

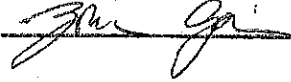
JUDITH B. VASAN, Counsel (SBN 278115)
Bureau of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982
(Direct) (213) 576-6904

FILED

SEP 15 2016

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) No. H-04834 SD
)
ROSE MAXINE MARROTTE,) ACCUSATION
)
Respondent.)
_____)

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against ROSE MAXINE MARROTTE ("Respondent") alleges as follows:

1.

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

2.

Respondent is presently licensed under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as a restricted real estate broker. Respondent's restricted broker license was issued on May 12, 1998, and is scheduled to expire on September 9, 2018, unless renewed. Respondent was first issued a broker license on

ACCUSATION OF ROSE MAXINE MARROTTE

1 July 7, 1976. Since May 12, 2014 to the present, Respondent has not been authorized by the
2 Bureau of Real Estate ("Bureau") to use any fictitious business name.

3 (PRIOR DISCIPLINE)

4 3.

5 On or about November 23, 1994, in Case No. H-1628 SA, the Real Estate
6 Commissioner ("Commissioner") of the Bureau suspended Respondent's real estate broker
7 license for 30 days pursuant to Section 10145 and 10177(d) of the Code. The 30-day suspension
8 from the effective date of January 10, 1995, was stayed for 1 year.

9 4.

10 On or about April 14, 1998, in Case No. H-27500 LA, the Commissioner
11 revoked Respondent's real estate broker license pursuant to Sections 10145, 10148, and
12 10177(d) of the Code and Sections 2831, 2831.2, 2832, and 2832.1 of the Code of Regulations,
13 Title 10, Chapter 6 ("Regulation"). The revocation of Respondent's broker license became
14 effective on May 12, 1998, and was subject to her right to apply for and be issued a restricted
15 real estate broker license on the terms and conditions specified in the Commissioner's Decision.
16 On May 12, 1998, Respondent was issued a restricted real estate broker license.

17 5.

18 At all times relevant herein Respondent was engaged in the business of, acted in
19 the capacity of, advertised or assumed to act as a real estate broker, within the meaning of
20 Section 10131(b) of the Code. Respondent's activities included performing the rental and
21 collection of rents and security deposits for real property on behalf of others for compensation
22 or in expectation of compensation.

23 (VIOLATIONS)

24 6.

25 On or about March 29, 2016, the Bureau completed an audit examination of the
26 books and records of Respondent pertaining to the real estate activities described in Paragraph 5
27 above. The audit examination covered the period of time from January 1, 2014 to August 31,

1 2015. The primary purpose of the examination was to determine Respondent's compliance with
2 the Real Estate Law. The audit examination revealed numerous violations of the Code and the
3 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report
4 No. LA150052 and the exhibits and work papers attached to said audit report.

5 7.

6 An entrance interview was held on October 22, 2015 with Respondent,
7 Respondent's daughter and bookkeeper, Renee Yvonne Marrotte (real estate salesperson
8 License No. 01074440). According to Respondent and the documents examined, Respondent
9 managed 27 one-to-four unit family residences for 20 owners during the audit period described
10 above in Paragraph 6. Respondent collected approximately \$700,000.00 in rental receipts
11 annually. Respondent received a management fee of 15% of monthly collected rents per month.

12 8.

13 At all times mentioned herein, and in connection with the property management
14 activities described in Paragraph 5, above, Respondent accepted or received funds, including
15 funds in trust ("trust funds") from or on behalf of owners of the real property managed by
16 Respondent, and thereafter made deposits and/or disbursements of such funds. From time-to-
17 time during the audit period, said trust funds were deposited and/or maintained in the following
18 bank account:

19 Bank Account ("B/A 1")

20 Bank: Chase Bank N.A.

21 P.O. Box 659754

22 San Antonio, Texas 92248

23 Account Name: Desert Rose Rentals and Property Management Inc

24 Account Number: xxxxx3379

25 Signatories: Rose M Marrotte

26

27

1 Purpose: The bank account was used as a depository for rents and security deposits
2 collected from tenants. Disbursements from B/A 1 were payments for expenses related to the
3 properties managed by Respondent, owner remittances and management fees.

4 Violations

5 9.

6 The audit examination revealed violations of the Code and the Regulations, as
7 set forth in the following paragraphs, and more fully discussed in Audit Report No. LA150052
8 and the exhibits and work papers attached to the audit report. It is alleged that Respondent:

9 (a) Permitted, allowed or caused the disbursement of trust funds from bank
10 account B/A 1 to fall to an amount which, as of August 31, 2015, was \$18,788.03 less than the
11 existing aggregate trust fund liability to the owners of said funds, without first obtaining the
12 prior written consent of the owners of the funds in violation of Code Section 10145 and
13 Regulation 2832.1;

14 (b) Failed to maintain an accurate control record of the deposit and disbursal of
15 trust funds in B/A 1 in violation of Code Section 10145 and Regulation 2831;

16 (c) Failed to maintain a separate record for each beneficiary of the trust funds or
17 transaction in violation of Code Section 10145 and Regulation 2831.1;

18 (d) Failed to perform and maintain a monthly reconciliation of the separate
19 record to the control record of trust funds handled in violation of Code Section 10145 and
20 Regulation 2831.2;

21 (e) Failed to designate B/A 1, an account that holds trust funds, as a trust account
22 in Respondent's name as trustee in violation of Code Section 10145 and Regulation 2832;

23 (f) Used the fictitious business names "Desert Rose Rentals and Property
24 Management Inc" and "Rose Real Estate" after the fictitious business names were deactivated
25 with the Bureau on or about May 12, 2014 in violation of Code Section 10159.5 and Regulation
26 2731;

1 (g) Failed to exercise reasonable supervision over the activities of the property
2 management operation and over her employees, to ensure compliance with the Real Estate
3 Laws and the Commissioner's Regulations in violation of Code Section 10177(h) and
4 Regulation 2725.

5 10.

6 The conduct of Respondent described in Paragraph 9, above, violated the Code
7 and Regulations as set forth below:

8 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
9 9(a)	Code Section 10145 10 Regulation 2832.1
12 9(b)	Code Section 10145 13 Regulation 2831
15 9(c)	Code Section 10145 16 Regulation 2831.1
18 9(d)	Code Section 10145 19 Regulation 2831.2
21 9(e)	Code Section 10145 22 Regulation 2832
24 9(f)	Code Section 10159.5 25 Regulation 2731
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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/or license rights of Respondent ROSE MAXINE MARROTTE under the Real Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of the audit, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California this 13 day of September, 2016



Veronica Kilpatrick
Supervising Special Investigator

cc: ROSE MAXINE MARROTTE
Veronica Kilpatrick
Sacto.
Audits – Godswill Keraoru