

FILED  
FEB 25 1987  
DEPARTMENT OF REAL ESTATE

By: Kathleen Contreras

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )  
DONALD LA RUE FLOYD, ) NO. H-755 FRESNO  
Respondent. )

DECISION

The Proposed Decision dated February 4, 1987  
of Betty R. Ludeman, Regional Manager, Department of Real Estate,  
State of California, is hereby adopted as the Decision of the Real  
Estate Commissioner in the above-entitled matter.

The Decision shall become effective at 12 o'clock  
noon on March 16, 1987.

IT IS SO ORDERED February 19, 1987.

JAMES A. EDMONDS, JR.  
Real Estate Commissioner

By: John R. Liberator  
JOHN R. LIBERATOR  
Chief Deputy Commissioner

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of )  
DONALD LA RUE FLOYD, ) NO. H-755 FRESNO  
Respondent. )

PROPOSED DECISION

This matter was presided over as an uncontested case by Betty Ludeman, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Sacramento, California, on February 3, 1987.

Roland Adickes, Counsel, represented the complainant.

No appearance was made by or on behalf of Respondent DONALD LA RUE FLOYD. On proof of compliance with Government Code Section 11505, the matter proceeded as a default pursuant to Government Code Section 11520.

The following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

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

II

The Complainant, Robert E. McCabe, a Deputy Real Estate Commissioner of the State of California, was acting in his official capacity in making this Accusation against Respondent.

### III

From time to time during 1983, 1984, and 1985, Respondent operated a real estate brokerage including a property management business at 224 North Gateway, Madera, California. In connection with this business, Respondent received, from time to time on behalf of the owners of the properties he managed, rental payments, security deposits, and other trust funds.

### IV

Respondent kept a bank trust account for depositing property management trust funds. Respondent failed to deposit and to maintain some of these trust funds as required by Section 10145 of the Code resulting in shortages of trust funds as of the following dates:

- (1) On December 31, 1984, Respondent's trust obligations were \$5,837.66 and the adjusted bank balance of Respondent's trust account on this date was negative by \$10,377.00, resulting in a total trust funds shortage of \$16,215.65.
- (2) On February 19, 1985, Respondent's trust obligations were \$2,828.16 and the adjusted bank balance of Respondent's trust account on this date was \$2.22, resulting in a total trust fund shortage of \$2,825.94.

### V

From time to time during 1983 and 1984, Respondent took trust funds in the form of cash out of the Property Management Trust account and transferred trust funds from this account to an account Respondent used in conducting an insurance agency under the name Don Floyd & Associates Insurance Agency. The total of these amounts was \$16,534.65. Respondent used these trust funds for his personal use and benefit and, in any event, for purposes not authorized by the owners of these trust funds. Respondent did not have authorization from any of his principals to withdraw and use these funds as described above.

### VI

During 1983, 1984, and 1985, Respondent did not keep the trust fund records required by the regulations of the Real Estate Commissioner (California Administrative Code, Title 10, herein "the Regulations") as follows:

- (1) Respondent did not keep the required records of the dates on which trust funds were deposited in the bank trust account. (Regulation 2831)

- (2) Respondent did not keep the required records of the daily balance of the bank trust account. (Regulation 2831)
- (3) Respondent did not keep the required records for all trust funds received and not deposited in the bank trust account. (Regulation 2831)

VII

During 1983, 1984, and 1985, Respondent did not review and initial all contracts and documents for the property management business as required by Regulation 2725, including, but not limited to, listings for leasing or renting as follows:

<u>Date</u>	<u>Owner</u>	<u>Property</u>
June 20, 1984	Armando Enriquez	700 James Way, Madera, CA
June 29, 1984	Debbie Garfield	17450 Crescent, Madera, CA
June 4, 1984	(Not legible)	17823 Wabash, Madera, CA
November 9, 1984	Jeaneane Stagle	1104 Philip St., Madera, CA

(Regulation 2725).

DETERMINATION OF ISSUES

The facts, acts and/or omissions described in the Findings of Fact were proven to be true by clear and convincing evidence to a reasonable certainty.

There are grounds for the revocation or suspension of Respondent's license pursuant to Findings IV, V, VI, and VII, under the followings Sections of the Business and Professions Code:

- (1) As to Finding IV under Section 10177(d) in conjunction with Section 10145 of the Code;
- (2) As to Finding V under Section 10176(i) of the Code;
- (3) As to Finding VI under Section 10177(d) of the Code in conjunction with Regulation 2831;
- (4) As to Finding VII under Section 10177(d) of the Code in conjunction with Regulation 2725.

ORDER

- A. The real estate broker license of Respondent Donald La Rue Floyd is hereby revoked.

- B. A restricted real estate broker license shall be issued to respondent Donald La Rue Floyd pursuant to Section 10156.5 of the Business and Professions Code, if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within 90 days from the effective date of the Decision herein, and, if Respondent submits to the Department at the time of making application, evidence satisfactory to the Department that Respondent has cured the trust fund shortage of \$481.87 existing on February 11, 1986, that there is no current trust fund shortage and that Respondent is maintaining in his trust account the additional amount of \$1,382.18 representing trust obligations owed to Larry Fournier, Western Carpet, Glenetta Vater, Tim and Stacy Treat, John Robbins, and Rick Jensen, payment of which obligations has not been verified.
- C. The restricted license issued to Respondent shall be subject to all 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 said Code:
1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
    - (A) The conviction of Respondent (including a plea of nolo contendere) to a crime which bears a significant relation to Respondent's fitness or capacity as a real estate licensee; or
    - (B) The receipt of evidence 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 this restricted license.
  2. By force of Government Code §11522 Respondent is not eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted license until one year has elapsed from the date of issuance of the restricted license to Respondent.
  3. The restricted license may be suspended by order of the Real Estate Commissioner pending a final determination after a hearing if Respondent fails to present evidence satisfactory to the Department within six months from the effective date of the Decision of having taken and completed 45 hours of approved continuing education offerings within the four-year period immediately preceding the date on which the Respondent presents such evidence to the Department.

4. Respondent shall maintain in his trust account the amount of \$1,382.18 until claimed by the persons entitled thereto or until escheated to the State of California pursuant to the Unclaimed Property Law. Respondent shall make a good faith effort to locate the persons to whom the obligations are owed.

DATED:

February 4, 1987



BETTY R. LUDEMAN

Regional Manager

Department of Real Estate

**FILED**  
DEC 04 1985

DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

By Kathleen Contreras

In the Matter of the Accusation of  
DONALD LA RUE FLOYD,  
Respondent(s)

Case No. H-755 FRESNO  
N 25958

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 State Building, 2550 Mariposa Mall, Fresno, California  
Room 1027

on the 23 day of January, 1986, at the hour of 9:00 AM,  
or as soon thereafter as the matter can be heard, upon the charges made in the  
Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel,  
but you are neither required to be present at the hearing nor to be represented by  
counsel. If you are not present in person, nor represented by counsel at the hearing,  
the Department may take disciplinary action against you upon any express admissions,  
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.

DATED: December 4, 1985

DEPARTMENT OF REAL ESTATE  
By Roland Adickes  
ROLAND ADICKES Counsel

2/1/8

FILED  
JUL 29 1985

DEPARTMENT OF REAL ESTATE

By Nicole Alexander

1 ROLAND ADICKES, Counsel  
Department of Real Estate  
2 1719 24th Street  
P.O. Box 160009  
3 Sacramento, CA 95816  
4 (916) 445-6112

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of, )  
DONALD LA RUE FLOYD, ) NO. H-755 FRESNO  
Respondent. ) ACCUSATION

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The Complainant, Robert McCabe, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against DONALD LA RUE FLOYD (hereinafter referred to as  
respondent) is informed and alleges as follows:

I

Respondent 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").

II

The Complainant, Robert McCabe, a Deputy Real Estate  
Commissioner of the State of California, acting in his official  
capacity as such and not otherwise, makes this Accusation against  
respondent.



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III

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IV

Respondent kept a bank trust account for depositing property management trust funds. Respondent failed to deposit and to maintain some of these trust funds as required by Section 10145 of the Code resulting in shortages of trust funds as of the following dates:

- (1) On December 31, 1984 Respondent's trust obligations were \$5,837.66 and the adjusted bank balance of Respondent's trust account on this date was negative by \$10,377.00, resulting in a total trust funds shortage of \$16,215.65.
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1 not authorized by the owners of these trust funds. Respondent did  
2 not have authorization from any of his principals to withdraw and  
3 use these funds as described above.

4 VI

5 During 1983, 1984 and 1985 Respondent did not keep the  
6 trust fund records required by the regulations of the Real Estate  
7 Commissioner (California Administrative Code, Title 10, herein  
8 "the Regulations") as follows:

- 9 (1) Respondent did not keep the required records of the  
10 dates on which trust funds were deposited in the bank  
trust account. (Regulation 2831)
- 11 (2) Respondent did not keep the required records of the  
12 daily balance of the bank trust account. (Regulation  
2831)
- 13 (3) Respondent did not keep the required records for  
14 all trust funds received and not deposited in the bank  
trust account. (Regulation 2831)

15 VII

16 During 1983, 1984 and 1985 Respondent did not review and  
17 initial all contracts and documents for the property management  
18 business as required by Regulation 2725, including, but not  
19 limited to listings for leasing or renting as follows:

20	<u>Date</u>	<u>Owner</u>	<u>Property</u>
21	June 20, 1984	Armando Enriquez	700 James Way, Madera, CA
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24	November 9, 1984	Jeaneane Stagle	1104 Philip St., Madera, CA
25			(Regulation 2725).

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VIII

The act and/or omissions of Respondent described above are grounds for the suspension or revocation of respondent's license under the following sections of the Code and the Regulations:

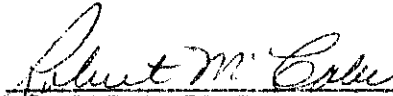
1) As to paragraph IV under Section 10177(d) in conjunction with Section 10145 of the Code;

2) As to paragraph V under Section 10176(i) of the Code;

3) As to paragraph VI under Section 10177(d) of the Code in conjunction with Regulation 2831;

4) As to paragraph VII under Section 10177(d) of the Code in conjunction with Regulation 2725.

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 respondent, 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 the provisions of law.

  
ROBERT McCABE  
Deputy Real Estate Commissioner

Dated at Fresno, California  
this 23<sup>rd</sup> day of July 1985.