

FILED

SEP 14 2023

DEPT. OF REAL ESTATE

By



BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of

DRE No. H-05750-SD

ROTH ASSET MANAGEMENT and PETER  
A. DURSI, individually and as designated  
officer of Roth Asset Management,

Respondents.

ORDER VACATING DECISION AND SETTING ASIDE DEFAULT

On August 22, 2023, a Decision was rendered revoking the real estate licenses of Respondents  
ROTH ASSET MANAGEMENT and PETER A. DURSI, effective September 18, 2023.

On August 30, 2023, good cause was presented to vacate the Decision of August 22, 2023,  
and to have the matter remanded to the Office of Administrative Hearings as a contested matter.

NOW, THEREFORE, IT IS ORDERED that the Decision of August 22, 2023, is vacated  
and that the Matter of the Accusation filed on June 26, 2023, is remanded to the Office of  
Administrative Hearings.

This Order shall be effective immediately.

DATED: 9/13/23.

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER



*for Doug McCauley*

FILED

AUG 28 2023

DEPT. OF REAL ESTATE

By \_\_\_\_\_

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of:

DRE No. H-05750 SD

ROTH ASSET MANAGEMENT and  
PETER A. DURSI, individually and as  
designated officer of Roth Asset  
Management,

Respondents.

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Orders of Default filed on 08/14/2023, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondents ROTH ASSET MANAGEMENT ("RAM") and PETER A. DURSI ("DURSI"), (collectively "Respondents"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses on the grounds of the violation of the Real Estate Law, Part 1 commencing with Section 10000 of the Business and Professions Code ("Code") and/or the Regulations of the Real Estate Commissioner, Title 10, Chapter 6 of the California Code of Regulations ("Regulations").

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

## FINDINGS OF FACT

1.

On 06/26/2023, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to each of the Respondent's last known mailing address(es) on file with the Department on 06/26/2023.

On 08/14/2023, no Notices of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, the defaults of Respondents RAM and DURSI were entered herein.

2.

Respondent RAM is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate corporation. Respondent DURSI is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code as a real estate broker.

3.

At all times mentioned, Respondent RAM was licensed and/or had licensing rights issued by the Department of Real Estate as a real estate corporation, with RAM acting by and through DURSI as its designated officer. At all times mentioned, Respondent DURSI was licensed and/or had licensing rights issued by the Department of Real Estate as a real estate broker.

4.

At all times mentioned, in San Diego County, California, Respondent RAM acted as a real estate corporation, conducting licensed activities within the meaning of Code section 10131(b): leasing or renting, offering to lease or rent, or collecting rents from real property for others.

5.

To date, the Department has incurred investigation costs (\$683.20), audit costs (\$5,549.08), and enforcement costs (\$518.40) with a combined total of \$6,750.68. Respondents RAM and DURSI shall pay these costs, jointly or severally, to the Department upon the filing by any one, or more, Respondent of a petition for reinstatement pursuant to Government Code Section 11522.

6.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on 06/26/2023, which is incorporated herein as part of this Decision.



## DETERMINATION OF ISSUES

7.

The allegations contained in the Accusation, incorporated herein by reference made in Paragraph 6, above, constitute cause for the suspension or revocation of all the licenses, license endorsements, and license rights of Respondent RAM under the provisions of Business and Professions Code ("Code") sections 10130, 10137, 10145, and 10177(d) and/or 10177(g).

8.

The allegations contained in the Accusation, incorporated herein by reference made in Paragraph 6, above, constitute cause for the suspension or revocation of all the licenses, license endorsements, and license rights of Respondent DURSI under the provisions of Code sections 10159.2, 10177(h), 10177(d) and/or 10177(g).

9.

The standard of proof applied was clear and convincing evidence to a reasonable certainty.

## ORDER

All licenses and licensing rights of Respondents ROTH ASSET MANAGEMENT and PETER A. DURSI under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on Sept. 18, 2023.

DATED: 8/22/23.

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER



By: Marcus L. McCarther,  
Chief Deputy Real Estate Commissioner

FILED

AUG 14 2023

DEPT. OF REAL ESTATE

By

1 Department of Real Estate  
2 320 West Fourth St, Ste 350  
3 Los Angeles, CA, 90013  
4  
5  
6  
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of: ) DRE NO. *H-05750 SD*  
12 )  
13 ROTH ASSET MANAGEMENT, ) DEFAULT ORDER  
14 )  
15 Respondent. )  
16 )

17 Respondent ROTH ASSET MANAGEMENT, having failed to file a Notice  
18 of Defense within the time required by Section 11506 of the Government Code, is now in  
19 default. It is, therefore, ordered that a default be entered on the record in this matter.

20 IT IS SO ORDERED AUGUST 08, 2023.

21 DOUGLAS R. McCAULEY  
22 REAL ESTATE COMMISSIONER

23 By:   
24 CHIKA SUNQUIST  
25 Assistant Commissioner, Enforcement  
26  
27

FILED

AUG 14 2023

DEPT. OF REAL ESTATE

By

1 Department of Real Estate  
2 320 West Fourth St, Ste 350  
3 Los Angeles, CA, 90013  
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7

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of: ) DRE NO. *H-05750 SD*  
12 )  
13 PETER A DURSI, ) DEFAULT ORDER  
14 Respondent. )  
15 \_\_\_\_\_)

16 Respondent PETER A DURSI, having failed to file a Notice of Defense  
17 within the time required by Section 11506 of the Government Code, is now in default. It is,  
18 therefore, ordered that a default be entered on the record in this matter.

19 IT IS SO ORDERED AUGUST 08, 2023.

20 DOUGLAS R. McCAULEY  
21 REAL ESTATE COMMISSIONER

22 By:

23 CHIKA SUNQUIST  
24 Assistant Commissioner, Enforcement  
25  
26  
27

# EXHIBIT A

# EXHIBIT A

FILED

JUN 26 2023

DEPT. OF REAL ESTATE

By

1 LAURENCE D. HAVESON, Counsel (SBN 152631)  
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) 576-6854  
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8 Email: Laurence.Haveson@dre.ca.gov  
9 Attorney for Complainant

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\*\*\*

In the Matter of the Accusation of

No. H-05750-SD

ROTH ASSET MANAGEMENT and  
PETER A. DURSI, individually and as  
designated officer of Roth Asset  
Management,

ACCUSATION

Respondents.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department of Real Estate ("Department" or "DRE") of the State of California, for cause of Accusation against ROTH ASSET MANAGEMENT ("RAM") and PETER A. DURSI ("DURSI"), collectively "Respondents," alleges as follows:

1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a Supervising Special Investigator, makes this Accusation against Respondents.

2. All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

LICENSE HISTORY

3. Respondent RAM has been licensed by the Department as a real estate corporation ("REC"), license identification number ("License ID") 02065741, from on or about June 15, 2018, through the present, with RAM's license scheduled to expire on August 28, 2026, unless renewed. From on or about March 12, 2022, through on or about August 28, 2022, RAM was licensed with



1 no business address ("NBA"), and the license was in a non-working status. From on or about June  
2 15, 2018, through on or about March 11, 2022, the late James Marvin Roth ("JMR"), License ID  
3 00445059, was RAM's designated officer ("D.O."). JMR's REB license expired on January 8,  
4 1985, and was never renewed. RAM was able to obtain a REC license pursuant to Code section  
5 10171.1 after JMR submitted evidence of having completed 45 hours of approved continuing  
6 education courses. On or about March 11, 2022, JMR passed away.

7 4. From on or about August 29, 2022, through the present, RAM has been licensed  
8 through the REB license of DURSI, License ID 01378682, and DURSI is RAM's current designated  
9 officer ("D.O."). According to Department records to date, RAM has no branch offices, maintains  
10 no licensed fictitious business names with the DRE, and employs no broker associates or  
11 salespersons.

12 5. Respondent DURSI has been licensed by the Department as a REB, License ID  
13 01378682, from on or about August 17, 2006, through the present, with DURSI's license scheduled  
14 to expire on August 16, 2026, unless renewed. DURSI was previously licensed as a real estate  
15 salesperson ("RES") from on or about April 22, 2003, to August 16, 2006. According to Department  
16 records to date, DURSI currently maintains no licensed fictitious business names, is the D.O. for  
17 REC USAeBroker Inc., License ID 02165448, and is a broker associate for REC La Jolla Partners  
18 Inc., License ID 01932411, and REC Real Brokerage Technologies, License ID 02022092.

19 **BROKERAGE: RAM**

20 6. At all times mentioned, in San Diego County, California, RAM acted as a REC,  
21 conducting licensed activities within the meaning of Code section 10131(b): leasing or renting,  
22 offering to lease or rent, or collecting rents from real property for others.

23 **AUDIT NO. SD220014**

24 7. On March 29, 2023, the Department completed an audit examination of the books  
25 and records of RAM's real estate activities that require a real estate broker license under Code  
26 section 10131. The audit examination in Audit No. SD220014, covered the time period March 1,

27 ///

28 ///

2022, to October 31, 2022 ("audit period"). The audit was limited to RAM's property management activities.

8. According to DURSI, RAM's corporate structure as of the audit date was as follows:

<u>Name</u>	<u>Title</u>	<u>License</u>	<u>Shareholder %</u>
Debra Ann Roth	President and Treasurer	Unlicensed (wife of JMR)	100%
DURSI	Secretary	REB License ID 01378682	0%

9. According to DURSI, RAM managed one apartment/townhome complex with 70 apartment units and 40 townhomes for 1 owner during the audit period. RAM collected rents, paid expenses, and screened tenants for compensation. There was a total collection of approximately \$2,200,000.00 in the last twelve months in rents and security deposits from the tenants. RAM charged a monthly management fee of 3.5%.

10. RAM maintains the following bank accounts for property management:

a. Bank Account 1 ("BA1")

Bank: Torrey Pines Bank, a division of Western Alliance Bank  
Account Name: Fairmount II LP  
Account #: XXXXXXXX1182  
Signatories: JMR  
Debra Ann Roth  
Signatures required: One (1) signature  
Description: BA1 was maintained for handling the receipts and disbursements of trust funds for a single beneficiary in connection with RAM's property management activity.

b. Bank Account 2 ("BA2")

Bank: Torrey Pines Bank, a division of Western Alliance Bank  
Account Name: Fairmount II LP  
Account #: XXXXXXXX4528  
Signatories: JMR  
Debra Ann Roth  
Signatures required: One (1) signature  
Description: BA2 was maintained for the disbursements of trust funds for a single beneficiary in connection with RAM's property management activity. BA2 was used to pay for repairs on the property managed.

///

**Audit Violations in Audit No. SD220014**

11. The audit examinations revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and as more fully discussed in Audit No. SD220014 and the exhibits and work papers attached to the audit report:

**Issue One (1). Code Section 10145 and Regulation 2832: Trust Fund Account Designation; Trust Fund Handling**

12. Based on an examination of the bank signature cards for BA1 and BA2, BA1 and BA2 were not designated as trust accounts in the name of RAM as trustee, in violation of Code section 10145 and Regulation 2832.

**Issue Two (2). Code Section 10145 and Regulation 2834: Handling of Trust Funds; Trust Account Withdrawals**

13. Based on an examination of the bank signature cards for BA1 and BA2, RAM allowed Debra Ann Roth (non-licensee) to be an authorized signer on BA1 and BA2, with authority to make withdrawals from BA1 and BA2, during a time that Debra Ann Roth was not licensed by the DRE. RAM did not have fidelity bond or insurance coverage for BA1 and BA2 during the audit period.

14. RAM's acts and/or omissions in authorizing Debra Ann Roth as a signatory on BA1 and BA2 and to make withdrawals from BA1 and BA2, and in failing to have fidelity bond or insurance coverage for BA1 and BA2, are in violation of Code Section 10145 and Regulation 2834.

**FIRST CAUSE OF ACCUSATION**

**AUDIT VIOLATIONS IN AUDIT NO. SD220014**

15. The Complainant realleges and incorporates by reference all of the allegations contained in paragraphs 1 through 14 above, with the same force and effect as though fully set forth herein.

16. RAM's acts and/or omissions as described above in paragraphs 12 through 14 violated the Code and the Regulations as set forth below:

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1	<b><u>Issue No.</u></b>	<b><u>Paragraphs</u></b>	<b><u>Violations</u></b>
2	1	12	Code section 10145; Regulation 2832
3	2	13-14	Code section 10145; Regulation 2834

4       17.     The foregoing violations constitute cause for the suspension or revocation of RAM's  
5 real estate license and license rights under the provisions of Code sections 10177(d) and/or  
6 10177(g).

7                   **SECOND CAUSE OF ACCUSATION: RESPONSIBILITY OF**  
8                   **CORPORATE OFFICER IN CHARGE / BROKER SUPERVISION**

9       18.     The Complainant realleges and incorporates by reference all of the allegations  
10 contained in paragraphs 1 through 17 above, with the same force and effect as though fully set forth  
11 herein.

12       19.     Based on the audit findings in Audit No. SD220014 in Issues 1 and 2 as alleged in  
13 paragraphs 12 through 14 above, during the period from August 29, 2022, through October 31, 2022,  
14 DURSI, as the officer designated by RAM as the person responsible for the supervision and control  
15 of the activities conducted on behalf of the corporation by its officers and employees as necessary  
16 to secure full compliance with the Real Estate Law in violation of Code section 10159.2, failed to  
17 exercise reasonable supervision over such activities, as described in Issues 1 and 2 above, and  
18 constitutes cause for the suspension or revocation of DURSI's real estate license and license rights  
19 under the provisions of Code sections 10177(h), 10177(d) and/or 10177(g).

20                   **THIRD CAUSE OF ACCUSATION**  
21                   **REAL ESTATE ACTIVITIES REQUIRING A LICENSE**

22       20.     The Complainant realleges and incorporates by reference all of the allegations  
23 contained in paragraphs 1 through 19 above, with the same force and effect as though fully set forth  
24 herein.

25       21.     RAM was engaged in property management activities requiring a license under Code  
26 section 10131(b) during the period from March 12, 2022, through August 28, 2022. RAM's D.O.  
27 was JMR until March 11, 2022, when JMR passed away. According to DRE licensing records, RAM  
28 ///

1 was not licensed to act through a designated officer from March 12, 2022, through August 28, 2022,  
2 and was licensed NBA during this period.

3 22. According to DRE licensing records, RAM did not provide notice of JMR's death  
4 and an application for a new designated officer until June 23, 2022, when the DRE received RAM's  
5 Corporation License Application seeking to designate DURSI as the new D.O., and a copy of JMR's  
6 death certificate. The DRE was unable to process the application until August 29, 2022, because  
7 the DRE required RAM to provide the correct licensing fee and a certificate of good standing from  
8 the California Secretary of State's Office.

9 23. RAM's acts and/or omissions in performing real estate activities in expectation of  
10 compensation during a time period when it was Licensed NBA, including the collection of rents,  
11 paying expenses, and receiving management fees, without RAM having its license affiliated with a  
12 designated officer, was in violation of Code section 10130, and constitutes cause for the suspension  
13 or revocation of RAM's real estate license and license rights under the provisions of Code sections  
14 10177(d) and/or 10177(g).

#### 15 **FOURTH CAUSE OF ACCUSATION**

##### 16 **UNLAWFUL RECEIPT AND PAYMENT OF COMPENSATION**

17 24. The Complainant realleges and incorporates by reference all of the allegations  
18 contained in paragraphs 1 through 23 above, with the same force and effect as though fully set forth  
19 herein.

20 25. After the death of JMR on March 11, 2022, RAM became licensed NBA, and Debra  
21 Roth, the surviving wife of deceased D.O. JMR, who was not licensed by the DRE, and was not an  
22 officer of RAM licensed by the DRE, became the unlicensed 100% owner of Roth Asset  
23 Management, and sole signatory for BA1 and BA2. From on or about March 12, 2022, through on  
24 or about August 28, 2022, while RAM was licensed NBA, Debra Ann Roth collected rents from  
25 tenants, managed the properties, wrote checks payable to RAM for the monthly management fee of  
26 3.5%, and deposited these fees into BA1.

27 26. Complainant is informed and believes, and on such information and belief, alleges  
28 that after depositing into BA1 the checks payable to RAM for the monthly management fee of 3.5%,



1 Debra Ann Roth would then cause an online transfer to be made from BA1 to her own account for  
2 an owner's draw from the management fee.

3 27. RAM's acts and/or omissions in accepting property management fees from Debra  
4 Ann Roth, a person who is not a licensed real estate broker or salesperson, and RAM's acts and or  
5 omissions in compensating Debra Ann Roth, through an owner's draw from the management fee,  
6 for performing acts requiring a real estate license, was in violation of Code section 10137 and  
7 constitutes cause for the suspension or revocation of RAM's real estate license and license rights  
8 under the provisions of Code sections 10177(d) and/or 10177(g).

9 **INVESTIGATION AND ENFORCEMENT COSTS**

10 28. Code section 10106 provides that in any order issued in resolution of a disciplinary  
11 proceeding before the Department of Real Estate, the Commissioner may request the administrative  
12 law judge to direct a licensee found to have committed a violation of this part to pay a sum not to  
13 exceed the reasonable costs of the investigation and enforcement of the case.

14 **AUDIT COSTS**

15 29. Code section 10148(b) provides, in pertinent part, the Commissioner shall charge a  
16 real estate broker for the cost of any audit, if the Commissioner has found in a final decision  
17 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation or  
18 rule of the Commissioner interpreting said section.

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1           WHEREFORE, Complainant prays that a hearing be conducted on the allegations of  
2 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action  
3 against all the licenses and license rights of ROTH ASSET MANAGEMENT and PETER A.  
4 DURSI under the Real Estate Law, for the costs of investigation and enforcement, and audit as  
5 permitted by law, and for such other and further relief as may be proper under other applicable  
6 provisions of law, and for costs of audit.

7  
8 Dated June 26, 2023, at San Diego, California.

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13 \_\_\_\_\_  
14 Veronica Kilpatrick  
15 Supervising Special Investigator

16 cc: ROTH ASSET MANAGEMENT  
17 PETER A. DURSI  
18 USAeBroker Inc.  
19 La Jolla Partners Inc.  
20 Veronica Kilpatrick  
21 Sacto.  
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