

1 LISSETE GARCIA, Counsel (SBN 211552)
Bureau of Real Estate
2 320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
3 Telephone: (213) 576-6982
Direct: (213) 576-6914
4 Fax: (213) 576-6917
Attorney for Complainant

FILED
DEC 08 2017
BUREAU OF REAL ESTATE
By John C. Aguirre

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

BEFORE THE BUREAU OF REAL ESTATE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation against)	CalBRE No. H-40879 LA
FRED EUGENE DOTTERRER,)	<u>ACCUSATION</u>
Respondent.)	

The Complainant, Maria Suarez, a Supervising Special Investigator for the Bureau of Real Estate ("Bureau") of the State of California, for cause of Accusation against FRED EUGENE DOTTERRER ("Respondent"), alleges as follows:

1.

The Complainant, Maria Suarez, acting in her official capacity as a Supervising Special Investigator, makes this Accusation against Respondent.

2.

All references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

1 3.

2 Respondent is presently licensed and/or has license rights under the Real Estate Law
3 (Part 1 of Division 4 of the Code).

4 4.

5 From November 12, 1999, through the present, Respondent has been licensed by the
6 Bureau as a restricted real estate broker, License ID 01155261. Respondent had a plenary real
7 estate broker license from January 10, 1994, through November 11, 1999. Respondent was
8 licensed by the Bureau as a real estate salesperson from approximately March 8, 1993, through
9 January 9, 1994.

10 Prior Discipline

11 5.

12 On July 13, 1999, the Bureau¹ filed an Accusation against Respondent in Bureau Case
13 No. H-28173 LA. On October 4, 1999, the Real Estate Commissioner issued an Order pursuant
14 to the Stipulation and Agreement in Case No. H-28173 LA, whereby Respondent's broker
15 license was revoked with the right to the issuance of a restricted broker license subject to certain
16 terms and conditions. Respondent stipulated to violating Code sections 10145, 10177(d),
17 10177(g), and Regulations 2831, 2832, 2831.1, 2831.2, and 2731.

18 Fictitious Business Names

19 6.

20 On July 6, 1998, Respondent became licensed to do business as Priority One Property
21 Management. On July 24, 1998, Respondent became licensed to do business as Priority One
22 Properties and Priority One Real Estate. Respondent has been licensed to do business as All
23 Gold Property Management as of February 6, 2017.

24 ¹ Effective July 1, 2013, the Department of Real Estate became the Bureau of Real Estate. All references to the agency are to the successor Bureau.

Audit LA 160085

7.

On July 27, 2017, the Bureau completed an audit examination of the books and records of Respondent's property management activities which require a real estate license pursuant to Code section 10131(b). Respondent's property management activities during the audit period were conducted under Respondent's licensed fictitious business name, Priority One Property Management ("POPM), and an unlicensed fictitious business name, All Gold Property Management ("AGPM"). The audit examination covered a period of time from January 1, 2015 through January 31, 2017. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 160085 and the exhibits and work papers attached to said audit report.

8.

On February 15, 2017, an entrance interview was held with Respondent. According to Respondent and the audit work papers examined, POPM managed approximately 238 units for property owners and AGPM managed 267 units for property owners during the audit period. Respondent received a management fee of five to ten percent of monthly collected rents.

9.

According to Respondent, he maintained the following bank accounts for his property management activities during the audit period:

Trust Account #1 (T/A 1)

Bank: Desert Community Bank

Account Name: Fred E. Dotterrer DBA Priority One Property Management

Account #: xxxxx0802

Signer(s): Respondent and Carrie Marley

1 # of signatures required: One (1)

2 Description: T/A 1 was used for multiple beneficiaries to deposit rents and security
3 deposits of properties managed by POPM.

4 Trust Account #2 (T/A 2)

5 Bank: Citizens Business Bank

6 Account Name: Fred E. Dotterrer DBA All Gold Property Management

7 Account #: xxxxx1672

8 Signer(s): Respondent

9 # of signatures required: One (1)

10 Description: T/A 2 was used for multiple beneficiaries to deposit rents and security
11 deposits of properties managed by AGPM.

12 Trust Account #3 (T/A 3)

13 Bank: Citizens Business Bank

14 Account Name: All Gold Property Management Chamberlaine Trust Acct

15 Account #: xxxxx1696

16 Signer(s): Respondent

17 # of signatures required: One (1)

18 Description: T/A 3 was a single beneficiary account and was used to deposit rents and
19 security deposits collected from tenants related to the property located at 11610
20 Chamberlaine Way, managed by AGPM.

21 ///

22 ///

23 ///

24

Violations

10.

2 In the course of Respondent's property management activities during the audit
3 examination period described above in Paragraph 7, Respondent acted in violation of the Code
4 and the Regulations as follows:

5 10(a). Issue One(a). Code Section 10145 and Regulation 2832.1. Trust fund handling
6 for multiple beneficiaries

7 Bank reconciliations were prepared for T/A 1, T/A 2, and T/A 3 as of January 31, 2017.
8 The adjusted bank balances were compared to the total balance of separate records for each
9 account.

10 As of January 31, 2017, T/A 1 had a shortage of <\$1,912.52>. The shortage was caused
11 by negative property balances totaling <\$1,912.52> where disbursements related to properties
12 were made when there were insufficient funds to do so, as of January 31, 2017.

13 The related properties included, without limitation: 22105 Del Oro St., 11190 Fifty Ave.,
14 11756 Happy Hills Ln., 11936 Pasco St., and 13665 Summit View St..

15 Respondent failed to provide any evidence that the owners of the trust funds had given
16 their written consent to allow Respondent to reduce the balance of the funds in T/A 1 to an
17 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145
18 and Regulation 2832.1.

19 10(b). Issue One (b). Code Section 10145 and Regulation 2832.1. Trust fund handling
20 for multiple beneficiaries

21 As of January 31, 2017, T/A 2 had a shortage of <\$27,412.28>. The separate record
22 maintained for AGPM was not provided for the audit. The minimum shortage was caused by
23 minimum unauthorized disbursements/unearned fees of <\$22,972.26>, minimum negative
24

1 property balance of <\$747.00> related to 14612 Graham Way, minimum unreimbursed bank
2 charges of <\$914.05>, and minimum unidentified causes of <\$2,778.97>, as of January 31, 2017.

3 Respondent failed to provide any evidence that the owners of the trust funds had given
4 their written consent to allow Respondent to reduce the balance of the funds in T/A 2 to an
5 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145
6 and Regulation 2832.1.

7 10(c). Issue Three¹. Code Section 10145 and Regulation 2831. Trust fund records to be
8 maintained

9 Respondent failed to maintain accurate or complete records of trust funds received and
10 disbursed (control records) for T/A 2, in violation of Code section 10145 and Regulation 2381.

11 The amount of <\$914.05> withdrawn from T/A 2 as bank charges were either not recorded in the
12 control records or reflected and thus the daily running balance was inaccurate. The control
13 records for T/A 3 were incomplete including by failing to reflect trust funds date of receipt, date
14 of deposit, date check disbursed and a running daily balance.

15 Examples of the inaccuracies include, without limitation, the following:

<u>Date of Deposit</u>	<u>Amount</u>	<u>Tenant</u>
01/06/17	\$595.00	R.D. ² & P.D.
01/06/17	\$850.00	G.A.
01/06/17	\$450.00	R.C. & S.T
01/09/17	<u>\$1,025.00</u>	U.O.
Total	\$2,920.00	

23 ¹ Issue Two skipped intentionally.

24 ² Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full names will be provided during the discovery phase of this case to Respondent and/or his attorney, after service of a timely and proper request for discovery on Complainant's counsel.

1 10(d). Issue Four. Code Section 10145 and Regulation 2831.1. Separate records for
2 each beneficiary or transaction

3 Respondent failed to maintain accurate separate records for T/A 2 of all trust funds
4 received and disbursed related to Respondent's property management activities, in violation of
5 Code section 10145(g) and Regulation 2831.1. T/A 2 contained unidentified causes of a
6 shortage of <\$2,778.97>.

7 10(e). Issue Five. Code Sections 10145 and 10176(i) or 10177(j). Unauthorized
8 disbursements of unearned fees/Handling of trust funds.

9 Based on the examination of Respondent's records from October 31, 2016, through
10 January 31, 2017, and the Bureau's auditor's discussion with Respondent, Respondent's
11 management fees were disbursed to AGPM before trust funds/rents were collected from tenants
12 for the months noted below. Moreover, Respondent made an unauthorized disbursement of
13 unearned management fees from T/A 2 to Respondent's general account. Respondent did not
14 provide the separate record(s) maintained for AGPM for the audit. An examination of the
15 management fees showed that Respondent debited T/A 2 for unearned fees as noted below.

16 Management fees earned for 11/1/16 – 1/31/2017 = \$64,103.53

<u>Date</u>	<u>Check No.</u>	<u>Earned Mgmt. Fee</u>	<u>Mgmt. Fee Taken</u>
18 1/27/17	16320 (2/17)	\$0 (Unearned)	\$20,000
19 12/19/16	16049 (1/17)	\$0	\$20,000
20 11/28/16	15817 (12/16)	\$0	\$20,000
21 10/31/16	15568 (11/16)	\$0	\$20,000

22 Unauthorized Withdrawal/Unearned Fees = \$15,896.47

23 Respondent failed to provide any evidence that the owners of the trust funds had given
24 their written consent to allow Respondent to reduce the balance of the funds in T/A 2 to an

1 amount less than the existing aggregate trust fund liabilities, in violation of Code sections 10145
2 and 10176(i) or 10177(j).

3 10(f). Issue Six. Code Section 10145 and Regulation 2831.2. Trust account
4 reconciliation

5 During the audit period, Respondent failed to perform and maintain a monthly
6 reconciliation comparing the balance of all separate beneficiary or transaction records (separate
7 records) to the balance of all trust funds received and disbursed (control record) for T/A 1 and
8 T/A 2, in violation of Code section 10145 and Regulation 2831.2.

9 10(g). Issue Seven. Code Section 10159.5 and Regulation 2731. Use of unlicensed false
10 or fictitious business name

11 During the audit period, Respondent used the unlicensed fictitious business name, "All
12 Gold Property Management" to engage in property management activities requiring a real estate
13 license without first obtaining a license from the Bureau in violation of Code section 10159.5
14 and Regulation 2731. An examination of records showed that AGPM was on T/A 2's bank
15 signature card, property management agreements, and cancelled checks. AGPM was added as a
16 fictitious business name to Respondent's broker license on February 6, 2017.

17 10(h). Issue Eight. Code Section 10163 and Regulation 2715. Unlicensed Branch
18 Office(s)

19 During the audit period, Respondent maintained and conducted property management
20 activities as AGPM at an unlicensed branch office located at 15419 Anacapa Rd., in Victorville,
21 California, in violation of Code section 10163 and Regulation 2715. Respondent conducts
22 property management as POPM at an unlicensed branch office located at 9648 Ninth Ave., Ste. #
23 11, Hesperia, California, in violation of Code section 10163 and Regulation 2715. On or around
24 March 8, 2017, Respondent changed his main office address listed with the Bureau to 15419

1 Anacapa Rd., in Victorville, California 92392. There are no branch offices listed for Respondent
2 with the Bureau.

3 10(i). Issue Nine. Code Section 10177(h) and Regulation 2725. Broker supervision

4 Respondent failed to adequately supervise the activities of his salespersons, employees,
5 or agents and failed to establish policies, rules, procedures, and systems to review, oversee,
6 inspect, and manage transactions requiring a real estate license and the handling of trust funds, in
7 violation of Code section 10177(h) and Regulation 2725.

8 11.

9 The conduct of Respondent as described above in Paragraphs 10(a) through 10(i),
10 violated the Code and the Regulations as set forth below:

11 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
12 10(a)	Code Section 10145 and Regulations 2832.1
13 10(b)	Code Section 10145 and Regulations 2832.1
14 10(c)	Code Section 10145 and Regulation 2831
15 10(d)	Code Section 10145 and Regulation 2831.1
16 10(e)	Code Sections 10145 and 10176(i) or 10177(j)
17 10(f)	Code Section 10145 and Regulation 2831.2
18 10(g)	Code Section 10159.5 and Regulation 2731
19 10(h)	Code Section 10163 and Regulation 2715
20 10(i)	Code Section 10177(h) and Regulation 2725

21 The foregoing violations constitute cause for the suspension or revocation of the real
22 estate licenses and license rights of Respondent under the provisions of Code Sections 10177(d),
23 10176(i) or 10177(j), 10177(h), and/or 10177(g).

24 ///

1 Audit Costs

2 12.

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


7 Investigation/Enforcement Costs

8 13.

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

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

19 Dated at Los Angeles, California this 30th day of October, 2017.

20 
21 _____
22 MARIA SUAREZ
23 Supervising Special Investigator

24 cc: Fred Eugene Dotterrer
Maria Suarez
Sacto
Audits/Godswill Keraoru