

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
OCT 21 1999
DEPARTMENT OF REAL ESTATE

* * * *

In the Matter of the Accusation of)
)
JOSE LUIS GUTIERREZ,)
)
)
Respondent(s).)
_____)

By *CG*

No. H-28120 LA

L-1999060148

DECISION

The Proposed Decision dated September 30, 1999,
of the Administrative Law Judge of the Office of
Administrative Hearings, is hereby adopted as the Decision
of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock
noon on November 10, 1999

IT IS SO ORDERED *October 14, 1999* .

JOHN R. LIBERATOR
Acting Real Estate Commissioner

 John R. Liberator

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
JOSE LUIS GUTIERREZ)
Respondent.)

No. H-28120 LA
OAH. L-1999060148

PROPOSED DECISION

This matter came on regularly for hearing before Leslie H. Greenfield, Administrative Law Judge, Office of Administrative Hearings, at Los Angeles, California, on September 3, 1998.

Darlene Averetta, Real Estate Counsel, represented the complainant Department of Real Estate. Frank M. Buda, Attorney at Law represented respondent Jose L. Gutierrez who was personally present throughout the hearing.

Oral and documentary evidence and evidence by way of stipulation on the record having been received and the matter submitted, the Administrative Law Judge finds as follows:

1. Thomas McCrady, Deputy Real Estate Commissioner, Department of Real Estate, made the First Amended Accusation in his official capacity.
2. Respondent Jose Luis Gutierrez has been licensed as a real estate broker since February 7, 1979, under License ID# 00596165.
3. At all times herein mentioned, respondent, engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate broker in the State of California, within the meaning of section 10131(d) of the Business and Professions Code, for another or others, for or in expectation of compensation. Said activity included the operation and conduct of a property management business with the public wherein respondent leased or rented or offered for lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

4. On March 29, 1999, the Department completed a field audit examination of respondent's books and records pertaining to the real estate activities described above for the period beginning January 1, 1996 and ending January 31, 1999.

5. At all times herein mentioned, in connection with the aforesaid real estate activities, respondent accepted or received funds, including trust funds, from or on behalf of parties to transaction requiring a real estate license, handled by respondent and thereafter made deposits and/or disbursements of such funds. Such funds were maintained by respondent in an account under the name Jose Luis Gutierrez or Vivian Gutierrez DBA:Prime Market Real Properties (Trust Account) at Washington Mutual 1800 E. Florida Avenue, Hemet, California 91522, under Account Number 871-105400-1.

6. As a result of said Audit it was determined that respondent acted in violation of the Business and Professions Code and the California Code of Regulations as follows:

a. As of January 31, 1999, the Trust Account had a shortage in the amount of approximately Seventy-One Thousand Three Hundred Ninety-One Dollars and Six Cents (\$71,391.06). Respondent caused, permitted and/or allowed the withdrawal or disbursement of funds from the Trust Account, without the prior written consent of every principal who was an owner of the funds in the account, thereby reducing the balance of the funds in said account to an amount less than the aggregate trust fund liability of the broker to all owners of said trust funds.

b. Respondent withdrew trust funds from the Trust Account without authorization from the property owners and he did not place some of the rents collected in cash into the Trust Account.

c. Respondent failed to maintain complete records of all trust funds received and disbursed, including a daily balance, and respondent failed to maintain any records of all trust funds received and disbursed during a period of time in 1997.

d. Respondent failed to maintain a complete record of each beneficiary or transaction, including date of deposit, date of each related disbursement, check number of each related disbursement and the balance after posting transactions on any date.

e. Respondent did not maintain a reconciliation of the columnar record of all trust funds received and disbursed, with the total balance of separate records for the Trust Account.

f. The Trust Account was not in the Brokers' name as trustee and was not designated as a trust account.

g. Respondent used the unlicensed fictitious business name "Prime Market Real Properties".

7. No client or individual was injured by the trust fund shortage and respondent has undertaken to bring the account in balance. It was not established that's respondent's conduct constitutes fraud or dishonest dealing but rather results from inappropriate and incomplete record keeping.

8. At the suggestion of the Auditor, respondent has corrected all deficiencies noted in his record-keeping and trust fund procedures and now utilizes all correct and necessary forms and has engaged a private real estate consultant familiar with the Department requirements. Respondent has been licensed for over twenty (20) with no other disciplinary charges or allegations of misconduct alleged as the result of using his real estate licenses. The public interest would not be adversely affected by the Order below and the Department would be assured that the defects found during the Audit had been remedied.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Cause exists to suspend or revoke the real estate license of respondent pursuant to Business and Professions Code sections 10177(d) for violating the following:

A. Business and Professions Code section 10145 and 10 California Code of Regulations section 2832.1, by reason of Finding 6.a.

B. Business and Professions Code section 10145, by reason of Finding 6.b.

C. 10 California Code of Regulations section 2831, by reason of Finding 6.c.

D. 10 California Code of Regulations section 2831.1, by reason of Finding 6.d.

E. Business and Professions Code section 10145 and 10 California Code of Regulations section 2831.2, by reason of Finding 6.e.

F. Business and Professions Code section 10145 and 10 California Code of Regulations section 2832, by reason of Finding 6.f.

G. 10 California Code of Regulations section 2731, by reason of Finding 6.g.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of respondent under the Real Estate law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

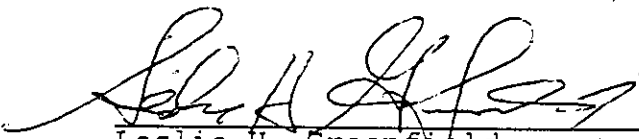
1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions; limitations or restrictions of a restricted license until three (3) years have elapsed from the effective date of this Decision.
4. Respondent shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of

an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. Respondent shall, within six (6) months from the effective date of the Decision herein, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may set aside the stay order until respondent passes the examination.
6. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the respondent holds a restricted license, such information concerning respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.
7. Within 30 days of the effective date of this decision, respondent shall submit to the Commissioner for his prior approval, a plan of practice in which respondent's real estate practice shall be monitored by another licensed Real Estate Broker, who shall provide periodic reports to the Commissioner. The costs of said monitor shall be borne by respondent. If the monitor resigns or is no longer available, respondent shall, within 15 days, move to have a new monitor appointed, through nomination by the respondent and approval by the Commissioner.

8. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for an audit to determine if Respondent has corrected the trust fund violation(s) found in the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with Section 11500 et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

Dated: September 30, 1999



Leslie H. Greenfield
Administrative Law Judge
Office of Administrative Hearings

LHG:me

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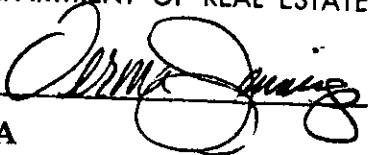
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
JUL 28 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
JOSE LUIS GUTIERREZ,)
)
)
Respondent.)

Case No. H-28120 LA
OAH No. L-1999060148

By 

NOTICE OF CONTINUED 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, 320 West Fourth Street, Suite 630, Los Angeles, California, on September 2 and 3, 1999, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: July 28, 1999.

- cc: Jose Luis Gutierrez
- Frank M. Buda, Esq.
- Danio Fajardo
- Lisa Kwong
- Sacto.
- OAH

DEPARTMENT OF REAL ESTATE

By: 
DARLENE AVERETTA, Counsel

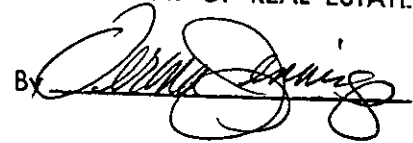
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

FILED
JUN 25 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
JOSE LUIS GUTIERREZ,)
)
)
Respondent.)

By: 

Case No. H-28120 LA
OAH No. L-1999060148

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, 320 West Fourth Street, Suite 630, Los Angeles, California, on July 28 and 29, 1999, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: June 25, 1999.

cc: Jose Luis Gutierrez
Danio Fajardo
Lisa Kwong
Sacto.
OAH

DEPARTMENT OF REAL ESTATE

By: 
DARLENE AVERETTA, Counsel


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DARLENE AVERETTA, Counsel (SBN 159969)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

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

FILED
MAY 25 1999
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-28120 LA
JOSE LUIS GUTIERREZ,)	<u>FIRST AMENDED ACCUSATION</u>
Respondent.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against JOSE LUIS GUTIERREZ, is informed and alleges as follows:

1.

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

2.

JOSE LUIS GUTIERREZ (hereinafter "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 (hereinafter "Code"), as a real estate broker.

///

3.

1
2 At all times material herein, Respondent was licensed
3 by the Department of Real Estate of the State of California
4 (hereinafter "Department") as a real estate broker.

5 4.

6 All further references to "Respondent", unless
7 otherwise specified, includes the party identified in Paragraphs
8 2 and 3, above, and also include the employees, agents and real
9 estate licensees employed by or associated with said party, who
10 at all times material herein were engaged in the furtherance of
11 the business or operations of said party and who were acting
12 within the course and scope of their authority, agency or
13 employment.

14 5.

15 At all times material herein, Respondent engaged in the
16 business of, acted in the capacity of, advertised or assumed to
17 act as a real estate broker in the State of California, within
18 the meaning of Code Section 10131(b), for another or others, for
19 or in expectation of compensation. Said activity included the
20 operation and conduct of a property management business with the
21 public wherein, Respondent leased or rented or offered for lease
22 or rent, or placed for rent, or solicited listings of places for
23 rent, or solicited for prospective tenants, or negotiated the
24 sale, purchase or exchange of leases on real property, or a
25 business opportunity, or collected rents from real property, or
26 improvements thereon, or from business opportunities.

27 ///



6.

1
2 On or about March 29, 1999, the Department completed an
3 examination of Respondent's books and records, pertaining to the
4 real estate activities described in Paragraph 5 above, covering
5 a period from approximately January 1, 1996, through January 31,
6 1999. The examination revealed the information set forth below.

7
8 7.

9 At all times material herein, in connection with the
10 activities described in Paragraph 5 above, Respondent accepted
11 or received funds, including funds in trust ("trust funds"), from
12 or on behalf of parties to transactions requiring a real estate
13 license handled by Respondent and thereafter made deposits
14 and/or disbursements of such funds. From time to time herein
15 mentioned, said trust funds were deposited and/or maintained
16 by Respondent in a bank account, including but not necessarily
17 limited to, Account Number 871-105400-1, "Jose Luis Gutierrez or
18 Vivian Gutierrez DBA:Prime Market Real Properties" (hereinafter
19 "Trust Account") at Washington Mutual (formerly named Great
20 Western Bank), 1800 E. Florida Avenue, Hemet, California 92544.

21
22 8.

23 In the course of activities described in Paragraphs 5
24 and 7, above, and during the examination period described in
25 Paragraph 6, Respondent acted in violation of the Code and Title
26 10, Chapter 6, California Code of Regulations ("Regulations"), as
27 follows:

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///
///

1 (a) As of January 31, 1999, the Trust Account had a
2 shortage in the amount of approximately Seventy-One Thousand
3 Three Hundred Ninety-One Dollars and Six Cents (\$71,391.06).
4 Respondent caused, permitted and/or allowed the withdrawal or
5 disbursement of trust funds from the Trust Account, without the
6 prior written consent of every principal who then was an owner of
7 funds in the account, thereby reducing the balance of funds in
8 the said account to an amount less than the existing aggregate
9 trust fund liability of the broker to all owners of said trust
10 funds, in violation of Code Section 10145 and Regulation 2832.1.

11 (b) Respondent withdrew trust funds from the Trust
12 Account without authorization from the property owners and he did
13 not place some of the rents he collected in cash into the Trust
14 Account, in violation of Code Section 10145.

15 (c) Respondent failed to maintain complete records of
16 all trust funds received and disbursed, including a daily balance,
17 and Respondent failed to maintain any records of all trust funds
18 received and disbursed during a period of time in 1997, in
19 violation of Regulation 2831.

20 (d) Respondent failed to maintain a complete record of
21 for each beneficiary or transaction, including date of deposit,
22 date of each related disbursement, check number of each related
23 disbursement and the balance after posting transactions on any
24 date, in violation of Regulation 2831.1.

25 ///

26 ///

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1 (e) Respondent did not maintain a reconciliation of
2 the columnar record of all trust funds received and disbursed,
3 with the total balance of separate records for the Trust Account,
4 in violation of Code Section 10145 and Regulation 2831.2.

5 (f) The Trust Account was not in the broker's name as
6 trustee and was not designated as a trust account, in violation
7 of Code Section 10145 and Regulation 2832.

8 (g) Respondent used the unlicensed fictitious business
9 name "Prime Market Real Properties", in violation of Regulation 2731

10 9.

11 The conduct, acts and/or omissions of Respondent,
12 as described in Paragraph 8, above, violated the Code and the
13 Regulations as set forth below:


14	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
15	8(a)	Code Section 10145 and Regulation 2832.1
16	8(b)	Code Section 10145
17	8(c)	Regulation 2831
18	8(d)	Regulation 2831.1
19	8(e)	Code Section 10145 and Regulation 2831.2
20	8(f)	Code Section 10145 and Regulation 2832
21	8(g)	Regulation 2731
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24 Each of the foregoing violations constitutes cause for
25 the suspension or revocation of Respondent's real estate licenses
26 and license rights under the provisions of Code Sections 10177(d)
27 and 10176(i).

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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 licenses and license rights of JOSE LUIS GUTIERREZ. 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.

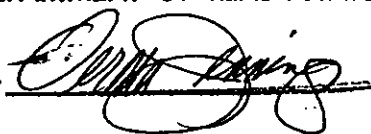
Dated at Los Angeles, California
this 25th day of May, 1999.


Deputy Real Estate Commissioner

cc: Jose Luis Gutierrez
LA Audit Section
Thomas McCrady
Sacto.
EC

SACD,
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1 DARLENE AVERETTA, Counsel (SBN 159969)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6904

FILED
MAY 12 1999
DEPARTMENT OF REAL ESTATE
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-28120 LA
12 JOSE LUIS GUTIERREZ,)
13 Respondent.)
14 _____)
15)

15 The Complainant, Thomas McCrady, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against JOSE LUIS GUTIERREZ is informed and alleges as follows:

18 1.

19 The Complainant, Thomas McCrady, a Deputy Real Estate
20 Commissioner of the State of California, makes this Accusation
21 in his official capacity.

22 2.

23 JOSE LUIS GUTIERREZ (hereinafter "Respondent") is
24 presently licensed and/or has license rights under the Real
25 Estate Law, Part 1 of Division 4 of the California Business and
26 Professions Code (hereinafter "Code"), as a real estate broker.

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3.

At all times material herein, Respondent was licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a real estate broker.

4.

All further references to "Respondent", unless otherwise specified, include the party identified in Paragraphs 2 and 3, above, and also include the employees, agents and real estate licensees employed by or associated with said party, who at all times material herein were engaged in the furtherance of the business or operations of said party and who were acting within the course and scope of their authority, agency or employment.

5.

At all times material herein, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Code Section 10131(b), for another or others, for or in expectation of compensation. Said activity included the operation and conduct of a property management business with the public wherein Respondent leased or rented or offered for lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated the sale, purchase or exchange of leases on real property, or a business opportunity, or collected rents from real property, or improvements thereon, or from business opportunities.

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6.

On or about March 29, 1999, the Department completed an examination of Respondent's books and records, pertaining to the real estate activities described in Paragraph 5 above, covering a period from approximately January 1, 1996, through January 31, 1999. The examination revealed the information set forth below.

7.

At all times material herein, in connection with the activities described in Paragraph 5 above, Respondent accepted or received funds, including funds in trust ("trust funds"), from or on behalf of parties to transactions requiring a real estate license handled by Respondent and thereafter made deposits and/or disbursements of such funds. From time to time herein mentioned, said trust funds were deposited and/or maintained by Respondent in a bank account, including but not necessarily limited to, Account Number 871-105400-1, "Jose Luis Gutierrez or Vivian Gutierrez DBA:Prime Market Real Properties" (hereinafter "Trust Account") at Washington Mutual (formerly named Great Western Bank), 1800 East Florida Avenue, Hemet, California 92544.

8.

In the course of activities described in Paragraphs 5 and 7, above, and during the examination period described in Paragraph 6, Respondent acted in violation of the Code and Title 10, Chapter 6, California Code of Regulations ("Regulations") as follows:

///
///

1 (a) As of January 31, 1999, the Trust Account had a
2 shortage in the amount of approximately Seventy-One Thousand
3 Three Hundred Ninety-One Dollars and Six Cents (\$71,391.06).
4 Respondent caused, permitted and/or allowed the withdrawal or
5 disbursement of trust funds from the Trust Account, without the
6 prior written consent of every principal who then was an owner of
7 funds in the account, thereby reducing the balance of funds in
8 the said account to an amount less than the existing aggregate
9 trust fund liability of the broker to all owners of said trust
10 funds, in violation of Code Section 10145 and Regulation 2832.1.

11 (b) Respondent withdrew trust funds from the Trust
12 Account without authorization from the property owners and he did
13 not place some of the rents he collected in cash into the Trust
14 Account, in violation of Code Section 10145.

15 (c) Respondent failed to maintain complete records of
16 all trust funds received and disbursed, including a daily balance,
17 and Respondent failed to maintain any records of all trust funds
18 received and disbursed during a period of time in 1997, in
19 violation of Regulation 2831.

20 (d) Respondent failed to maintain a complete record
21 for each beneficiary or transaction, including date of deposit,
22 date of each related disbursement, check number of each related
23 disbursement and the balance after posting transactions on any
24 date, in violation of Regulation 2831.1.

25 (e) Respondent did not maintain a reconciliation of
26 the columnar record of all trust funds received and disbursed,
27 with the total balance of separate records for the Trust Account,

1 in violation of Code Section 10145 and Regulation 2831.2.

2 (f) The Trust Account was not in the broker's name as
3 trustee and was not designated as a trust account, in violation
4 of Code Section 10145 and Regulation 2832.

5 (g) Respondent used the unlicensed fictitious business
6 name "Prime Market Real Properties", in violation of Regulation
7 2731.

8 9.

9 The conduct, acts and/or omissions of Respondent as
10 described in Paragraph 8, above, violated the Code and the
11 Regulations as set forth below:

12	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
13	8(a)	Code Section 10145 and Regulation 2832.1
14	8(b)	Code Section 10145
15	8(c)	Regulation 2831
16	8(d)	Regulation 2831.1
17	8(e)	Code Section 10145 and Regulation 2831.2
18	8(f)	Code Section 10145 and Regulation 2832
19	8(g)	Regulation 2731
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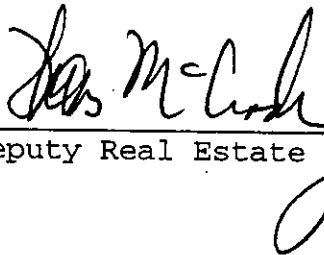
22 Each of the foregoing violations constitute cause for
23 the suspension or revocation of Respondent's real estate licenses
24 and license rights of under the provisions of Code Section
25 10177(d).

26 ///

27 ///



1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of JOSE LUIS
5 GUTIERREZ under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provisions of law.
8 Dated at Los Angeles, California
9 this 12th day of May, 1999.

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12 _____
13 Deputy Real Estate Commissioner
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25 cc: Jose Luis Gutierrez
26 LA Audit Section
27 Thomas McCrady
 Sacto.
 EC