FILED

JUL 20 2010

DEPARTMENT OF REAL ESTATE

By R. Henry

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	DRE NO. H-2406 FR
KENNETH MARK DOOLITTLE and MONTEREY BAY SECURITIES, INC.,	)	
	)	OAH NO. 2009090993
Respondents.	)	

DECISION

The Proposed Decision dated June 14, 2010, 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.

Pursuant to Section 11517(b)(3) of the Government Code, the following corrections are made to the Proposed Decision.

FACTUAL FINDINGS, Page 2, #2 of the Proposed Decision is revised to read:

" Respondent Monterey Bay Securities, Inc., is presently licensed. . . . . The license expired on March 24, 2010. . ."

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on AUG 9 2010.

IT IS SO ORDERED 7/19, 2010.

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of: KENNETH MARK DOOLITTLE and MONTEREY BAY SECURITIES, INC., Respondents.	Case No. H-2406 FR OAH No. 2009090993

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on May 13, 2010.

Real Estate Counsel Kenneth C. Espell represented complainant John Sweeney, a Deputy Real Estate Commissioner.

There was no appearance by or on behalf of respondents Kenneth Mark Doolittle and Monterey Bay Securities, Inc.

The record was left open for complainant to submit a current license history for each respondent. The documents were filed on May 24, 2010, and received in evidence as Exhibit 11 (Kenneth Mark Doolittle) and Exhibit 12 (Monterey Bay Securities, Inc.). The record was closed and the matter was submitted for decision on May 24, 2010.

SUMMARY

Complainant filed an accusation and notice of intent to issue an order of debarment against respondent Kenneth Mark Doolittle, a real estate broker, and respondent Monterey Bay Securities, Inc., a corporate real estate broker. The primary basis for discipline is a 2007 Desist and Refrain Order issued by the Department of Corporations against respondents in connection with the offer for sale of securities. Respondents did not appear at hearing, and the hearing proceeded as a default. No evidence in mitigation or rehabilitation was presented.

FACTUAL FINDINGS

1. Respondent Kenneth Mark Doolittle is presently licensed and/or has licensing rights under the Real Estate Law[1] as a real estate broker. The license originally issued in October 1991. The license expired on March 24, 2009.

2. Respondent Monterey Bay Securities, Inc., is presently licensed and/or has licensing rights under the Real Estate Law as a corporate real estate broker, with respondent Doolittle as its designated officer. The license originally issued in July 1991. The license expired on March ~~4~~ 24, 2009. On April 3, 2000, the powers, rights and privileges of Monterey Bay Securities, Inc., were suspended by the Franchise Tax Board pursuant to the Revenue and Taxation Code. For this reason, Monterey Bay Securities, Inc., is not authorized to conduct any business in California, including that of a corporate real estate broker.

3. As the designated officer/broker of Monterey Bay Securities, Inc., respondent Doolittle was responsible for the supervision of the activities of its officers, agents, real estate licensees and employees pursuant to Business and Professions Code section 10159.2.

4. At all times relevant, respondents Doolittle and Monterey Bay Securities, Inc., acted in the capacity of real estate brokers within the meaning of Business and Professions Code sections 10131, subdivisions (d) and (e).

Department of Corporations Actions against Respondents

5. On January 2, 2007, the Commissioner of the Department of Corporations issued a Desist and Refrain Order to respondents alleging violations of Corporations Code sections 25110, 25230, and 25401. In particular, respondents were ordered to cease offering for sale securities which contained material omissions or material statements that were untrue or misleading. Respondents were ordered to cease conducting business as an investment advisor without a certificate from the Department authorizing such an activity. And, respondents were ordered to cease offering or selling securities until the offerings and sales had been qualified or found to be exempt from qualification.

On April 22, 2007, the Commissioner of the Department of Corporations issued an accusation seeking to revoke the respondent broker-dealer certificate of respondent Monterey Bay Securities, Inc., and to bar respondent Doolittle from employment, management, or control of any broker-dealer or investment adviser.

On August 9, 2007, the Commissioner issued a Statement in Support of an Order Levying Administrative Penalties and Claim for Ancillary Relief against respondents.

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[1] The Real Estate Law is contained in part 1 of division 4 of the Business and Professions Code.

6. On May 27, 2008, the Commissioner issued a decision following an administrative hearing regarding these matters held over seven days in the fall of 2007. In his decision the Commissioner found the following:

a. Between 1997 and 2005 respondents Doolittle and Monterey Bay Securities, Inc., bought and sold more than 500 manufactured homes. Some of the homes were sold outright to buyers, but the vast majority of homes were sold with seller-provided financing. Respondents obtained the funds for the financing by soliciting private third party investors.

b. Respondents advertised for investors, ran an internet website, and published a booklet regarding his program, which he called by the fictitious name "Recycled Housing Manufactured Home Promissory Note Mortgage Program."

c. The funds received from investors were placed in a single bank account solely maintained by respondent Doolittle. The funds could sit in the account for months without being invested. When the funds were invested, the investment could be moved from one deed of trust to another at respondent Doolittle's discretion.

d. Payments on the deeds of trust were made directly to respondent Doolittle as the servicer of the notes.

e. The activities of respondents constituted the offering and selling of securities for which the sale had not been qualified and for which the transaction was not exempt. Respondents sold unqualified securities in violation of Corporations Code section 25110.

f. Respondents made untrue statement of material facts and/or failed to provide material facts to investors on numerous occasions in connection with the sale of the securities to clients in violation of Corporations Code section 25401.

g. Respondent Doolittle acted as an investment advisor in connection with the sale of the securities without a license authorizing him to so, in violation of Corporations Code section 25230.

h. Respondent Doolittle had previously held an investment advisor certificate through another corporation he owned and operated, but that certificate had been revoked in 2000. Respondent Doolittle was required to surrender the investment advisor certificate upon the revocation but he failed to do so, in violation of Corporations Code section 25244.

i. In March 2005, the Department of Housing and Community Development denied the application of respondent Doolittle and respondent Monterey Bay Securities, Inc., for a license required to sell new manufactured homes within California.

j. Respondents Doolittle and Monterey Bay Securities, Inc., were censured by the National Association of Securities Dealers (NASD) in 1998 for securities violations. Respondents did not inform any of their investors about this action.

Respondents withdrew from membership in the NASD after the NASD had commenced an investigation on a complaint. The matter was resolved by settlement in November 2007, which included a finding that respondents had wilfully omitted a material fact on a NASD form.

k. Respondent Doolittle failed to turn over books and records requested by order of the Department of Corporations in October 2005 in connection with the surrender if the broker-dealer certificate in violation of Corporations Code section 25241.

7. The Commissioner found that respondents had violated Corporations Code sections 25212, 25401, 25230, 25224, and 25110 pertaining to the sale of securities, and sustained the Desist and Refrain Order.

8. The Commissioner revoked the broker-dealer certificate pursuant to Corporations Code section 25212.

9. The Commissioner barred respondent Doolittle from future employment in the securities industry pursuant to Corporations Code section 25213 upon a finding that such was in the best interest of the public.

10. The Commissioner issued various administrative penalties, and ordered respondents to pay restitution to three investors, and to pay costs for attorney's fees and investigative expenses.

Other Matters

11. The acts or omissions of respondents as found by the Commissioner of the Department of Corporations, if they had been committed by a real estate licensee in the context of the representation of real estate clients, would constitute cause for suspension or revocation of a real estate license pursuant to Business and Professions Code section 10176, subdivision (i) (fraud or dishonest dealing), and California Code of Regulations, title 10, section 2832 (trust fund rules).[2]

12. Respondent Doolittle failed to exercise reasonable supervision and control over the activities of respondent Monterey Bay Securities, Inc., in violation of Business and

[2] The accusation does not specify the statute which would provide cause to suspend or revoke the real estate licenses of respondent Doolittle and respondent Monterey Bay Securities, Inc., based on this conduct. Specifying the statute which would provide cause for discipline is required by the Administrative Procedure Act (Gov. Code, § 11503).

Professions Code section 10159.2, as evidenced by the disciplinary action taken by the Department of Corporations against respondent Monterey Bay Securities, Inc.

13. There is no evidence in mitigation or rehabilitation. The protection of the public compels the revocation of the licenses and licensing rights of respondents Doolittle and Monterey Bay Securities, Inc.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 10177, subdivision (n), the Commissioner may suspend or revoke the license of a real estate licensee who has violated the Corporate Securities Law of 1968[3] or the regulations of the Commissioner of Corporations pertaining thereto. By reason of the matters set forth in Factual Findings 6 and 7, cause exists to suspend or revoke the real estate licenses of respondents pursuant to this section.

2. Pursuant to Business and Professions Code section 10177, subdivision (d), the Commissioner may suspend or revoke the license of a real estate licensee who has violated the Real Estate Law or the rules and regulations of the Commissioner for the enforcement and administration of the Real Estate Law. By reason of the matters set forth in Factual Findings 3 and 12, it was established that respondent Doolittle failed to exercise reasonable supervision over the activities of respondent Monterey Bay Securities, Inc., in violation of Business and Professions Code section 10159.2. Cause exists to suspend or revoke the licenses of respondent Doolittle and respondent Monterey Bay Securities, Inc., pursuant to Business and Professions Code section 10177, subdivision (d).

3. Pursuant to Business and Professions Code section 10087, subdivision (a)(2), the Commissioner may seek an order barring a licensee from a position of employment, management, or control for a period not to exceed 36 months upon a finding that the licensee has been found by an administrative judgment by a public agency to have committed conduct involving dishonesty, fraud of deceit. By reason of the matters set forth in Factual Finding 6, cause for an order of debarment exists pursuant to this section. The longest period of debarment authorized by statute is warranted.

ORDER

1. All licenses and licensing rights of respondent Kenneth M. Doolittle under the Real Estate Law are revoked.

2. All licenses and licensing rights of respondent Monterey Bay Securities, Inc., under the Real Estate Law are revoked.

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[3] The Corporate Securities Law of 1968 is contained in title 4 of the Corporations Code, section 25000 et. seq.

3. Respondent Kenneth M. Doolittle is hereby debarred from holding a position of employment, management, or control for 36 months from the effective date of this decision pursuant to Business and Professions Code section 10087.

DATED: 6-14-10

MELISSA G. CROWELL
Administrative Law Judge
Office of Administrative Hearings

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FILED
JUL 23 2009
DEPARTMENT OF REAL ESTATE
By R. Henry

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of KENNETH MARK DOOLITTLE and, MONTEREY BAY SECURITIES, INC., Respondents.	H-2406 FR ACCUSATION and NOTICE OF INTENT TO ISSUE ORDER OF DEBARMENT

The Complainant, JOHN SWEENEY, in his official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against Respondents KENNETH MARK DOOLITTLE ("DOOLITTLE") and MONTEREY BAY SECURITIES, INC., ("MBS"), is informed and alleges as follows:

THE RESPONDENTS

1

Respondent DOOLITTLE is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the Code") as a real estate broker.

2

Respondent MBS is presently licensed and/or has license rights under the Real Estate Law and is licensed by the Department of Real Estate (hereafter "the Department") as a corporate real estate broker. Respondent MBS is currently a suspended California corporation and therefore is not authorized to conduct business within the State of California.

3

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent MBS, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent MBS committed such act or omission while engaged in the furtherance of the business or operations of Respondent MBS and while acting within the course and scope of their corporate authority and employment.

4

At all times herein mentioned, Respondent DOOLITTLE was and is the designated officer/broker of Respondent MBS. Pursuant to Sections 10159.2 and 10177(h) of the Code, as the designated officer/broker of Respondent MBS, Respondent DOOLITTLE was at all times mentioned herein responsible for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent MBS.

5

At all times mentioned, Respondents DOOLITTLE and MBS engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Sections 10131(d) and 10131(e) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein Respondents solicited private money lenders and private borrowers for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by Respondent on behalf of others and wherein promissory notes or interests therein were sold or purchased on behalf of another or others for compensation or in expectation of a compensation.

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DEPARTMENT OF CORPORATIONS DESIST AND REFRAIN ORDER

6

On or about January 2, 2007, the California Department of Corporations (hereinafter the "DOC") issued a Desist and Refrain Order for violations of Sections 25110, 25230 and 25401 of the California Corporations Code. The DOC ordered Respondents DOOLITTLE and MBS cease conducting business activities that violated the California Corporations Code, including, *inter alia*, offering for sale securities wherein the offers contained material statements which were untrue or misleading and/or omitted material facts, all in violation of Corporations Code Section 25401; that Respondent DOOLITTLE was doing business as Respondent MBS and also was doing business as Monterey Bay Investments, M Homes, Mobile Repo, Inc. Recycled Mobile Homes and/or Recycled Homes and was conducting business as an investment advisor without first applying for and securing a certificate from the DOC authorizing such activities, all in violation of Section 25230 of the California Corporations Code. Further, the DOC ordered Respondents DOOLITTLE and MBS to quit offering or selling securities until the offerings and sales had been qualified, under the California Corporations Code or which were otherwise exempt from qualification.

DEPARTMENT OF CORPORATIONS DECISION AND ORDER OF DEBARMENT

7

On or about May 27, 2008, the DOC in OAH Case Number L-2007090318, adopted, with minor typographical error corrections, the proposed decision of Administrative Law Judge Mary-Margaret Anderson wherein Judge Anderson made, among other findings, the following:

1. Respondent DOOLITTLE had moved Respondent MBS out of its office located at 11 Seascape Village, Aptos, California and was now receiving mail through an Aptos post office box;

2. Respondent DOOLITTLE had relocated to the State of Idaho and was operating out of the Idaho location;

3. In March 2005, the Department of Housing and Community Development denied Respondents' DOOLITTLE and MBS application

3. In March 2005, the Department of Housing and Community Development denied Respondents' DOOLITTLE and MBS application for a license required to sell new manufactured homes within the state of California;

4. Respondent DOOLITTLE failed to inform his clients of a 1997 NASD (National Association of Securities Dealers) action concerning his failure to disclose a pending San Mateo County Superior Court felony criminal action on his NASD *Uniform Application for Securities Industry Registration or Transfer* (Form U-4) required by the NASD. This complaint resulted in a 2007 settlement wherein Respondents DOOLITTLE and MBS withdrew their membership with the NASD;

5. Respondent DOOLITTLE failed to turn over certain Books and Records to the DOC as requested by the DOC in connection with Respondents' DOOLITTLE and MBS surrender of its Broker-Dealer license;

6. Between 1997 and 2005, Respondents' DOOLITTLE and MBS bought and sold more than 500 manufactured homes with some being sold outright, but with the vast majority sold with seller-provided financing with funds obtained from private third party investors solicited by Respondent's DOOLITTLE and MBS by publishing a booklet entitled Recycled Housing Manufactured Home Promissory Note Mortgage Program and through advertisements seeking First Deed of Trust investors;

7. Respondent DOOLITTLE indicated that Recycled Housing was a fictitious business name of Respondent DOOLITTLE;

8. The funds received from investors were placed in a single bank account in which the funds could sit for months without being invested and when invested the investment, at times, was moved from one deed of trust to another based solely upon the decision of Respondent DOOLITTLE;

9. Payments on the deeds of trust were made directly to Respondent DOOLITTLE as the servicer of the notes;

10. During the hearing on the DOC accusation, Respondent DOOLITLLE took the position his manufactured home sales and lending activities were being conducted under his Department of Real Estate license and that Recycled Housing was a d.b.a. under his Department of Real Estate license;

11. Judge Anderson found that the activities of Respondent DOOLITTLE and MBS were the offering and selling of securities for which a DOC license was required; and,

12. Judge Anderson granted the DOC's request to bar Respondent DOOLITTLE from the Securities Industry, finding that it was in the best interest of the public.

8

The findings of fact in Department of Corporations, Case Number L2007090318, and the January 2, 2007 Department of Corporations' Desist and Refrain Order identified in paragraph 6, above, include findings that Respondents' DOOLITTLE and/or MBS violated California Corporate Securities Laws, including, but not limited to, Sections 25212, 25401, 25230, 25224, and, 25110 of the California Corporations Code.

9

In addition, in its May 27, 2008 Decision, the DOC, pursuant to California Corporations Code Section 25213, barred Respondents DOOLITTLE and MBS from future employment in the securities industry.

10

The aforementioned California Corporations Code violations and DOC Debarment give rise to grounds for suspension or revocation of Respondents' DOOLITTLE and MBS broker licenses pursuant to Section 10177(n) of the California Business and Professions Code.

11

In addition, the acts and/or omissions identified in Paragraphs 6 through 9, above, and contained within the DOC Decision in OAH Case Number L-2007090318 and the DOC's January 2, 2007 Desist and Refrain Order if committed by a real estate licensee in the context of the representation of real estate clients, would constitute grounds for suspension or revocation of a real estate license pursuant to the provisions of Section 10176 (i) of the Code and Section 2832, Title 10, of the California Code of Regulations (the "Regulations").

12

Further, Respondent DOOLITTLE, as the designated officer/broker of Respondent MBS was required to exercise reasonable supervision and control over the activities of Respondent

MBS. These duties included, but were not limited to, insuring that the Respondent MBS complied with relevant California Corporation Code Sections. Respondent DOOLITTLE failed to exercise reasonable supervision and control over the activities of Respondent MBS as evidenced by the disciplinary action taken by the Department of Corporations against Respondent MBS, as identified in Paragraphs 6 through 9 above; all in violation of Section 10159.2 of the Code which constitutes cause for suspension or revocation of all licenses and license rights of Respondents DOOLITTLE and MBS under Section 10177(d) of the Code.

NOTICE OF INTENT TO ISSUE ORDER OF DEBARMENT

13

The facts alleged in Paragraphs 6 through 9, and 12, above, subject Respondents DOOLITTLE AND MBS to the issuance of an Order of Debarment pursuant to Section 10087 of the Code. Pursuant to Section 10087(b) of the Code, you, Respondents DOOLITTLE and MBS, are hereby notified of the intention of the Commissioner to issue an Order of Debarment pursuant to Section 10087(a) of the Code should the facts alleged herein support findings that an Order of Debarment be issued.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and Notice of Intention to Issue Order of Debarment, and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code and, in addition, an Order of Debarment issue against Respondent pursuant to Section 10087 of the Code, and for such other and further relief as may be proper under other provisions of law.

JOHN SWEENEY
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 7th day of July, 2009.