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2	Department of Real Estate P. O. Box 137007
3	Sacramento, CA 95813-7007
4	Telephone: (916) 263-8670 MAY 1 7 2019
5	(916) 263-8684 (Direct) DEPARTMENT OF REAL ESTATE By Knopp
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8	BEFORE THE DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation of:) NO. H-12337 SF
12	U.S. BALINA CORPORATION, and) <u>ACCUSATION</u>
13	EUGENE ROBERT RAFFANTI,
14	Respondents.
15	The Complainant, ROBIN S. TANNER, in her official capacity as a Supervising
16	Special Investigator of the State of California, for cause of Accusation against U.S. BALINA
17	CORPORATION ("U.S. BALINA") and EUGENE ROBERT RAFFANTI ("RAFFANTI"),
18	(collectively referred to as "Respondents"), is informed and alleges as follows:
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20	Respondent U.S. BALINA is presently licensed by the California Department of
21	Real Estate ("the Department") and/or has license rights under the Real Estate Law, Part 1 of
22	Division 4 of the California Business and Professions Code ("the Code"), as a corporate real estate
23	broker. U.S. BALINA was initially licensed from September 24, 2012, to September 23, 2016.
24	From September 24, 2016, until March 22, 2017, U.S. BALINA was not licensed. On March 23,
25	2017, U.S. BALINA was re-licensed. U.S. BALINA's license will expire on or about March 23,
26	2021, unless it is revoked or renewed beforehand.
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RAFFANTI is presently licensed and/or has license rights under the Real Estate Law 3 as an individual real estate broker and, from March 24, 2017, until the present day, continues to 4 serve as the designated broker officer of U.S. BALINA. RAFFANTI also holds an individual 5 mortgage loan originator license endorsement and a company mortgage loan originator license 6 endorsement.

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8 Whenever reference is made in an allegation in this Accusation to an act or omission 9 of U.S. BALINA, such allegation shall be deemed to mean that the employees, agents, real estate 10 licensees, and others employed by or associated with U.S. BALINA committed such act or omission 11 while engaged in furtherance of the business or operations of U.S. BALINA and while acting within 12 the course and scope of their authority and employment.

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14 At all times herein mentioned, Respondents engaged in the business of, acted in the 15 capacity of, advertised, or assumed to act as a corporate real estate broker within the State of 16 California on behalf of others, for compensation or in expectation of compensation within the 17 meaning of Section 10131(b) of the Code, including the operation and conduct of a property 18 management business with the public wherein, on behalf of others, for compensation, leased or 19 rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or 20solicited for prospective tenants, or negotiated for sale, purchase or exchange of leases on real 21 property, or on a business opportunity, or collected rent from real property, or improvements 22 thereon, or from business opportunities.

COUNT ONE AUDIT VIOLATIONS (As to Respondents U.S. BALINA and RAFFANTI)

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26 Each and every allegation in paragraphs 1 through 4, inclusive, above, is 27 incorporated by this reference as if fully set forth herein.

- 2 -

Beginning on January 11, 2018, and continuing intermittently until April 24, 2018,
the Department conducted an audit of the books and records related to the real estate activities of
Respondents at Respondents' main office located at 5201 Great America Parkway, Suite 320, Santa
Clara, CA 95054. The auditor examined records for the period of October 1, 2016, to December 31,
2017 ("audit period").

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8 While acting as real estate brokers as described above in paragraph 4, and within the
9 audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or
10 caused the trust funds to be deposited into bank accounts maintained by Respondents, and
11 thereafter, from time-to-time, Respondents made disbursements of said trust funds, identified as
12 follows:

Bank Account #1 13 14 Bank Name: JP Morgan Chase Bank Account No.: Last 4 Digits: xxxx3287 15 U.S. Balina Corporation Account Name: DBA Synergize Realty or Synergize Proper 16 Signatories: Christopher A. Fanara (RES) Robert M Balina (RES, President) 17 Purpose: For handling trust funds for properties managed by Fanara 18 Bank Account #2 19 Bank Name: JP Morgan Chase Bank 20 Account No.: Last 4 Digits: xxxxx0795 Account Name: U.S. Balina Corporation 21 DBA Synergize Realty or Synergize Proper 22 Signatories: Robert M Balina (RES, President) For handling trust funds for properties managed by Balina Purpose: 23 8 24 In the course of the real estate broker activities described above in paragraph 4, and 25

26 during the audit period, Respondents:

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(a) failed to obtain a real estate license bearing the fictitious business names
 "Synergize Property Management Group" and "Synergize Property Management" before
 conducting in those names activities for which a license was required, in violation of Section
 10159.5 of the Code, and Section 2731 of Chapter 6, Title 10, of the California Code of Regulations
 (herein "Regulations");

(b) failed to reconcile at least once per month, the balance of all separate
 beneficiary or transaction records to the balance of the control records for Bank Account #1 and
 Bank Account #2, in violation of Section 10145 of the Code and Section 2831.2 of the Regulations;

9 (c) failed to place trust funds entrusted to Respondent into the hands of a
10 principal on whose behalf the funds were received, into a neutral escrow depository, or into a
11 trust fund account in the name of Respondent as trustee at a bank or other financial institution,
12 in that trust funds were deposited into Bank Account #1 and Bank Account #2, in violation of
13 Section 10145 of the Code and Section 2832 of the Regulations;

(d) failed to maintain and/or keep accurate and complete separate records for
each beneficiary or property of trust funds accepted or received in Bank Account #1 and Bank
Account #2, in violation of Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

(e) failed to register RAFFANTI as a signatory on Bank Account #1 and Bank
Account #2, in violation of Section 10145 of the Code and Section 2834 of the Regulations;

(f) failed to disclose to beneficiaries regarding compensation received from
 over-disbursed trust funds of \$3,703.74, in violation of Section 10176(g) of the Code; and

(g) failed to disclose U.S. BALINA's real estate license identification number on
 U.S. BALINA's website at www.yourpropmanager.com, in violation of Section 10140.6(b) of the
 Code and Section 2773 of the Regulations.

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In the course of the real estate broker activities described above in paragraph 4, and
 during the audit period, U.S. BALINA conducted activities requiring a real estate license during the
 period between September 24, 2016, through March 23, 2017, when U.S. BALINA'S license with

- 4 -

1 the Department had expired, in violation of Section 10130 of the Code. 2 10 3 The acts and/or omissions of U.S. BALINA as alleged above in paragraph 9, 4 constitute grounds for the suspension or revocation of all licenses and license rights of U.S. 5 BALINA pursuant to Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 6 10130 of the Code. 7 11 8 The acts and/or omissions of U.S. BALINA as alleged above in paragraph 8, 9 constitute grounds for the suspension or revocation of all licenses and license rights of U.S. 10 BALINA pursuant to the following provisions of the Code and Regulations: 11 As to Paragraph 8(a), under Section 10177(d) and/or 10177(g) of the Code, in 12 conjunction with Section 10159.5 of the Code, and Section 2731 of the Regulations; 13 As to Paragraph 8(b), under Section 10177(d) and/or 10177(g) of the Code, in 14 conjunction with Section 10145 of the Code, and Section 2831.2 of the Regulations; 15 As to Paragraph 8(c), under Section 10177(d) and/or 10177(g) of the Code, in 16 conjunction with Section 10145 of the Code, and 2832 of the Regulations; 17 As to Paragraph 8(d), under Section 10177(d) and/or 10177(g) of the Code, in 18 conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations; 19 As to Paragraph 8(e), under Section 10177(d) and/or 10177(g) of the Code, in 20 conjunction with Section 10145 of the Code, and 2834 of the Regulations; 21 As to Paragraph 8(f), under Section 10176(g) of the Code; and 22 As to Paragraph 8(g), under Section 10177(d) and/or 10177(g) of the Code, in 23 conjunction with Section 10140.6(b) of the Code and Section 2773 of the Regulations. 24 /// 25 /// 26 111 27 $\parallel \mid$

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1	COUNT TWO
2	FAILURE TO SUPERVISE (As to Respondent RAFFANTI)
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4	Each and every allegation in Paragraphs 1 through 10, inclusive, above, is
5	incorporated by this reference as if fully set forth herein.
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7	RAFFANTI, as the designated officer of U.S. BALINA from March 23, 2017, until
8	the present day, was required to exercise reasonable supervision and control over the activities of
9	U.S. BALINA, its employees, and the real estate activities being conducted by U.S. BALINA.
10	14
11	RAFFANTI failed to exercise reasonable supervision over the acts and/or omissions
12	of U.S. BALINA, and its employees, in such a manner as to allow the acts and/or omissions, as
13	described above in of COUNT ONE of the Accusation to occur, which constitutes cause for the
14	suspension or revocation of the license(s) and license rights of RAFFANTI under Sections 10177(d)
15	and/or 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of the
16	Regulations.
17	COST RECOVERY
18	Audit Costs
19	15
20	The acts and/or omissions of Respondents, as alleged above in the First Cause of
21	Action, entitle the Department to reimbursement of the costs of its audit pursuant to Section
22	10148(b) of the Code.
23	Investigation and Enforcement Costs
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25 26	Section 10106 of the Code provides, in pertinent part, that in any order issued in
26 27	resolution of a disciplinary proceeding before the Department, the Commissioner may request the
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- 6 -

Administrative Law Judge to direct a licensee found to have committed a violation of this part to
 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license
rights of all Respondents named herein under the Real Estate Law, for the cost of investigation and
enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other
and further relief as may be proper under other provisions of law.

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ROBIN S. TANNER Supervising Special Investigator

12	Dated at Oakland, California,
13	this/6 day of May, 2019.
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DISCOVERY DEMAND

Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office of Administrative Hearings deems appropriate.