

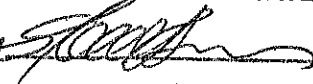
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3 Los Angeles, California 90013

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FILED

MAR 16 2016

BUREAU OF REAL ESTATE

By 

BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

To:

No. H-40174 LA

REALTY MASTERS &)	<u>ORDER TO DESIST</u>
ASSOCIATES, INC.; and MAX)	<u>AND REFRAIN</u>
EDWARD MC DERMOTT,)	
individually, and as designated)	
officer for Realty Masters &)	
Associates, Inc.)	
_____)	

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18 The Real Estate Commissioner of the State of California has caused an

19 investigation to be made of the activities of REALTY MASTERS & ASSOCIATES, INC.

20 ("REALTY") and MAX EDWARD MC DERMOTT ("MC DERMOTT"), individually, and as

21 designated officer for REALTY, and based on the findings of that investigation is of the opinion

22 that REALTY and MCDERMOTT have violated Sections 10140.6, 10159.5, and 10235 of the

23 Business and Professions Code (hereinafter "Code") as well as Sections 2731, 2770.1, and 2773

24 of Chapter 6, Title 10, California Code of Regulations (hereinafter "Regulations").

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FINDINGS OF FACT

1. REALTY 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 acting by and through MC DERMOTT as its designated broker-officer. The license of REALTY will expire on January 24, 2017, unless renewed.

2. MC DERMOTT is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. At all times relevant herein MC DERMOTT was the designated officer for REALTY. The license of MC DERMOTT will expire on February 17, 2018, unless renewed.

3. Whenever acts referred to below are attributed to REALTY or MC DERMOTT those acts are alleged to have been done by either or both of them, acting alone, or by and/or through one or more agents, associates, affiliates, and/or co-conspirators, including but not limited to each of those named herein, and using a fictitious name(s) unknown at this time.

4. At all times mentioned herein, REALTY and MC DERMOTT, on behalf of others and in expectation of compensation, engaged in the business, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131 subpart (a) of the Code, including advertising for prospective sellers or purchasers of real property, and negotiating for the purchase, sale or exchange of real property.

5. At various times during 2014, and continuing to the present time, REALTY and MC DERMOTT knowingly advertised, printed, displayed, published, and distributed statements or representations on an internet website and through the mailing of flyers with regard to the terms or conditions for their listing of properties on the Multiple Listing Service ("MLS") which were false, misleading or deceptive.

6. During the time period described in Paragraph 5, above, REALTY and MC DERMOTT, using the fictitious business names "MLS Access" and "Listing with MLS," solicited prospective sellers by making false, misleading or deceptive representations that include but are not limited to the following material set forth in bold type:

1 a. "Selling your home? Get listed on the MLS for \$75. Get expert support. **Don't**
2 **pay a commission.**"

3 b. "MLS Access is the **ONLY** flat fee listing service that does NOT charge
4 upfront. We will list your home on the MLS for FREE, and then if your home sells we'll only
5 charge \$75 upon close of escrow. If your home does not sell the service is absolutely free. **No**
6 **other fees or hidden costs.**"

7 c. "Pay only \$75 at closing, **no other fees or charges whatsoever**"

8 d. "No Up Front Fees. **No Hidden Fees.** No Credit Cards."

9 7. The representations set forth in Paragraph 6, above, are false, misleading and
10 deceptive in that in order for prospective sellers to be listed in the MLS by REALTY and MC
11 DERMOTT, as advertised on their website and in their flyers, the prospective sellers are required
12 to enter into a Residential Listing Agreement with REALTY and MC DERMOTT which
13 contains the following terms:

14 a. The prospective seller must pay a commission of 3.0%, 2.75% or 2.5% of the
15 purchase price to the buyer's agent if the property is sold to a buyer represented by a broker.

16 b. The prospective seller must assign to REALTY and MC DERMOTT the
17 percentage of commission compensation specified as payable to the buyer's agent.

18 c. The prospective seller must agree to let REALTY and MC DERMOTT
19 choose the escrow company for the transaction closing. The escrow company chosen by
20 REALTY and MC DERMOTT will be Arbor One Escrow, which is operated by MC
21 DERMOTT.

22 8. During the period of time described in Paragraph 5, above, REALTY and MC
23 DERMOTT made one or more solicitations for a listing of real property that was intended to be
24 the first point of contact with consumers which (a) failed to contain a designation that REALTY
25 and MC DERMOTT were performing acts for which a real estate license is required, and (b)
26 failed to contain their eight digit real estate license identification numbers in the solicitation.

27 9. During the period of time described in Paragraph 5, above, REALTY and MC

1 DERMOTT used the fictitious business names "MLS Access" and "Listing with MLS" to
2 advertise for activities requiring the issuance of a real estate license without obtaining a license
3 for the use of such names from the Bureau.

4 CONCLUSIONS OF LAW

5 10. The activities described in Paragraphs 4 through 9, above, are activities
6 requiring a real estate license.

7 11. The activities described in Paragraph 5 through 7, above, are in violation of
8 Code Section 10235.

9 12. The activities described in Paragraph 8, above, are in violation of Code
10 Section 10140.6 and Sections 2770.1 and 2773 of the Regulations.

11 13. The activities described in Paragraph 9, above, are in violation of Code
12 Section 10159.5 and Section 2731 of the Regulations.

13 DESIST AND REFRAIN ORDER

14 Based on the Findings of Fact and Conclusions of Law stated herein:

15 IT IS HEREBY ORDERED THAT REALTY MASTERS & ASSOCIATES, INC.
16 and MAX EDWARD MC DERMOTT DESIST AND REFRAIN from:

17 1. Advertising, printing, displaying, publishing, and distributing statements or
18 representations with regard to the terms or conditions for their listing of properties on the
19 Multiple Listing Service ("MLS") which are false, misleading or deceptive; and

20 2. Making solicitations for listings of real property that are intended to be the first
21 point of contact with consumers which fail to contain (a) a designation that REALTY and MC
22 DERMOTT are performing acts for which a real estate license is required, and (b) their eight
23 digit real estate license identification numbers.

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3. Using the fictitious business names "MLS Access" and/or "Listing with MLS" to advertise for activities requiring the issuance of a real estate license without obtaining a license from the Bureau for the use of such names.

DATED: MARCH 1, 2016

Real Estate Commissioner



By: JEFFREY MASON
Chief Deputy Commissioner

cc: REALTY MASTERS & ASSOCIATES, INC.
MAX EDWARD MC DERMOTT
Maria Suarez
Sacto.