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BUREAU OF REAL ESTATE

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

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In the Matter of the Accusation against  FRED EUGENE DOTTERRER,  Respondent.	}	CalBRE No. H-40879 LA  <u>FIRST AMENDED ACCUSATION</u>
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This First Amended Accusation amend the Accusation filed on December 8, 2017, in this matter. 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.

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1 2.

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

5 3.

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

8 4.

9 From November 12, 1999, through the present, Respondent has been licensed by the  
10 Bureau as a restricted real estate broker, License ID 0115261. Respondent had a plenary real  
11 estate broker license from January 10, 1994, through November 11, 1999. Respondent was  
12 licensed by the Bureau as a real estate salesperson from approximately March 8, 1993, through  
13 January 9, 1994.

14 Prior Discipline

15 5.

16 On July 13, 1999, the Bureau<sup>1</sup> filed an Accusation against Respondent in Bureau Case  
17 No. H-28173 LA. On October 4, 1999, the Real Estate Commissioner issued an Order pursuant  
18 to the Stipulation and Agreement in Case No. H-28173 LA, whereby Respondent's broker  
19 license was revoked with the right to the issuance of a restricted broker license subject to certain  
20 terms and conditions. Respondent stipulated to violating Code sections 10145, 10177(d),  
21 10177(g), and Regulations 2831, 2832, 2831.1, 2831.2, and 2731.

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24 <sup>1</sup> 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.

1 Fictitious Business Names

2 6.

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

7 Audit LA 160085

8 7.

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

18 8.

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

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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

# of signatures required: One (1)

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

Trust Account #2 (T/A 2)

Bank: Citizens Business Bank

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

Account #: xxxxx1672

Signer(s): Respondent

# of signatures required: One (1)

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

Trust Account #3 (T/A 3)

Bank: Citizens Business Bank

Account Name: All Gold Property Management Chamberlaine Trust Acct

Account #: xxxxx1696

1 Signer(s): Respondent

2 # of signatures required: One (1)

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

6 Violations

7 10.

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

11 10(a). Issue One(a). Code Section 10145 and Regulation 2832.1. Trust fund handling  
12 for multiple beneficiaries

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

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

19 The related properties included, without limitation: 22105 Del Oro St., 11190 Fifty Ave.,  
20 11756 Happy Hills Ln., 11936 Pasco St., and 13665 Summit View St..

21 Respondent failed to provide any evidence that the owners of the trust funds had given  
22 their written consent to allow Respondent to reduce the balance of the funds in T/A 1 to an  
23  
24

1 amount less than the existing aggregate trust fund liabilities, in violation of Code section 10145  
2 and Regulation 2832.1.

3 10(b). Issue One (b). Code Section 10145 and Regulation 2832.1. Trust fund handling  
4 for multiple beneficiaries

5 As of January 31, 2017, T/A 2 had a shortage of <\$27,412.28>. The separate record  
6 maintained for AGPM was not provided for the audit. The minimum shortage was caused by  
7 minimum unauthorized disbursements/unearned fees of <\$22,972.26>, minimum negative  
8 property balance of <\$747.00> related to 14612 Graham Way, minimum unreimbursed bank  
9 charges of <\$914.05>, and minimum unidentified causes of <\$2,778.97>, as of January 31, 2017.

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

14 10(c). Issue Three<sup>1</sup>. Code Section 10145 and Regulation 2831. Trust fund records to be  
15 maintained

16 Respondent failed to maintain accurate or complete records of trust funds received and  
17 disbursed (control records) for T/A 2, in violation of Code section 10145 and Regulation 2381.  
18 The amount of <\$914.05> withdrawn from T/A 2 as bank charges were either not recorded in the  
19 control records or reflected and thus the daily running balance was inaccurate. The control  
20 records for T/A 3 were incomplete including by failing to reflect trust funds date of receipt, date  
21 of deposit, date check disbursed and a running daily balance.

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23  
24 <sup>1</sup> Issue Two skipped intentionally.

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

2	<u>Date of Deposit</u>	<u>Amount</u>	<u>Tenant</u>
3	01/06/17	\$595.00	R.D. <sup>1</sup> & P.D.
4	01/06/17	\$850.00	G.A.
5	01/06/17	\$450.00	R.C. & S.T
6	01/09/17	<u>\$1,025.00</u>	U.O.
7		Total \$2,920.00	

8 10(d). Issue Four. Code Section 10145 and Regulation 2831.1. Separate records for  
9 each beneficiary or transaction

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

14 10(e). Issue Five. Code Sections 10145 and 10176(i) or 10177(j). Unauthorized  
15 disbursements of unearned fees/Handling of trust funds.

16 Based on the examination of Respondent's records from October 31, 2016, through  
17 January 31, 2017, and the Bureau's auditor's discussion with Respondent, Respondent's  
18 management fees were disbursed to AGPM before trust funds/rents were collected from tenants  
19 for the months noted below. Moreover, Respondent made an unauthorized disbursement of  
20 unearned management fees from T/A 2 to Respondent's general account. Respondent did not

23 <sup>1</sup> Initials are used in place of individuals' full names to protect their privacy. Documents containing individuals' full  
24 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 provide the separate record(s) maintained for AGPM for the audit. An examination of the  
2 management fees showed that Respondent debited T/A 2 for unearned fees as noted below.

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

4 <u>Date</u>	<u>Check No.</u>	<u>Earned Mgmt. Fee</u>	<u>Mgmt. Fee Taken</u>
5 1/27/17	16320 (2/17)	\$0 (Unearned)	\$20,000
6 12/19/16	16049 (1/17)	\$0	\$20,000
7 11/28/16	15817 (12/16)	\$0	\$20,000
8 10/31/16	15568 (11/16)	\$0	\$20,000

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

10 Respondent failed to provide any evidence that the owners of the trust funds had given  
11 their written consent to allow Respondent to reduce the balance of the funds in T/A 2 to an  
12 amount less than the existing aggregate trust fund liabilities, in violation of Code sections 10145  
13 and 10176(i) or 10177(j).

14 10(f). Issue Six. Code Section 10145 and Regulation 2831.2. Trust account  
15 reconciliation

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

20 10(g). Issue Seven. Code Section 10159.5 and Regulation 2731. Use of unlicensed false  
21 or fictitious business name

22 During the audit period, Respondent used the unlicensed fictitious business name, "All  
23 Gold Property Management" to engage in property management activities requiring a real estate  
24



1 license without first obtaining a license from the Bureau in violation of Code section 10159.5  
2 and Regulation 2731. An examination of records showed that AGPM was on T/A 2's bank  
3 signature card, property management agreements, and cancelled checks. AGPM was added as a  
4 fictitious business name to Respondent's broker license on February 6, 2017.

5 10(h). Issue Eight. Code Section 10163 and Regulation 2715. Unlicensed Branch  
6 Office(s)

7 During the audit period, Respondent maintained and conducted property management  
8 activities as AGPM at an unlicensed branch office located at 15419 Anacapa Rd., in Victorville,  
9 California, in violation of Code section 10163 and Regulation 2715. Respondent conducts  
10 property management as POPM at an unlicensed branch office located at 9648 Ninth Ave., Ste. #  
11 11, Hesperia, California, in violation of Code section 10163 and Regulation 2715. On or around  
12 March 8, 2017, Respondent changed his main office address listed with the Bureau to 15419  
13 Anacapa Rd., in Victorville, California 92392. There are no branch offices listed for Respondent  
14 with the Bureau.

15 10(i). Issue Nine. Code Section 10177(h) and Regulation 2725. Broker supervision

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

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11.

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

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10(a)	Code section 10145 and Regulations 2832.1
10(b)	Code section 10145 and Regulations 2832.1
10(c)	Code section 10145 and Regulation 2831
10(d)	Code section 10145 and Regulation 2831.1
10(e)	Code sections 10145 and 10176(i) or 10177(j)
10(f)	Code section 10145 and Regulation 2831.2
10(g)	Code section 10159.5 and Regulation 2731
10(h)	Code section 10163 and Regulation 2715
10(i)	Code section 10177(h) and Regulation 2725

The foregoing violations constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent under the provisions of Code sections 10165, 10177(d), 10177(k), 10176(i) or 10177(j), 10177(h), and/or 10177(g).

Audit Costs

12.

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

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1 Investigation/Enforcement Costs

2 13.

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

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

13 Dated at Los Angeles, California this 7th day of May, 2018.

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15   
16 MARIA SUAREZ  
Supervising Special Investigator

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19 cc: Fred Eugene Dotterrer  
20 Daniel Gentile, Esq.  
OAH  
21 Maria Suarez  
Sacto  
22 Audits/Godswill Keraoru  
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