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FILED

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BUREAU OF REAL ESTATE

By *John Guil*

8 BEFORE THE BUREAU OF REAL ESTATE

9 DEPARTMENT OF CONSUMER AFFAIRS

10 STATE OF CALIFORNIA

11 * * *

11 In the Matter of the Accusation against)

CalBRE No. H-40774 LA

12 CHRISTIAN MICHAEL DAVEY, individually,)
13 and as designated officer of Empire Management)
Company,)

ACCUSATION

14 Respondent.)
15

16 The Complainant, Maria Suarez, a Supervising Special Investigator for the Bureau of
17 Real Estate ("Bureau") of the State of California, for cause of Accusation against CHRISTIAN
18 MICHAEL DAVEY ("Respondent"), alleges as follows:

19 1.

20 The Complainant, Maria Suarez, acting in her official capacity as a Supervising Special
21 Investigator, makes this Accusation against Respondent.

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1 2.

2 All references to the "Code" are to the California Business and Professions Code, all
3 references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to
4 "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

5 3.

6 Respondent is presently licensed and/or has license rights under the Real Estate Law
7 (Part 1 of Division 4 of the Code).

8 4.

9 From February 5, 2008, through the present, Respondent has been licensed by the Bureau
10 as a real estate broker, License ID 01837367. Respondent was licensed to do business as
11 "Empire Management Company" from October 21, 2011, through August 20, 2013. Respondent
12 has not been licensed to do business under any fictitious business name from August 20, 2013,
13 through the present.

14 5.

15 On February 14, 2017, the Bureau initially issued a real estate corporation license to
16 Empire Management Company, License ID 02025645. Respondent has been licensed as the
17 designated officer for Empire Management Company since February 14, 2017.

18 6.

19 According to documents filed with the Bureau and the California Secretary of State,
20 Respondent is the Chief Financial Officer for Empire Management Company. Nicholas Beaver
21 is the Chief Executive Officer and Victor Gomez is the Secretary for Empire Management
22 Company.

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1 7.

2 Nicholas Beaver and "Empire Management Company LLC" have never been licensed in
3 any capacity by the Bureau.

4 8.

5 From June 19, 2008, through the present, Victor Gomez has been licensed by the Bureau
6 as a real estate salesperson, License ID 01847535. Victor Gomez was licensed under the
7 employment of Respondent from June 19, 2008, through August 20, 2013, and again from
8 June 20, 2016, through the present.

9 9.

10 From approximately May 20, 1977, through May 19, 2017, Carla Anntoinette Davey, aka
11 Carla Antoinette Davey, Carla Davey-Mc Question, and Carla Davey Mc Question, was licensed
12 as a real estate salesperson, License ID 00596224. Carla Anntoinette Davey's salesperson
13 license expired on May 19, 2017.

14 10.

15 Carla Anntoinette Davey was licensed as a salesperson under the employment of
16 Respondent from February 22, 2008, through August 20, 2013. From August 21, 2013 through
17 May 19, 2017, Carla Anntoinette Davey's salesperson license was in non-working status due to
18 no broker affiliation or "NBA." Carla Anntoinette Davey was prohibited from performing
19 activities that required a real estate license in California.

20 Prior Discipline

21 11.

22 On July 24, 2012, the Bureau filed an Accusation against Respondent in Bureau Case
23 No. H-38289 LA. The Accusation alleged trust fund handling violations in connection with
24 Respondent's property management activities which require a real estate license pursuant to

1 Code section 10131(b).

2 12.

3 On August 21, 2013, the Bureau and Respondent entered into a Stipulation and
4 Agreement for Case No. H-38289 LA, wherein the Commissioner of the Bureau suspended
5 Respondent's broker license for a period of 60 days. Said 60-day suspension was stayed for two
6 years upon certain terms and conditions which included payment of the Bureau's costs for the
7 audit which led to the disciplinary action and for any subsequent audit to determine if
8 Respondent had corrected the trust fund violations that were set forth in the Accusation. The
9 basis for the imposition of discipline against Respondent's broker license was Code sections
10 10177(d) and 10177(g) for violation of Code section 10145.

11 Audit LA 160011

12 13.

13 On November 30, 2016, the Bureau completed a subsequent audit examination of the
14 books and records of Respondent's property management activities which require a real estate
15 license pursuant to Code section 10131(b). The audit examination covered a period of time from
16 January 1, 2015, through August 31, 2016 and was limited to Respondent's property
17 management activities. The audit examination revealed violations of the Code and the
18 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report
19 LA 160011 and the exhibits and work papers attached to said audit report.

20 14.

21 According to Respondent and the audit work papers examined, during the audit period,
22 Respondent managed approximately 135 properties for approximately 128 owners. The
23 properties included 128 one-to-four family residences, six apartment complexes, and one
24

commercial/mixed use building. Respondent conducted the property management activities while doing business under the unlicensed fictitious business, "Empire Management Company." Respondent handled trust funds of approximately \$716,083.00 through bank account TA1 and \$1,692,812.00 through bank account BA1, totaling \$2,408,894.00. Respondent charged a management fee of five percent to eight percent of collected rents for management services provided through Empire Management Company.

15.

According to Respondent, he maintained the following bank accounts for his property management activities during the audit period:

Bank Account #1 (BA1)

Bank: Wells Fargo Bank

Account Name: Empire Management Company, LLC

Account #: xxxxx3075

Signer(s): Respondent, Nicholas Beaver, and Victor Gomez

Status: Active

Bank Account #2 (TA1)

Bank: Wells Fargo Bank

Account Name: Empire Management Company Trust

Account #: xxxxx1223

Status: Inactive

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1 Violations

2 16.

3 In the course of its property management activities during the audit examination period
4 described above in Paragraph 13, Respondent acted in violation of the Code and the Regulations
5 as follows:

6 16(a). Code Section 10145(a) and Regulation 2832. Trust fund handling/Account
7 designation

8 Based on the bank signature card for BA1, which was used by Respondent for handling
9 of all trust fund receipts and disbursements for Respondent's property management activities
10 during the audit period, the account was not designated as a trust account in Respondent's name
11 as trustee, in violation of Code section 10145(a) and Regulation 2832.

12 16(b). Code Section 10145 and Regulation 2834. Trust account withdrawals

13 Respondent provided bank signature cards for BA1 and TA1 for the audit examination.
14 Based on an examination of the bank signature card for BA1 dated March 1, 2016, Nicholas
15 Weaver, an unlicensed person, was authorized to sign and make withdrawals from BA1, in
16 violation of Code section 10145 and Regulation 2834.

17 Based on an examination of the bank signature card for TA1 dated February 28, 2011,
18 Carla Anntoinette Davey was authorized to sign and make withdrawals from BA2 during a time
19 when she was not licensed under the employment of Respondent.

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23 ///

1 16(c). Code Section 10159.5 and Regulation 2731. Use of unlicensed false or fictitious
2 business name

3 During the audit period, Respondent used the unlicensed fictitious business name,
4 "Empire Management Company LLC" as noted on documents in the audit working papers
5 related to Respondent's property management activities, in violation of Code section 10159.5
6 and Regulation 2731. The documents include, without limitation, bank signature cards, bank
7 statements, and financial statements.

8 16(d). Code Sections 10145 and 10176(g). Handling of trust funds/Undisclosed
9 compensation

10 During the audit period, Respondent maintained an earnings credit relationship with
11 Wells Fargo Bank. The earnings credit was calculated based on the trust fund activities in the
12 property management account, TA1. Bank service charges were deducted from earnings credit.

<u>Month/Year</u>	<u>Earnings Credit Earned</u>	<u>Bank Charges</u>
January 2016	\$72.64	\$174.41
February 2016	\$69.36	\$172.17
March 2016	\$75.27	\$183.17
April 2016	<u>\$28.52</u>	<u>\$ 63.85</u>
Total	\$245.79	\$593.60

19 According to the examined property management agreements and records, Respondent
20 overcharged some property owners for monthly management fees without disclosing the fee
21 charges in the management agreements. Examples of the overcharges including the following,
22 without limitation:

23 ///

<u>ADDRESS</u>	<u>PROPERTY OWNER</u>	<u>DATE</u>	<u>PM FEES PER PM AGREEMENT</u>	<u>PM FEES COLLECTED</u>	<u>DIFFERENCE</u>
344 S C St., Oxnard	E.M.	4/16/16	\$371.30	\$376.30	\$5.00
		5/16/16	\$325.90	\$330.90	\$5.00
623 Isela St., Oxnard	G.H.	5/8/16	\$140.00	\$145.00	\$5.00
		6/6/16	\$140.00	\$145.00	\$5.00
		7/4/16	\$140.00	\$145.00	\$5.00
2034 Olga St., Oxnard	J.C. & I.C.	5/8/16	\$174.00	\$179.00	\$5.00
		7/4/16	\$174.00	\$179.00	\$5.00
511 S. K St., Oxnard	O.G.	7/4/16	\$271.31	\$349.500	\$78.20
TOTAL			\$1,736.51	\$1,849.700	\$113.20

The foregoing acts described above in Paragraph 16(d) are in violation of Code section 10145 and 10176(g).

17.

The conduct of Respondent as described above in Paragraphs 16(a) through 16(d), violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
16(a)	Code Section 10145 and Regulations 2832
16(b)	Code Section 10145 and Regulation 2834
16(c)	Code Section 10159.5 and Regulation 2731
16(d)	Code Sections 10145 and 10176(g)

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent under the provisions of Code Sections 10177(d), 10176(g), 10177(h), and/or 10177(g).

Audit Costs

18.

Code Section 10148(b) provides, in pertinent part, that the Commissioner shall charge a real estate broker for the cost of any audit, if the Commissioner has found in a final decision

1 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
2 or rule of the Commissioner interpreting said section.

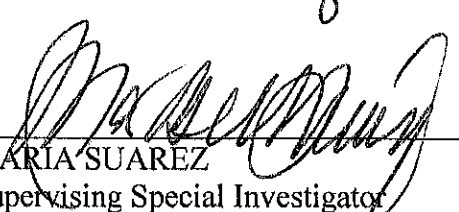
3 Investigation/Enforcement Costs

4 19.

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

9 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
10 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
11 against all licenses and/or license rights of Respondent under the Real Estate Law (Part 1 of
12 Division 4 of the Business and Professions Code), for the costs of the audit, investigation, and
13 enforcement as permitted by law, and for such other and further relief as may be proper under
14 other provisions of law.

15 Dated at Los Angeles, California this 29th day of August, 2017.

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17 
18 MARIA SUAREZ

Supervising Special Investigator

19
20
21 cc: Christian Micahel Davey
22 Maria Suarez
23 Sacto
24 Audits/Anna Hartoonian