

DEPARTMENT OF REAL ESTATE
320 West Fourth Street, #350
Los Angeles, CA 90013

FILED
OCT 22 1999
DEPARTMENT OF REAL ESTATE

By K. Medeiros

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-28173 LA
)	
FRED EUGENE DOTERRER, dba)	<u>STIPULATION AND</u>
"Priority One Property Management,")	<u>AGREEMENT</u>
)	
Respondent.)	
)	

It is hereby stipulated by and between FRED EUGENE DOTERRER ("Respondent"), represented by Steven Pope, Esq., and the Complainant, acting by and through Martha J. Rosett, Counsel for the Department of Real Estate, as follows, for the purpose of settling and disposing of the Accusation filed on June 13, 1999, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on

1 the basis of the provisions of this Stipulation and Agreement in
2 Settlement.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. On July 20, 1999, Respondent filed a Notice of Defense
8 pursuant to Section 11505 of the Government Code for the purpose
9 of requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that he understands that by
12 withdrawing said Notice of defense, he will waive other rights
13 afforded to him in connection with the hearing, such as the right
14 to present evidence in defense of the allegations in the
15 Accusation and the right to cross-examine witnesses.

16 4. Respondent, pursuant to the limitations set forth below,
17 although not admitting or denying the truth of the allegations,
18 will not contest the factual allegations contained in the
19 Accusation filed in this proceeding and the Real Estate
20 Commissioner shall not be required to provide further evidence of
21 such allegations.

22 5. It is understood by the parties that the Real Estate
23 Commissioner may adopt the Stipulation and Agreement in Settlement
24 as his decision in this matter thereby imposing the penalty and
25 sanctions on Respondent's real estate licenses and license rights
26 as set forth below in the "Order." In the event that the
27 Commissioner in his discretion does not adopt the Stipulation and



1 Agreement in Settlement, it shall be void and of no effect, and
2 Respondent shall retain the right to a hearing and proceeding on
3 the Accusation under all the provisions of the APA and shall not
4 be bound by any stipulation or waiver made herein.

5 6. The Order or any subsequent Order of the Real Estate
6 Commissioner made pursuant to this Stipulation and Agreement in
7 Settlement shall not constitute an estoppel, merger or bar to any
8 further administrative or civil proceedings by the Department of
9 Real Estate with respect to any matters which were not
10 specifically alleged to be causes for accusation in this
11 proceeding, but shall constitute a bar, estoppel and merger as to
12 any allegations actually contained in the accusation against
13 Respondent herein.

14 7. The Stipulation is entered into by each party with the
15 express understanding and agreement that it is to be used for the
16 purposes of settling these proceedings only and that this
17 stipulation shall not be deemed, used, or accepted as an
18 acknowledgment or stipulation in any other civil or administrative
19 proceeding to which this Department is not a party. Said
20 stipulation is expressly limited to these proceedings and to any
21 further proceeding initiated by or brought before the Department
22 of Real Estate, and shall have no collateral estoppel or res
23 judicata effect in any proceeding other than a proceeding brought
24 by the Department of Real Estate.

25 8. This Stipulation contains the full and complete agreement
26 of the parties hereto with regard to the disposition of these
27 administrative proceedings, only, and this Stipulation supersedes



1 in their entirety all negotiations, discussions, agreements,
2 and/or proposals which may have been issued or made by the
3 respective parties and/or by attorneys for the respective parties
4 prior to the date of execution of this Stipulation.

5 DETERMINATION OF ISSUES

6 By reason of the foregoing stipulations and waivers and
7 solely for the purpose of settlement of the pending Accusation
8 without a hearing, it is stipulated and agreed that the following
9 determination of issues shall be made:

10 I

11 The conduct of Respondent, FRED EUGENE DOTERRER, as alleged
12 in the Accusation, was in violation of the Commissioner's
13 Regulations numbers 2831, 2832, 2831.1, 2831.2, and 2731, and
14 Business and Professions Code Sections 10145 and 10177(g), and is
15 grounds for the suspension or revocation of all of the real estate
16 licenses and license rights of Respondent under the provisions of
17 Section 10177(d) of the Business and Professions Code.

18 Order

19 All licenses and license rights of Respondent FRED EUGENE
20 DOTERRER under the Real Estate Law are revoked; provided,
21 however, a restricted real estate broker license shall be issued
22 to Respondent pursuant to Section 10156.5 of the Business and
23 Professions Code if Respondent makes application therefor and pays
24 to the Department of Real Estate the appropriate fee for the
25 restricted license within 90 days from the effective date of this
26 Decision. The restricted license issued to Respondent shall be
27 subject to all of the provisions of Section 10156.7 of the



1 Business and Professions Code and to the following limitations,
2 conditions and restrictions imposed under authority of section
3 10156.6 of that Code:

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

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

15 3. Respondent shall not be eligible to apply for the
16 issuance of an unrestricted real estate license nor for the
17 removal of any of the conditions, limitations or restrictions of a
18 restricted license until one (1) year has elapsed from the
19 effective date of this Decision.

20 4. Respondent shall, within nine months from the effective
21 date of this Decision, present evidence satisfactory to the Real
22 Estate Commissioner that Respondent has, since the most recent
23 issuance of an original or renewal real estate license, taken and
24 successfully completed the continuing education requirements of
25 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
26 real estate license.
27



1 5. Respondent shall, within six months from the effective
2 date of this Decision, take and pass the Professional
3 Responsibility Examination administered by the Department
4 including the payment of the appropriate examination fee. If
5 Respondent fails to satisfy this condition, the Commissioner may
6 order suspension of Respondent's license until Respondent passes
7 the examination.

8 6. Pursuant to Section 10148 of the Business and
9 Professions Code, Respondent shall pay the Commissioner's
10 reasonable cost for an audit to determine if Respondent has
11 corrected the trust fund violations found in Paragraph One (I) of
12 the Determination of Issues. In calculating the amount of the
13 Commissioner's reasonable cost, the Commissioner may use the
14 estimated average hourly salary for all persons performing audits
15 of real estate brokers, and shall include an allocation for travel
16 costs, including mileage, time to and from the auditor's place of
17 work and per diem. Respondent shall pay such cost within 45 days
18 of receiving an invoice from the Commissioner detailing the
19 activities performed during the audit and the amount of time spent
20 performing those activities.

21
22 DATED: 9/15/99

Martha J. Rosett
23
24 MARTHA J. ROSETT
25 Counsel for Complainant

26 * * * *

27



1 I have read the Stipulation and Agreement in Settlement,
2 and its terms are understood by me and are agreeable and
3 acceptable to me. I understand that I am waiving rights
4 given to me by the California Administrative Procedure Act
5 (including but not limited to Sections 11506, 11508, 11509
6 and 11513 of the Government Code), and I willingly,
7 intelligently and voluntarily waive those rights, including
8 the right of requiring the Commissioner to prove the
9 allegations in the Accusation at a hearing at which I would
10 have the right to cross-examine witnesses against me and to
11 present evidence in defense and mitigation of the charges.

12 DATED: 9-17-99

Fred Eugene Dotterrer
FRED EUGENE DOTERRER,
Respondent

14 DATED: 9/17/99

Steven Pope, Esq.
Steven Pope, Esq.
Counsel for Respondent

17 * * * *

18 The foregoing Stipulation and Agreement in Settlement is
19 hereby adopted as my Order and shall become effective at 12
20 o'clock noon on November 12, 1999

21
22 IT IS SO ORDERED October 4, 1999

23 JOHN R. LIBERATOR,
24 Acting Real Estate Commissioner

25 John R. Liberator
26
27



Handwritten initials

FILED

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA DEPARTMENT OF REAL ESTATE**

In the Matter of the Accusation of

FRED EUGENE DOTERRER,

By *R. Medeiros*

Case No. H-28173 LA

OAH No. L-1999070454

Respondent

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 Office of Administrative Hearings, 320 W. Fourth Street, Ste. 630, Los Angeles, CA on September 29, 1999, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission 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.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: July 29, 1999

By *Martha Philet* Counsel

cc: Fred Eugene Dotterrer
RE 501 (Rev. 8/97) Steve Pope, Esq.
Sacto
OAH
JL

kw

Jackie Gray

MARTHA J. ROSETT, Counsel (SBN 142072)
Department of Real Estate
320 West Fourth Street, #350
Los Angeles, California 90013

(213) 576-6982
(213) 576-6914

FILED
JUL 13 1999
DEPARTMENT OF REAL ESTATE

By *K. Mederholt*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H- 28173 LA
FRED EUGENE DOTERRER, dba "Priority)	<u>A C C U S A T I O N</u>
One Property Management,")	
)	
Respondent.)	
_____)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against FRED EUGENE DOTERRER, dba "Priority One Property Management," is informed and alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

Respondent FRED EUGENE DOTERRER, doing business as "Priority One Property Management (hereinafter "Respondent,") is presently licensed and/or has license rights under the Real Estate

1 Law, Part 1 of Division 4 of the California Business and
2 Professions Code (hereinafter "Code"), as a real estate broker.

3 III

4 At all times material herein, Respondent engaged in the
5 business of, acted in the capacity of, advertised or assumed to
6 act as a real estate broker in the State of California, within the
7 meaning of Code Sections 10131(a) and/or 10131(b), for another or
8 others, for or in expectation of compensation. Said activity
9 included the operation and conduct of a property management
10 business with the public wherein he leased or rented, offered to
11 lease or rent, or placed for rent, or solicited listings of places
12 for rent, or otherwise negotiated the sale, purchase or exchange
13 of leases on real property, or collected rents from real property.
14 Activity also includes real estate development.

15 FIRST CAUSE OF ACCUSATION

16 (AUDIT)

17 IV

18 From July 1, 1998 through July 17, 1998, the Department
19 performed an audit Respondent's books and records, pertaining to
20 the real estate activities described in Paragraph III above,
21 covering a period from approximately June 1, 1997 through May 31,
22 1998, which examination revealed violations of the Code and of
23 Title 10, Chapter 6, California Code of Regulations
24 ("Regulations"), as set forth below.

25 V

26 In the course of activities described in Paragraph III
27 above, and during the examination period described in Paragraph



1 IV, Respondent acted in violation of the Code and the Regulations
2 in that:

3 (a) Respondent failed to maintain a trust account and
4 placed rental trust funds, including rents collected on behalf of
5 beneficiaries, into a General Account. Therefore, the bank
6 account used to deposit and pay out trust funds was not designated
7 as a trust account in the name of the broker as trustee, in
8 violation of Code Section 10145 and Regulation 2831, and 2832;

9 (b) Respondent did not maintain a control record for
10 rents received showing total funds received, disbursed and daily
11 balances, in violation of Code Section 10145 and Regulation 2831;

12 (c) Respondent did not maintain separate records for
13 each property managed nor for each owner showing total rents
14 received, disbursed and daily individual balances, in violation of
15 Regulation 2831.1;

16 (d) Respondent did not reconcile the balances of the
17 separate ledgers with the balances of the control records at least
18 once a month, in violation of Regulation 2831.2;

19 (e) As of the May 31, 1998 audit cut-off date,
20 Respondent was using three fictitious business names without
21 having obtained a license from the Department bearing the
22 fictitious name, in violation of Regulation 2731.

23 Each of the foregoing violations constitute cause for
24 the suspension or revocation of Respondent's real estate licenses
25 and license rights of under the provisions of Code Section
26 10177(d).

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SECOND CAUSE OF ACCUSATION

(ARMSTRONG TRANSACTION)

VI

There is hereby incorporated in this second, separate and distinct cause of Accusation, all of the allegations contained in Paragraphs I through V with the same force and effect as if herein set forth.

VII

On or about October 30, 1997, Respondent entered into an Exclusive Right to Sell Listing Agreement with Caroline Armstrong, whereby Respondent broker agreed to use diligence in effecting the sale of property owned by Armstrong located in Peach Avenue in Hesperia. Said agreement had a termination date of January 28, 1998 and called for a sale price of \$85,000. Rent on the lease option for the first two years was to be \$800 per month.

VIII

On or about January 21, 1998, acting as agent for Ms. Armstrong, Respondent entered into a Lease-Option Agreement with Alfreda Maharaj-McMath for the Lease and purchase of the subject Peach Avenue property, the terms of which called for a lower purchase price than that contained in the Exclusive Listing Agreement, a smaller downpayment and a lower monthly rent during the period of the option. Respondent signed said agreement on behalf of Ms. Armstrong although he had no written authorization from her to do so nor any written authorization for the changes described above. Escrow was opened on January 22 or January 23, 1998. On or about February 3, 1998, Ms. Armstrong informed her

1 agent that she did not wish to accept the deal as proposed.

2 IX

3 The facts set forth in Paragraph VIII demonstrates
4 negligence or incompetence in the performance of acts for which a
5 broker's license is required and is grounds for discipline of
6 Respondent's license and/or license rights pursuant to Code
7 Section 10177(g).

8 /
9 /

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

17 Dated at Los Angeles, California
18 this 13th day of July, 1999.

19 THOMAS MC CRADY
20 _____
21 Deputy Real Estate Commissioner

22
23
24 cc: FRED EUGENE DOTERRER
25 Sacto.
26 JL
Audits

27