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APR 14 2005

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

MARCUS HAMILTON PERRY,

Respondent.

No. H-5716 SF

H-6011 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On January 12, 1987, in Case No. H-5716 SF, a Decision was rendered revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on February 23, 1987. On July 19, 1988, in Case No. H-6011 SF, a Decision was rendered revoking the restricted real estate broker license of Respondent.

On May 24, 2004, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has failed
3 to demonstrate to my satisfaction that Respondent has undergone
4 sufficient rehabilitation to warrant the reinstatement of
5 Respondent's unrestricted real estate broker license.

6 The burden of proving rehabilitation rests with the
7 petitioner (Feinstein v. State Bar (1952) 39 Cal. 2d 541). A
8 petitioner is required to show greater proof of honesty and
9 integrity than an applicant for first time licensure. The proof
10 must be sufficient to overcome the prior adverse judgment on the
11 applicant's character (Tardiff v. State Bar (1980) 27 Cal. 3d
12 395).

13 The Decision in this matter found that Respondent, as
14 the officer designated by a corporate broker licensee, had failed
15 to exercise reasonable supervision over the activities of the
16 corporation for which a real estate license is required,
17 including the employment of an unlicensed person to perform acts
18 for which a real estate license is required.

19 Given the violations found and the fact that Respondent
20 has not engaged as a broker in the operation of a real estate
21 brokerage business or otherwise acted in a fiduciary capacity,
22 Respondent has not established that he has complied with Section
23 2911 (k), Title 10, California Code of Regulations.

24 Consequently, I am not satisfied that Respondent is sufficiently
25 rehabilitated to receive an unrestricted real estate broker
26 license. Additional time and evidence of correction as a

27 ///

1 restricted real estate broker is necessary to establish that
2 Respondent is rehabilitated.

3 I am satisfied, therefore, that it will not be against
4 the public interest to issue a restricted real estate broker
5 license to Respondent.

6 NOW, THEREFORE, IT IS ORDERED that Respondent's
7 petition for reinstatement of his real estate broker license is
8 denied.

9 A restricted real estate broker license shall be issued
10 to Respondent pursuant to Section 10156.5 of the Business and
11 Professions Code, if Respondent satisfies the following
12 conditions prior to and as a condition of obtaining a restricted
13 real estate broker license within nine (9) months from the date
14 of this Order:

15 1. Respondent shall take and pass the real estate
16 broker license examination.

17 2. Submittal of a completed application and payment of
18 the fee for a real estate broker license.

19 3. Submittal of evidence of having, since the most
20 recent issuance of an original or renewal real estate license,
21 taken and successfully completed the continuing education
22 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
23 for renewal of a real estate license.

24 The restricted license issued to Respondent shall be
25 subject to all of the provisions of Section 10156.7 of the
26 Business and Professions Code and to the following limitations,
27 ///

1 conditions and restrictions imposed under authority of Section
2 10156.6 of that Code:

3 A. The restricted license issued to Respondent may be
4 suspended prior to hearing by Order of the Real Estate
5 Commissioner in the event of Respondent's conviction or plea of
6 nolo contendere to a crime which is substantially related to
7 Respondent's fitness or capacity as a real estate licensee.

8 B. The restricted license issued to Respondent may be
9 suspended prior to hearing by Order of the Real Estate
10 Commissioner on evidence satisfactory to the Commissioner that
11 Respondent has violated provisions of the California Real Estate
12 Law, the Subdivided Lands Law, Regulations of the Real Estate
13 Commissioner or conditions attaching to the restricted license.

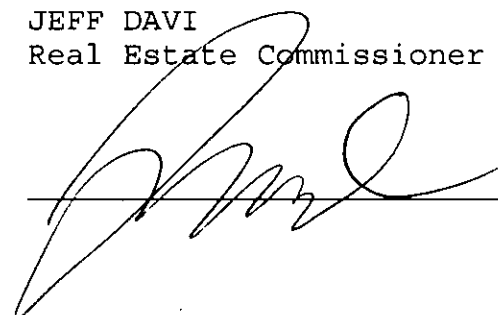
14 C. Respondent shall not be eligible to apply for the
15 issuance of an unrestricted real estate license nor the removal
16 of any of the limitations, conditions or restrictions of a
17 restricted license until two (2) years have elapsed from the date
18 of the issuance of the restricted license to respondent.

19 This Order shall become effective at 12 o'clock
20 noon on MAY 05 2005, 2005.

21 Dated: 4-12, 2005.

22 JEFF DAVI
23 Real Estate Commissioner

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27



A large, stylized handwritten signature in dark ink, likely belonging to Jeff Davi, is written over a horizontal line. The signature is fluid and cursive, with the first letter being a large capital 'J'.

FILED

MAY 3 1 2003

DEPARTMENT OF REAL ESTATE

By Jean Alameda

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
MARCUS HAMILTON PERRY,) NO. H-5716 SF
Respondent.) NO. H-6011 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On January 12, 1987, in Case No. H-5716 SF, a Decision was rendered revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on February 23, 1987. On July 19, 1988, in Case No. H-6011 SF, a Decision was rendered revoking the restricted real estate broker license of Respondent.

On July 18, 2002, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

1 I have considered Respondent's petition and the
2 evidence and arguments in support thereof. Respondent has failed
3 to demonstrate to my satisfaction that Respondent has undergone
4 sufficient rehabilitation to warrant the reinstatement of
5 Respondent's unrestricted real estate broker license.

6 The Decision in this matter found that Respondent,
7 as the officer designated by a corporate broker licensee, had
8 failed to exercise reasonable supervision over the activities
9 of the corporation for which a real estate license is required,
10 including the employment of an unlicensed person to perform acts
11 for which a real estate license is required.

12 Given the violations found and the fact that Respondent
13 has not engaged as a broker in the operation of a real estate
14 brokerage business or otherwise acted in a fiduciary capacity,
15 Respondent has not established that he has complied with Section
16 2911 (k), Title 10, California Code of Regulations. Consequently,
17 I am not satisfied that Respondent is sufficiently rehabilitated
18 to receive an unrestricted real estate broker license.
19 Additional time and evidence of correction as a restricted real
20 estate broker is necessary to establish that Respondent is
21 rehabilitated.

22 I am satisfied, therefore, that it will not be against
23 the public interest to issue a restricted real estate broker
24 license to Respondent.

25 NOW, THEREFORE, IT IS ORDERED that Respondent's
26 petition for reinstatement of his real estate broker license is
27 denied.

1 A restricted real estate broker license shall be issued
2 to Respondent pursuant to Section 10156.5 of the Business and
3 Professions Code, if Respondent satisfies the following
4 conditions within nine (9) months from the date of this Order:

5 1. Respondent shall take and pass the real estate
6 broker license examination.

7 2. Submittal of a completed application and payment
8 of the fee for a real estate broker license.

9 3. Submittal of evidence of having, since the most
10 recent issuance of an original or renewal real estate license,
11 taken and successfully completed the continuing education
12 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
13 for renewal of a real estate license.

14 The restricted license issued to Respondent shall be
15 subject to all of the provisions of Section 10156.7 of the
16 Business and Professions Code and to the following limitations,
17 conditions, and restrictions imposed under authority of Section
18 10156.6 of that Code:

19 A. The restricted license issued to Respondent may be
20 suspended prior to hearing by Order of the Real Estate
21 Commissioner in the event of Respondent's conviction or plea of
22 nolo contendere to a crime which is substantially related to
23 Respondent's fitness or capacity as a real estate licensee.

24 B. The restricted license issued to Respondent may
25 be suspended prior to hearing by Order of the Real Estate
26 Commissioner on evidence satisfactory to the Commissioner that
27 Respondent has violated provisions of the California Real Estate

1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

3 C. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor the removal
5 of any of the limitations, conditions, or restrictions of a
6 restricted license until two (2) years have elapsed from the
7 date of the issuance of the restricted license to Respondent.

8 This Order shall be effective immediately.

9 DATED: May 5, 2003.
10

11 PAULA REDDISH ZINNEBANN
12 Real Estate Commissioner
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Paula Reddish Zinnemann

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JAN 15 1987

DEPARTMENT OF REAL ESTATE

By Mary A. Novello
Mary A. Novello

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
WESTERN MONEY FUND)
and)
MARCUS HAMILTON PERRY,)
Respondents.)

NO. H-5716 SF

OAH NO. N-27465

DECISION

The Proposed Decision dated December 24, 1986 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 February 4, 1987.

IT IS SO ORDERED January 12, 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

In the Matter of the Accusation of)		
	)	
	)	
WESTERN MONEY FUND	)	CASE NO. H-5716 SF
	)	
and	)	OAH NO. N-27465
	)	
MARCUS HAMILTON PERRY,	)	
	)	
Respondents.	)	

PROPOSED DECISION

This matter was heard before Ruth S. Astle, Administrative Law Judge, Office of Administrative Hearings, State of California on December 10, 1986 in San Francisco, California.

Vera Winter Lee, Staff Counsel, represented the complainant.

Respondents, Western Money Fund and Marcus Hamilton Perry were not present, but a stipulation was presented signed by all parties.

It was stipulated by the parties that:

FINDINGS OF FACT

I

Western Money Fund, dba Western Mortgage (Western) and Marcus Hamilton Perry (Perry), respondents are presently licensed and have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code* as real estate brokers.

*All code references are to the Business and Professions Code unless otherwise noted.

II

Edward V. Chiolo made the Accusation in his official capacity as Deputy Real Estate Commissioner of the State of California.

III

Since at least December 14, 1983, Western has been licensed as a real estate broker in the State of California through Perry as its designated officer responsible for the supervision and control of activities conducted on behalf of Western for which a real estate license is required.

IV

Since at least July 15, 1985, Western employed and compensated Ginny Davies (Davies) for soliciting borrowers and negotiating loans to be secured by liens on real property.

V

On July 31, 1985, Davies solicited Joseph and Jerrie Calderon as prospective borrowers and entered into negotiations with them to obtain for them a loan to be secured by a lien on real property.

VI

In performing the acts referred to in Findings IV and V, Davies engaged in the business and acted in the capacity of a real estate licensee within the meaning of the law.

VII

At the time of engaging in the activities described in Findings IV and V, Davies did not possess a real estate license issued by the Department.

VIII

In employing and compensating Davies for the acts described in Findings IV and V, when she was not a real estate licensee, Western violated the law.

DETERMINATION OF ISSUES

By reason of the matters set forth in Findings II through VIII, cause for disciplinary action exists pursuant to sections 10137 and 10131(d).

ORDER

Concerning Western Money Fund

1. All licenses and license rights of respondent Western Money Fund under Part 1 of Division 4 of the Business and Professions Code are hereby revoked.

2. A restricted corporate real estate broker license shall be issued to respondent Western pursuant to section 10156.5 of the Business and Professions Code if it makes application therefor and pays to the Department of Real Estate the appropriate fee for the license within ninety (90) days from the effective date of the Decision.

3. The restricted license issued to respondent Western Money Fund shall be subject to all of the provisions of Sections 10156.7 of the Business and Professions Code and to the following limitations imposed under authority of Section 10156.6 of the Code:

- A. The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or a plea of nolo contendere to a crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee.
- B. The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated the provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner or conditions attaching to the restricted license.
- C. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of the restricted license until one (1) year has elapsed from the date of issuance of the restricted license to respondent.

Concerning Marcus Hamilton Perry

1. All licenses and license rights of respondent Perry under Part 1 of Division 4 of the Business and Professions Code are revoked.

2. A restricted real estate broker license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if he makes application therefor and pays to the Department of Real Estate the appropriate fee for said license within ninety (90) days from the effective date of this Decision.

3. 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 imposed under authority of Section 10156.6 of the Code:

A. The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or a plea of nolo contendere to a crime which bears a significant relation to respondent's fitness or capacity as a real estate licensee.

B. The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated the provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner or conditions attaching to the restricted license.

C. The restricted license may be suspended by Order of the Real Estate Commissioner pending a final determination after a hearing if the respondent, within nine (9) months from the effective date of the Decision fails to present evidence satisfactory to the Real Estate Commissioner that he 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 the 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.

- D. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of a restricted license until one (1) year has elapsed from the date of issuance of the restricted license to respondent.

DATED:

December 24, 1986

Ruth S. Astle

RUTH S. ASTLE

Administrative Law Judge

RSA:lhj

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of
WESTERN MONEY FUND and
MARCUS HAMILTON PERRY
Respondent(s)

By C. Westbrook

Case No. H-5716 S.F.C. Westbrook
N 27465

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 Santa Clara County Administration Building,

70 West Hedding Street, Room W-100, San Jose, CA

on the 10th day of December, 1986, at the hour of 9:30 a.m. (one day hearing)

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: September 15, 1986

DEPARTMENT OF REAL ESTATE

By Vera Winter Lee

VERA WINTER LEE, Counsel

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1 VERA WINTER LEE, Counsel
2 DEPARTMENT OF REAL ESTATE
185 Berry Street, Room 5816
San Francisco, CA 94107-1770

DEPARTMENT OF REAL ESTATE

3 Telephone: (415) 557-3220

By Mary A. Morello
Mary A. Morello

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 - - -
11 In the Matter of the Accusation of)
12 WESTERN MONEY FUND)
13 and)
14 MARCUS HAMILTON PERRY,)
15 Respondents.)

NO. H-5716 SF

ACCUSATION

16
17 The Complainant, EDWARD V. CHIOLO, a Deputy Real
18 Estate Commissioner of the State of California, for cause of
19 Accusation against WESTERN MONEY FUND, dba Western Mortgage,
20 (Western) and MARCUS HAMILTON PERRY (Perry), is informed and
21 alleges as follows:

22 I

23 Western and Perry are presently licensed and/or have
24 license rights under the Real Estate Law, Part 1 of Division 4
25 of the Business and Professions Code (Code) as real estate
26 brokers.

27 / / / / /

1 II

2 The Complainant, EDWARD V. CHIOLO, a Deputy Real Estate
3 Commissioner of the State of California, makes this Accusation
4 against respondents Western and Perry in his official capacity.

5 III

6 Since at least December 14, 1983, Western has been
7 licensed as a real estate broker in the State of California
8 through Perry as its designated officer responsible for the
9 supervision and control of activities conducted on behalf of
10 Western for which a real estate license is required.

11 IV

12 Since at least July 15, 1985, Western employed and
13 compensated Ginny Davies (Davies) for soliciting borrowers and
14 negotiating loans to be secured by liens on real property.

15 V

16 On or about July 31, 1985, Davies solicited Joseph and
17 Jerrie Calderon as prospective borrowers and entered into
18 negotiations with them to obtain for them a loan to be secured
19 by a lien on real property.

20 VI

21 In performing the acts referred to in Paragraphs IV
22 and V, Davies engaged in the business and acted in the capacity
23 of a real estate licensee within the meaning of Section
24 10131(d) of the Code.

25 VII

26 At the time of engaging in the activities described in
27 Paragraphs IV and V, Davies did not possess a real estate

1 license issued by the Department.

2 VIII

3 In employing and compensating Davies for the acts
4 described in Paragraphs IV and V, when she was not a real estate
5 licensee, Western violated Section 10137 of the Code.

6 IX

7 The facts alleged above constitute cause under Section
8 10137 of the Code for suspension or revocation of all licenses
9 and license rights of respondents Western and Perry.

10 * * * * *

11 WHEREFORE, Complainant prays that a hearing be
12 conducted on the allegations of this Accusation and that upon
13 proof thereof, a decision be rendered imposing disciplinary
14 action against all licenses and license rights of respondents
15 under the Real Estate Law (Part 1 of Division 4 of the Business
16 and Professions Code), and for such other and further relief as
17 may be proper under other provisions of law.

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Edward V. Chiolo

EDWARD V. CHIOLO
Deputy Real Estate Commissioner

Dated at San Francisco, California
this 14th day of July, 1986.