

1 Department of Real Estate  
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**FILED**  
APR 18 2012

DEPARTMENT OF REAL ESTATE  
By R. MAX

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 To: )  
12 ) NO. H-4323 SD  
13 JAMES MARVIN ROTH and )  
14 ROTH CONSTRUCTION ) ORDER TO DESIST AND REFRAIN  
15 CORPORATION. ) (B & P Code Section 10086)

16 The Commissioner ("Commissioner") of the California Department of Real Estate  
17 ("Department") caused an investigation to be made of the activities of JAMES MARVIN ROTH,  
18 ("ROTH"), and ROTH CONSTRUCTION CORPORATION, ("RCC"), (collectively  
19 "Respondents"). Based on that investigation, the Commissioner has determined that Respondents  
20 have engaged in, are engaging in, or are attempting to engage in, acts or practices constituting  
21 violations of the California Business and Professions Code ("Code"), including acting in the  
22 capacity of, advertising or assuming to act as a real estate broker in the State of California within  
23 the meaning of Section 10131(b) (representing clients in the capacity of a rental property  
24 manager) of the Code.

25 Furthermore, based on the investigation, the Commissioner hereby issues the  
26 following Findings of Fact, Conclusions of Law and Desist and Refrain Order under the authority  
27 of Section 10086 of the Code.

1 FINDINGS OF FACT

2 1. At all times mentioned herein, ROTH is and was licensed by the  
3 Department to conduct real estate activity solely as the designated officer of ROTH  
4 MANAGEMENT CORPORATION. In addition, ROTH is the Chief-Executive Officer and  
5 Secretary of RCC and the President of TALMADGE EAST LLC ("TE"). Although ROTH is  
6 and was an officer for both RCC and TE, those companies are separate and distinct entities.

7 2. At all times mentioned herein, RCC was not licensed in any capacity by  
8 the Department to conduct real estate activity in the State of California.

9 3. During 2008 and 2009, RCC conducted property management activities  
10 on behalf of TE (including collecting rent, showing properties and negotiating least agreements)  
11 for real property located at the following addresses in La Mesa, California:

<u>Unit</u>	<u>Address</u>
L-1	5092 Guava Ave #130
L-2	5092 Guava Ave #129
L-5	5092 Guava Ave #126
L-7	5092 Guava Ave #124
L-8	5092 Guava Ave #123
L-10	5092 Guava Ave #121
L-11	5088 Guava Ave #120
L-13	5088 Guava Ave # 118
L-15	5084 Guava Ave #111

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19 4. Units L-1, L-10-13 and L15 were owned by ROTH, while Units L-2, L-5,  
20 L7 and L-8 were owned by Anice P.

21 5. During 2008, Respondents collected \$98,445.60 in rent for the properties  
22 owned by Anice P. However, Respondents only paid \$37,075.45 of that amount for the  
23 mortgages owed on the properties they managed for Anice P. and failed remit the remaining  
24 funds collected on her properties to Anice P.

25 6. During 2009, Respondents collected \$15,861.50 in rent for the properties  
26 owned by Anice P. However, Respondent failed to make any mortgage payments on the

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1 properties they managed on behalf of Anice P. and also failed to remit any of the funds they  
2 collected on her properties to Anice P.

3 CONCLUSIONS OF LAW

4 Based on the Findings of Fact contained in Paragraphs 1 through 6, above,  
5 JAMES MARVIN ROTH and ROTH CONSTRUCTION CORPORATION have performed  
6 and/or participated in property management activities which require a real estate license under  
7 Section 10131(b) of the Code during a period of time when (1) JAMES MARVIN ROTH was  
8 licensed to conduct real estate activity solely as the designated officer of ROTH  
9 MANAGEMENT CORPORATION, and (2) ROTH CONSTRUCTION COMPANY was not  
10 licensed to conduct real estate activity by the Department in any capacity, in violation of Section  
11 10130 of the Code.

12 DESIST AND REFRAIN ORDER

13 Based on the Findings of Fact and Conclusions of Law stated herein, JAMES  
14 MARVIN ROTH and ROTH CONSTRUCTION CORPORATION, whether doing business  
15 under their own names, or any other names or fictitious names, or by and/or through any related  
16 entity, ARE HEREBY ORDERED to immediately desist and refrain from performing any and all  
17 acts within the State of California for which a real estate broker license is required unless and  
18 until they are properly licensed by the Department as a real estate broker and you have paid in full  
19 the money you received on behalf of Anice P. on her real property, as set forth above.

20 DATED: 3/16/12

21 BARBARA J. BIGBY  
22 Acting Real Estate Commissioner

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