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Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-03194

FILED
DEC 21 1994
DEPARTMENT OF REAL ESTATE
By 

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-1628 SA
ROSE MARROTTE,)	<u>STIPULATION AND AGREEMENT</u>
)	<u>IN</u>
)	<u>SETTLEMENT AND ORDER</u>
)	
Respondent.)	

It is hereby stipulated by and between ROSE MARROTTE (sometimes referred to as respondent), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on August 16, 1993 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 Stipulation.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. Respondent timely filed a Notice of Defense pursuant
8 to Section 11505 of the Government Code for the purpose of
9 requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that she understands that by
12 withdrawing said Notice of Defense she thereby waives her right to
13 require the Commissioner to prove the allegations in the
14 Accusation at a contested hearing held in accordance with the
15 provisions of the APA and that she will waive other rights
16 afforded to her in connection with the hearing such as the right
17 to present evidence in defense of the allegations in the
18 Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual allegations
20 contained in the Accusation. In the interest of expedience and
21 economy, Respondent chooses not to contest these allegations, but
22 to remain silent and understands that, as a result thereof, these
23 factual allegations, without being admitted or denied, will serve
24 as a prima facie basis for the disciplinary action stipulated to
25 herein. This Stipulation is based on Respondent's decision not to
26 contest the Accusation. The Real Estate Commissioner shall not be

27

1 required to provide further evidence to prove said factual
2 allegations.

3 5. This Stipulation is based on respondent's decision
4 not to contest the allegations set forth in the Accusation as a
5 result of the agreement negotiated between the parties. This
6 Stipulation, based on respondent's decision not to contest the
7 Accusation, is expressly limited to this proceeding and any
8 further proceeding initiated by or brought before the Department
9 of Real Estate based upon the facts and circumstances alleged in
10 the Accusation, and made for the sole purpose of reaching an
11 agreed disposition of this proceeding. The decision of respondent
12 not to contest the factual statements alleged, and as contained in
13 the stipulated Order, is made solely for the purpose of
14 effectuating this Stipulation. It is the intent and understanding
15 of the parties that this Stipulation and Order shall not be
16 binding or admissible against respondent in any actions against
17 respondent by third parties.

18 6. It is understood by the parties that the Real Estate
19 Commissioner may adopt the Stipulation and Agreement as his
20 decision in this matter thereby imposing the penalty and sanctions
21 on respondent's real estate licenses and license rights as set
22 forth in the "Order" hereinbelow. In the event that the
23 Commissioner in his discretion does not adopt the Stipulation and
24 the Agreement, the Agreement shall be void and of no effect, and
25 respondent shall retain the right to a hearing and proceeding on
26 the Accusation under the provisions of the APA and shall not be
27 bound by any admission or waiver made herein.

1 7. The Order or any subsequent Order of the Real Estate
2 Commissioner made pursuant to this Stipulation shall not
3 constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real
5 Estate with respect to any matters which were not specifically
6 alleged to be causes for accusation in this proceeding.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations, admissions and
9 waivers and solely for the purpose of settlement of the pending
10 Accusation without a hearing, it is stipulated and agreed that the
11 following determination of issues shall be made:

12 I

13 The conduct of respondent, as described in Paragraph 4
14 is cause to suspend or revoke the real estate license and license
15 rights of respondent under the provisions of Sections 10145 and
16 10177(d).

17 ORDER

18 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
19 WRITTEN STIPULATION OF THE PARTIES:

20 I

21 The real estate broker license and license rights of
22 respondent ROSE MARROTTE under the Real Estate Law (Part 1 of
23 Division 4 of the Business and Professions Code) are suspended for
24 a period of thirty (30) days, all stayed, from the effective date
25 of this Order.

26 If no further cause for disciplinary action occurs
27 against the real estate license or license rights of Respondent

1 within one year from the effective date of this Order, the stay
2 hereby granted shall become permanent. If it is determined
3 pursuant to the Administrative Procedure Act that further cause
4 for disciplinary action against the real estate license or license
5 rights of respondent has occurred within one year from the
6 effective date of this Order, the stay of suspension hereby
7 granted, or such portion thereof, as the Real Estate Commissioner
8 shall deem to be appropriate, shall be vacated.

9
10 DATED: 11/6/94 ELLIOTT MAC LENNAN
11 Counsel for Complainant

12
13 * * * *

14 I have read the Stipulation In Settlement and Order and
15 its terms are understood by me and are agreeable and acceptable to
16 me. I understand that I am waiving rights given to me by the
17 California Administrative Procedure Act (including but not limited
18 to Sections 11506, 11508, 11509 and 11513 of the Government Code),
19 and I willingly, intelligently and voluntarily waive those rights,
20 including the right of requiring the Commissioner to prove the
21 allegations in the Accusation at a hearing at which I would have
22 the right to cross-examine witnesses against me and to present
23 evidence in defense and mitigation of the charges.

24
25 DATED: 11/6/94 Rose Marrotte
26 ROSE MARROTTE
Respondent

27

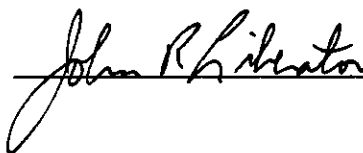
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The foregoing Stipulation and Agreement in Settlement
and Order is hereby adopted by the Commissioner as Stipulation and
Order and shall become effective at 12 o' clock noon on
January 10, 1995.

IT IS SO ORDERED November 23, 1994.

JOHN R. LIBERATOR
Interim Commissioner



293-0517-001
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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Flag*

In the Matter of the Accusation of)
ROSE MAXINE MARROTTE,)
Respondent(s).)

Case No. 1628 SA
OAH No. 61344

FILED
SEP 13 1993

DEPARTMENT OF REAL ESTATE
BY *[Signature]*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 314 West First Street, Los Angeles, California, on **March 24, 1994 at 9:00 a.m.** or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: September 13, 1993

DEPARTMENT OF REAL ESTATE

By: *[Signature]*
ELLIOTT MACLENNAN, Counsel

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

AUG 16 1993

(213) 897-3194

DEPARTMENT OF REAL ESTATE
BY Laura B. Cray

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
ROSE MAXINE MARROTTE,)	No. H-1628 SA
Respondent.)	A C C U S A T I O N

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against ROSE MAXINE MARROTTE, (respondent), is informed and alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner, makes this Accusation in his official capacity.

II

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

/

III

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

IV

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6 At all times material, respondent was and now is
7 licensed by the Department of Real Estate of the State of
8 California (Department) as a real estate broker.

V

9
10 On March 3, 1992, MARROTTE entered into a one year
11 property management lease with John Englehart to manage his rental
12 property located at 42-300 Warner Trail, Riverside, California.
13 MARROTTE accepted three checks from the renter, Dan Remiker dated
14 the first of April, May and June 1992 respectively in equal
15 amounts of \$850 each. MARROTTE failed to deposit these checks
16 into her broker trust account for rental property matters until
17 June 18, 1992. By that time Remiker's account was closed and the
18 checks remain unpaid.

VI

19
20 The conduct of respondent, as described in Paragraph V,
21 in holding the rental checks undeposited constitutes a violation
22 of Section 10145 of the Code and Section 2832 of the Regulations
23 and is cause for the suspension or revocation of all real estate
24 licenses and license rights of respondent under the provisions of
25 Section 10177(d) of the Code.

26 /

27 /

VII

1
2 The conduct of respondent, as described in Paragraph V,
3 constitutes negligence or incompetence and is cause for the
4 suspension or revocation of all real estate licenses and license
5 rights of respondent under the provisions of Section 10177(g) of
6 the Code.

7 WHEREFORE, Complainant prays that a hearing be conducted
8 on the allegations made by the accusation and, that upon proof
9 thereof, a decision be rendered imposing disciplinary action
10 against all licenses and license rights of respondent ROSE MAXINE
11 MARROTTE under the Real Estate Law (Part 1 of Division 4 of the
12 Business and Professions Code) and for such other and further
13 relief as may be proper under other applicable provisions of law.

14 Dated at Santa Ana, California
15 this 16th day of August, 1993.

16
17 THOMAS Mc CRADY

18 Deputy Real Estate Commissioner
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26 cc: Rose Maxine Marrotte.
27 Sacto.
AK