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FILED

MAR 12 2012

DEPARTMENT OF REAL ESTATE

By L. J. [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	
)	NO. H-5670 SAC
ARBOUR REAL ESTATE)	
MANAGEMENT, INC.)	<u>FIRST AMENDED</u>
and JUDITH MAE MUNZ,)	<u>ACCUSATION</u>
)	
Respondents.)	
)	

The Complainant, TRICIA D. SOMMERS, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against Respondents ARBOUR REAL ESTATE MANAGEMENT, INC. (herein "ARBOUR") and JUDITH MAE MUNZ (herein "Ms. MUNZ") are informed and alleges as follows:

1.

ARBOUR is presently licensed by the Department of Real Estate (herein "the Department") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (herein "the Code") as a corporate real estate broker, and at all times relevant herein was acting by and through LAMBERT MUNZ (hereinafter "Mr. MUNZ") as its designated broker officer.

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1 2.

2 At all times herein mentioned, Mr. MUNZ was licensed and/or had license rights
3 under the Real Estate Law, Part 1 of Division 4 of the Code (herein "the Real Estate Law") as an
4 individual real estate broker, as the designated broker officer of ARBOUR and as the broker of
5 record for Ms. MUNZ. Mr. MUNZ's individual real estate broker license expired in 2003. Mr.
6 MUNZ passed away on or about December 13, 2010.

7 3.

8 At all times herein mentioned, Ms. MUNZ was licensed by the Department
9 as a real estate salesperson and her broker of record was Mr. MUNZ. At no time relevant herein
10 has Ms. MUNZ applied for and obtained a real estate broker license.

11 4.

12 At all times herein mentioned, ARBOUR engaged in the business of, acted in the
13 capacity of, advertised, or assumed to act as a real estate broker within the State of California
14 for or in expectation of compensation, for which a real estate license is required under section
15 10131(b) of the Code, including the operation and conduct of a property management business
16 with the public wherein, on behalf of others, for compensation, leased or rented or offered to
17 lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for
18 prospective tenant, or negotiated for sale, purchase or exchanges of leases on real property, or
19 on a business opportunity, or collected rent from real property, or improvements thereon, or
20 from business opportunities.

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AUDIT VIOLATIONS
(As to Respondent ARBOUR)
Audit Period #1

5.

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

6.

Beginning on January 12, 2010 and continuing intermittently through March 25, 2010, the Department conducted an audit at ARBOURS's main office located at 777 Campus Commons Rd., Suite 200, Sacramento, California 95825, where the auditor examined records for the period of July 1, 2008 through November 30, 2009 (audit period number one).

7.

While doing business within audit period #1, ARBOUR accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others in connection with the mortgage loan brokerage activities and deposited or caused to be deposited those funds into bank accounts maintained by ARBOUR, including:

TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of Sacramento, 1750 Howe Avenue, Suite 100 Sacramento, CA 95825
Account No.:	XXXXXX6832
Entitled:	"Arbour Real Estate Management Inc."
Signatories:	Lambert Munz (REB) and Judy Munz (RES)
No. of Signatures Required:	One

BANK ACCOUNT # 1	
Bank Name and Location:	Bank of Sacramento, 1750 Howe Avenue, Suite 100 Sacramento, CA 95825
Account No.:	XXXXXX4505
Entitled:	"Arbour Real Estate Management Inc."
Signatories:	Lambert Munz (REB) and Judy Munz (RES)
No. of Signatures Required:	One

From time to time, ARBOUR made collections to and disbursement from said trust funds.

8.

In the course of the activities described above in Paragraph 7, in connection with the collection and disbursement of trust funds, ARBOUR:

- (a) Failed to designate Bank Account #1, used to hold tenant security deposits, as a trust account in violation of section 10145 of the Code and section 2832 of chapter 6, title 10, California Code of Regulations (herein "the Regulations");
- (b) Failed to maintain accurate separate beneficiary records for Trust Account #1 resulting in the inability of the Department to determine trust fund accountability as of September 30, 2009 in violation of section 10145 of the Code and section 2832.1 of the Regulations;
- (c) Failed to maintain accurate separate beneficiary records for Bank Account #1 in that there were negative account balances totaling \$3,454.92, an unidentified shortage of \$384.00, and \$4,490.00 in the account was attributable to broker funds wrongfully commingled with trust funds, all of which violate section 10145 of the Code and section 2832.1 of the Regulations;
- (d) Commingled broker funds with trust funds in Bank Account #1 from the period beginning February 19, 2009 and continuing through December 28, 2009 in violation of section 10176(e) of the Code and section 2835 of the Regulations;
- (e) Maintained control records for Trust Account #1 and Bank Account #1 that were inaccurate and incomplete in violation of section 10145 of the Code and section 2831 of the Regulations;
- (f) Maintained separate beneficiary records for Trust Account #1 that were inaccurate, incomplete and unreliable in violation of section 10145 of the Code and section 2831.1 of the Regulations;

1 (g) Failed to reconcile the balance of all separate beneficiary records with the
2 balance of all trust funds received and disbursed from Trust Account #1 and
3 Bank Account #1 in violation section 10145 of the Code and section 2831.2
4 of the Regulations;

5 9.

6 The acts and/or omissions of ARBOUR, as alleged above in Paragraph 8, are
7 grounds for discipline under sections 10177(d) and 10177(g) of the Code.

8 10.

9 The acts and/or omissions of ARBOUR as alleged above in Paragraph 8, entitle
10 the Department to reimbursement of the costs of its audit pursuant to section 10148 of the Code.

11 AUDIT VIOLATIONS
12 (As to Respondent ARBOUR)
13 Audit Period #2

14 11.

15 Each and every allegation contained above in Paragraphs 1 through 10, inclusive,
16 is incorporated by this reference as if fully set forth herein.

17 12.

18 Beginning on May 23, 2011 and continuing intermittently through August 10,
19 2011, the Department conducted an audit at ARBOURS's main office located at 777 Campus
20 Commons Rd., Suite 200, Sacramento, California 95825, where the auditor examined records
21 for the period of January 1, 2010 through April 30, 2011 (audit period number two).

22 13.

23 While doing business within audit period #2, ARBOUR accepted or received
24 funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others in
25 connection with the mortgage loan brokerage activities and deposited or caused to be deposited
26 those funds into bank accounts maintained by ARBOUR, including:

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TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of Sacramento, 1750 Howe Avenue, Suite 100 Sacramento, CA 95825
Account No.:	XXXXXX4505
Entitled:	"Arbour Real Estate Management Inc. Security Deposit Trust"
Signatories:	Lambert Munz (REB) and Judy Munz (RES)
No. of Signatures Required:	One

TRUST ACCOUNT # 2	
Bank Name and Location:	Bank of Sacramento, 1750 Howe Avenue, Suite 100 Sacramento, CA 95825
Account No.:	XXXXXX2557
Entitled:	"Arbour Real Estate Management Inc.- Trust II"
Signatories:	Lambert Munz (REB) and Judy Munz (RES)
No. of Signatures Required:	One

TRUST ACCOUNT # 3	
Bank Name and Location:	Bank of Sacramento, 1750 Howe Avenue, Suite 100 Sacramento, CA 95825
Account No.:	XXXXXX4322
Entitled:	"Arbour Real Estate Management Inc. - Trust III"
Signatories:	Lambert Munz (REB) and Judy Munz (RES)
No. of Signatures Required:	One

From time to time ARBOUR made collections to and disbursement from said trust funds.

14.

In the course of the activities described above in Paragraph 13, in connection with the collection and disbursement of trust funds, ARBOUR:

- (a) Failed to maintain accurate trust fund records in that Trust Account #1 contained a shortage of \$14,418.92, Trust Account #2 contained unidentified and/or unaccounted for funds of \$1,032.93 and a \$4,370 deposit error and Trust Account #3 contained a shortage of \$38,663.99;
- (b) Failed to maintain accurate and separate record of the receipts and disposition of the trust funds deposited into Trust Account #2 which contained

1 unidentified and/or unaccounted for funds of \$1,032.93, in violation of
2 sections 10145 of the Code and 2832.1 of the Regulations; and

3 (c) Failed to reconcile at least once per month the balance of all separate
4 beneficiary records with the balance of all trust funds received and disbursed
5 from Trust Account #1, Trust Account #2 and Trust Account #3, in violation
6 of sections 10145 of the Code and 2831.2 of the Regulations;

7 15.

8 The acts and/or omissions of ARBOUR, as alleged above in Paragraph 14, are
9 grounds for discipline under sections 10177(d) and 10177(g) of the Code.

10 16.

11 The acts and/or omissions of ARBOUR as alleged above in Paragraph 14, entitle
12 the Department to reimbursement of the costs of its audit pursuant to section 10148 of the Code.

13 OPERATING WITHOUT A DESIGNATED BROKER-OFFICER
14 (As to Respondent ARBOUR)

15 17.

16 Each and every allegation contained above in Paragraphs 1 through 16, inclusive,
17 is incorporated by this reference as if fully set forth herein.

18 18.

19 Mr. MUNZ, the designated broker-officer of ARBOUR, passed away on
20 December 14, 2010. From December 15, 2010 to the present, ARBOUR has been and continues
21 to be operating without a validly licensed designated broker-officer in violation of section 10130
22 of the Code.

23 19.

24 The acts and omissions of ARBOUR, as described above in Paragraphs 17 and 18,
25 violate section 2740 of the Regulations and constitute cause for the suspension or revocation of
26 the licenses and license rights of ARBOUR under section 10177(d) of the Code.

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UNLICENSED ACTIVITY
(As to Respondent Ms. MUNZ)

20.

Each and every allegation above in Paragraphs 1 through 19, inclusive, is incorporated by this reference as if fully set forth herein

21.

At no time within the last three years did the Department license Ms. MUNZ as a real estate broker.

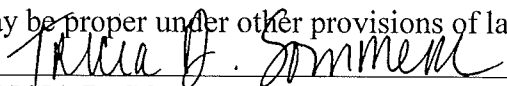
22.

Within the last three years before the filing of this Accusation, Ms. MUNZ, acting on her own and not under the supervision and control of a real estate broker under whom she was properly licensed, operated and conducted a property management business with the public wherein, on behalf of others, for compensation, she leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenant, or negotiated for sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rent from real property, or improvements thereon, or from business opportunities, as defined by section 10131(b) of the Code.

23.

The acts and omissions of Ms. MUNZ, as described above in Paragraphs 21 and 22, are in violation of section 10130 of the Code and constitute cause for the suspension or revocation of the licenses and license rights of Ms. MUNZ under section 10177(d) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law, and for such other and further relief as may be proper under other provisions of law.


TRICIA D. SOMMERS

Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 19 day of March, 2012.