\_\_\_\_\_  
Maria Suarez  
Supervising Special Investigator

cc: Silvestre Medel  
MAXRES Inc.  
Maria Suarez  
Sacto.