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John

FILED

OCT 17 2013

BUREAU OF REAL ESTATE

By *James B. [Signature]*

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-38024 LA
)	
MAXIMUM REALTY AND)	
INVESTMENTS CORPORATION;)	
and KENNETH JAMES PELTZ,)	

Respondent.

ORDER DENYING RECONSIDERATION

On July 29, 2013, a Decision was rendered to become effective September 9, 2013. Said Decision was stayed by separate order to October 9, 2013, and further stayed to October 21, 2013.

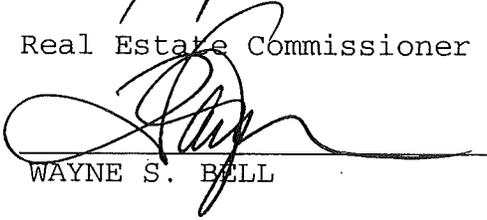
On September 12, 2013, Respondent Peltz petitioned for reconsideration of the Decision of July 29, 2013.

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I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Decision of July 29, 2013 and reconsideration is hereby denied.

IT IS SO ORDERED 10/14/2013

Real Estate Commissioner

WAYNE S. BELL

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SEP 19 2013

BUREAU OF REAL ESTATE

By: *Jane B. Han*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-38024 LA
)	
)	
MAXIMUM REALTY AND)	
INVESTMENTS CORPORATION;)	
and KENNETH JAMES PELTZ,)	
)	
)	
)	
Respondents.)	

ORDER STAYING EFFECTIVE DATE

On July 29, 2013, a Decision was rendered to become effective September 9, 2013, and was stayed by separate order to October 9, 2013.

IT IS HEREBY ORDERED that the effective date of the Decision of July 29, 2013, is stayed for a period of 10 days to consider Respondents' Petition for Reconsideration.

The Decision of July 29, 2013, shall become effective at 12 o'clock noon on October 21, 2013.

IT IS SO ORDERED *September 18, 2013*

WAYNE S. BELL
Real Estate Commissioner

By: *Dolores Weeks*
DOLORES WEEKS
Regional Manager

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

In the Matter of the Accusation of:

MAXIMUM REALTY AND
INVESTMENTS CORPORATION;
and KENNETH JAMES PELTZ
individually and as designated officer of
Maximum Realty and Investments
Corporation,

Respondents.

Case No. H-38024 LA

OAH No. 2012050403

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings on June 11, 2013, in Los Angeles, California.

Complainant was represented by James R. Peel, Counsel for the Department of Real Estate.

Kenneth James Peltz (respondent Peltz) appeared personally at the hearing and represented himself. Respondent Maximum Realty Investments Corporation (respondent Maximum) did not appear at the hearing.

Evidence was received and the matter was submitted for decision.

FACTUAL FINDINGS

1. Complainant Robin R. Trujillo made the Accusation in her official capacity as Deputy Real Estate Commissioner of the State of California.

2. Respondent Maximum is presently licensed or has license rights as a corporate real estate broker under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code). Respondent Maximum was originally licensed on June 15, 2007. At all relevant times, respondent Peltz was the Vice President and designated officer of respondent Maximum.

3. Respondent Peltz is presently licensed or has license rights as a real estate broker under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code). Respondent Peltz has been licensed since 1978. In 1991, the Department suspended respondent Peltz's license for 30 days.

4. At all times relevant to the Accusation, respondent Maximum with respondent Peltz as vice president and designated officer, was engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker within the meaning of Business and Professions Code section 10131, subdivision (b). Respondent Maximum, through its employee and/or officer Angel Menjivar, in expectation of compensation, solicited and offered to negotiate a refinance loan and loan modification on real property located at 6132 Mayflower, Maywood, California.

5. The owner of the property, Patricia Mazo, paid advance fees totaling \$18,290 to respondent Maximum based on Mr. Menjivar's representation that he would obtain a loan modification for Ms. Mazo. Ms. Mazo dealt with Angel Menjivar throughout the purported loan modification process. Mr. Menjivar advised Ms. Mazo not to pay her monthly mortgage because, according to Mr. Menjivar, Ms. Mazo would have a better chance of obtaining a loan modification on the existing mortgage. In fact, Mr. Menjivar and respondent Maximum put very little effort in attempting to obtain the loan modification for Ms. Mazo. As a result of Mr. Menjivar's advice to Ms. Mazo that she not pay her monthly mortgage and his failure to obtain a loan modification, the mortgagor initiated foreclosure proceedings on Ms. Mazo's home.

6. Respondent Maximum did not deposit the advance fees paid by Ms. Mazo into a trust account, in violation of Business and Professions Code section 10146 and California Code of Regulations, title 10, sections 2832 and 2972.

7. Respondent Maximum misappropriated the funds it received from Ms. Mazo without her knowledge or permission, in violation of Business and Professions Code section 10176, subdivision (i), and 10177, subdivision (j).

8. Respondent Maximum failed to provide to the Real Estate Commissioner, advance fee agreements for review and approval 10 day prior to their use, in violation of Business and Professions Code section 10085 and California Code of Regulations, title 10, section 2970.

9. On January 4, 2010, the Secretary of State of the State of California suspended the corporate rights, powers and privileges of respondent Maximum. This suspension constitutes a violation of California Code of Regulations, title 10, section 2742, subdivision (c).

10. Respondents used an unlicensed fictitious business name (Releif [sic] Investment Group), in violation of California Code of Regulations, title 10, section 2731.

11. Respondent Peltz admitted that respondent Maximum did not have a trust account. Respondent Peltz was not aware that Mr. Menjivar was engaged in the business of loan modifications. In fact, respondent Peltz had very little knowledge of the day-to-day operations of respondent Maximum. The evidence established that respondent Peltz was not providing adequate supervision over the employees and the real estate business and transactions being conducted by respondent Maximum. Respondent Peltz testified that he is or has been the designated officer for 10 other corporate real estate brokers. In a December 3, 2010 letter, respondent Peltz informed Mr. Menjivar that he (Peltz) was terminating their business relationship and that as of December 31, 2010, respondent Peltz would no longer be the designated officer of respondent Maximum.

12. Respondent Peltz could not provide the corporate files of real estate transactions to the Department's auditor because, according to respondent Peltz, the files of the corporation had been destroyed. He became aware of the destruction of the files when he visited the office and found the office completely empty.

LEGAL CONCLUSIONS

Respondent Maximum Realty Investments Corporation

1. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Maximum Realty Investments Corporation, under Business and Professions Code sections 10176, subdivision (i) and 10177, subdivision (j), for engaging in fraudulent conduct as set forth in Factual Finding 7; under section 10177, subdivision (d), for willfully violating the Real Estate Law as set forth in Factual Findings 5 through 8; and under section 10177, subdivision (g), for demonstrating negligence in performing a loan modification as set forth in Factual Findings 5 through 10.

2. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Maximum Realty Investments Corporation, under Business and Professions Code section 10177, subdivision (d), for willfully violating sections 10085 and 10146, and California Code of Regulations, title 10, sections 2731, 2742, subdivision (c), 2832, 2970 and 2972. The basis for each violation is set forth in Factual Findings 5 through 10.

Respondent Kenneth J. Peltz

3. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Kenneth James Peltz, under Business and Professions Code sections 10159.2, in that he failed to provide adequate supervision and control over the business and real estate activities of respondent Maximum; and under section 10177, subdivision (g), in that respondent Peltz demonstrated negligence in supervising the employees and the real estate activities of respondent Maximum.

4. Cause exists to suspend or revoke the real estate broker's license and licensing rights of respondent Kenneth James Peltz, under Business and Professions Code sections 10159.2 and 10177, subdivision (d), in that his failure to properly supervise respondent Maximum's real estate activities and transactions resulted in violations of sections 10085 and 10146, and California Code of Regulations, title 10, sections 2731, 2742, subdivision (c), 2832, 2970 and 2972. The basis for each of these violations is set forth in Factual Findings 5 through 10.

5. Cause does not exist to suspend or revoke the real estate broker's license and licensing rights of respondent Kenneth James Peltz under Business and Professions Code sections 10177, subdivisions (j). Complainant did not prove by clear and convincing evidence that respondent Peltz personally engaged in fraudulent conduct or was aware that employees or officers of the respondent Maximum were engaged in fraudulent activities.

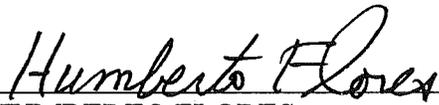
6. Respondent Peltz's failure to provide adequate supervision over the business activities and real estate transactions of respondent Maximum resulted in a mishandling of client funds and foreclosure proceedings against Ms. Mazo's home, causing her to suffer significant financial harm. In fact, respondent Peltz's lack of supervision was such that he was completely unaware that respondent Maximum and Mr. Menjivar were engaged in attempting to negotiate loan modifications. Respondent Peltz argued that the accusation should be dismissed because as designated officer of the respondent Maximum, he had no legal duty or obligation to the homeowner. This argument is rejected. Respondent Peltz, as the designated officer of respondent Maximum, had a duty to comply with the statutes and regulations that govern licensed real estate brokers. Respondent Peltz failed to comply with the relevant statutes and regulations as set forth in the Factual Findings and Legal Conclusions. Under the facts of this case, revocation is the appropriate discipline.

ORDER

1. The license and licensing rights of respondent Maximum Realty Investments Corporation are revoked.

2. The real estate broker license and licensing rights of respondent Kenneth James Peltz are revoked.

DATED: July 11, 2013


HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings