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BUREAU OF REAL ESTATE

By B. Contreras

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Accusation of)
12)
13 ARROWHEAD HOUSING, INC.,)
14 A California Corporation, and)
15 JOSEPH MOHAMED, JR.,)
Respondents.)

NO. H-6113 SAC

ACCUSATION

16 The Complainant, TRICIA D. SOMMERS, in her official capacity as a Deputy Real
17 Estate Commissioner of the State of California, for cause of Accusation against ARROWHEAD
18 HOUSING, INC., A California Corporation, individually and doing business as "Action Properties"
19 and "Lodi Property Management" ("ARROWHEAD"), and JOSEPH MOHAMED, JR.
20 ("MOHAMED"), (collectively "Respondents"), is informed and alleges as follows:

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22 At all times relevant, ARROWHEAD was licensed and/or had license rights by
23 the Bureau of Real Estate ("the Bureau") as a corporate real estate broker under the Real Estate
24 Law, Part 1 of Division 4 of the Business and Professions Code ("the Code").

25 2

26 At all times relevant, MOHAMED was licensed and/or had license rights by the
27 Bureau as a real estate broker, and was licensed by the Bureau as the designated broker/officer

1 of ARROWHEAD. As the designated broker/officer, MOHAMED was responsible, pursuant to
2 Section 10159.2 (responsibility of corporate broker in charge) of the Code for the supervision of
3 the activities of the officers, agents, real estate licensees and employees of ARROWHEAD for
4 which a real estate license is required.

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6 At all times relevant, SHELLEY LYNN SCHMIDT ("SCHMIDT") was licensed
7 and/or had license rights by the Bureau as a real estate salesperson under the corporate real estate
8 broker license of ARROWHEAD. SCHMIDT's real estate salesperson license expired as of
9 February 22, 2012.

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11 At no time has LODI PROPERTY MANAGEMENT LLC, individually and/or
12 doing business as "Lodi Property Management" ("LPM"), been licensed by the Bureau to
13 conduct real estate activity in the State of California. LPM is owned by ARROWHEAD.

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15 At no time has JENNY McDOWELL ("McDOWELL") been licensed by the
16 Bureau to conduct real estate activity in the State of California.

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18 Whenever reference is made in an allegation in this Accusation to an act and/or
19 omission of ARROWHEAD, such allegation shall be deemed to mean that ARROWHEAD, its
20 employees, agents and/or real estate licensees employed by or associated with ARROWHEAD
21 and while acting within the course and scope of their authority and employment with
22 ARROWHEAD, committed such acts and/ or omissions in the furtherance of the business or
23 operations of ARROWHEAD.

24 7

25 At all times herein mentioned, Respondents were engaged in the business of,
26 acted in the capacity of, advertised or assumed to act as real estate brokers in the State of
27 California within the meaning of Section 10131(b) of the Code (broker defined – property

1 management/collection of rent), including the operation and conduct of a property management
2 business with the public, wherein, on behalf of others, for compensation or in expectation of
3 compensation, Respondents leased or rented and offered to lease or rent, and solicited for
4 prospective tenants of real property or improvements thereon, and collected rents from real
5 property or improvements thereon.

6 FIRST CAUSE OF ACTION

7 8

8 On or about June 6, 2012, and continuing intermittently through September 24,
9 2012, an audit was conducted of Respondents at their main office located at 101 West Locust,
10 Suite 2, Lodi, California, where the auditor examined the records for the period of March 1,
11 2011, through April 30, 2012 (the audit period).

12 9

13 While acting as real estate brokers as described in Paragraph 7, above, and within
14 the audit period, Respondents accepted or received funds in trust (trust funds) in the course of the
15 real estate activities described in Paragraph 7, above, and deposited or caused the funds to be
16 deposited into a bank account maintained by Respondents, including:

17 Bank Account #1

18 F&M Bank
19 P.O. Box 1322
Lodi, CA 95241

20 Account No.: XXXXXXXX24-01

21 Account Name: Arrowhead Housing Inc; dba,
22 Lodi Property Management

23 Signatories: Joseph Mohamed (REB)
Marvin Richmond (non-licensee)

24 Bank Account #2

25 F&M Bank
26 P.O. Box 1322
Lodi, CA 95241

27 Account No.: XXXXXXXX3201

1 Account Name: Arrowhead Housing Inc; dba,
2 Lodi Property Management

3 Signatories: Joseph Mohamed (REB)
4 Marvin Richmond (non-licensee)

5 Bank Account #3

6 US Bank
7 4040 Manzanita Avenue
8 Carmichael, CA 95608

9 Account No.: XXXXXXXXX0067

10 Account Name: Arrowhead Housing Inc
11 Action Construction Company

12 Signatories: Joseph Mohamed (REB)
13 Marvin Richmond (non-licensee).

14 Thereafter, from time-to-time, Respondents made disbursements of said trust
15 funds.

16 10

17 In the course of the real estate activities described in Paragraph 7, above, in
18 connection with the collection and disbursement of trust funds:

19 (a) On or about April 25, 2012, there was a shortage of \$11,164.49 for Bank
20 Account #1. Respondents did not provide evidence that the owners of the trust funds had given
21 their written consent allowing Respondents to reduce the balance of the funds in Bank Account
22 #1 to an amount less than the existing aggregate trust fund liabilities. Such acts and/or omissions
23 by Respondents violate Section 10145 (handling of trust funds) of the Code and Section 2832.1
24 (trust fund handling for multiple beneficiaries) of Title 10 of the California Code of Regulations
25 ("the Regulations").

26 (b) On or about April 25, 2012, there was a shortage of \$16,775.18 for Bank
27 Account #2. Respondents did not provide evidence that the owners of the trust funds had given
their written consent allowing Respondents to reduce the balance of the funds in Bank Account
#2 to an amount less than the existing aggregate trust fund liabilities. Such acts and/or omissions
by Respondents violate Section 10145 of the Code and Section 2832.1 of the Regulations.

1 (c) On or about March 31, 2012, there was a shortage of \$38.53 for Bank
2 Account #3. Respondents did not provide evidence that the owners of the trust funds had given
3 their written consent allowing Respondents to reduce the balance of the funds in Bank Account
4 #2 to an amount less than the existing aggregate trust fund liabilities. Such acts and/or omissions
5 by Respondents violate Section 10145 of the Code and Section 2832.1 of the Regulations.

6 (d) Respondents failed to designate Bank Accounts #1, #2 and #3 as trust
7 accounts. Such acts and/or omissions by Respondents violate Section 10145 of the Code and
8 Section 2832 (trust fund handling) of the Regulations.

9 (e) Respondents allowed non-licensee Marvin Richmond to withdraw funds
10 from Bank Accounts #1, #2 and #3. Such acts and/or omissions by Respondents violate
11 Section 10145 of the Code and Section 2834 (trust account withdrawals) of the Regulations.

12 (f) Respondents disbursed their property management fees from Bank Accounts
13 #1, #2 and #3 prior to collecting the rent on behalf of property owners on at least three (3)
14 properties. Such acts and/or omissions by Respondents violate Section 10145 of the Code.

15 11

16 The acts and/or omissions of Respondents as set forth in Paragraph 10, above,
17 violate Section 10145 of the Code; and Sections 2832, 2832.1 and 2834 of the Regulations and
18 are grounds for discipline under Sections 10177(d) (willful disregard/violation of real estate law)
19 and/or 10177(g) (negligence or incompetence) of the Code. In addition, the Bureau is entitled
20 to reimbursement for the costs of its audit pursuant to Section 10148(b) (cost of audit in final
21 decision following disciplinary hearing) of the Code.

22 SECOND CAUSE OF ACTION

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24 On or about March 3, 2011, McDOWELL, while in the employ of and
25 representing ARROWHEAD, doing business as LPM, entered into a Property Management
26 Agreement between LPM and property owner Eric V., for the management of Eric V.'s real
27 property located at 509 South School Street, Lodi, California.

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2 On or about November 7, 2011, McDOWELL, while in the employ of and
3 representing ARROWHEAD, doing business as LPM, entered into a Property Management
4 Agreement between LPM and property owner Rosalinda R., for the management of Rosalinda
5 R.'s real property located at 508 East Oak Street, Lodi, California.

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7 On or about March 6, 2012, McDOWELL, while in the employ of and
8 representing ARROWHEAD, doing business as LPM, entered into a Property Management
9 Agreement between LPM and property owner The Chris and Elda E. Trust for the management
10 of The Chris and Elda E. Trust's real property located at 616 Windsor, Lodi, California.

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12 The acts of McDOWELL, as set forth in Paragraphs 12 through 14 above, were
13 done with the knowledge and approval of Respondents.

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15 The acts and/or omissions of Respondents as set forth in Paragraphs 12 through 15,
16 above, violate Section 10137 (unlawful employment of and/or payment of compensation) of the
17 Code and are grounds for disciplinary action under Sections 10177(d) and/or 10177(g) of the Code.

18 THIRD CAUSE OF ACTION

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20 On or about March 20, 2012, SCHMIDT, while in the employ and representing
21 ARROWHEAD, doing business as LPM, entered into a Property Management Agreement
22 between LPM and property owners Kevin F. and Jennica F., for the management of Kevin F.'s
23 and Jennica F.'s real property located at 429 North Church Street, Lodi, California. At the time,
24 SCHMIDT's real estate salesperson license was expired.

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26 The acts of SCHMIDT as set forth in Paragraph 17, above, were done with the
27 knowledge and approval of Respondents.

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2 The acts and/or omissions of Respondents as set forth in Paragraphs 17 and 18,
3 above, violate Section 10137 of the Code and are grounds for disciplinary action under Sections
4 10177(d) and/or 10177(g) of the Code.

5 FOURTH CAUSE OF ACTION

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7 ARROWHEAD used the fictitious business name "Lodi Property Management"
8 in conducting the property management set forth in Paragraphs 12 through 19, above, without
9 first obtaining a license bearing that fictitious business name from the Bureau.

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11 The acts and/or omissions of LPM as alleged in Paragraph 20, above, violate
12 Section 10159.5 (fictitious business name) of the Code, and Section 2731 (use of false or
13 fictitious business name) of the Regulations and are grounds for the suspension or revocation of
14 LPM's license(s) and license rights under Sections 10177(d) and/or 10177(g) of the Code.

15 FIFTH CAUSE OF ACTION

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17 As the designated broker/officer for ARROWHEAD, MOHAMED was responsible
18 for the supervision and control of the activities conducted on behalf of ARROWHEAD by its officers
19 and employees. MOHAMED failed to exercise reasonable supervision and control over the property
20 management activities of ARROWHEAD. In particular, MOHAMED permitted, ratified and/or
21 caused the conduct described in the First through Fourth Causes of Action, above, to occur, and
22 failed to take reasonable steps, including, but not limited to, the handling of trust funds, supervision
23 of employees and the implementation of policies, rules, procedures and systems to ensure the
24 compliance of the corporation with the Real Estate Law and the Regulations.

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26 The acts and/or omissions of MOHAMED set forth in Paragraph 22, above,
27 violate Section 10159.2 of the Code and Section 2725 (broker supervision) of the Regulations,

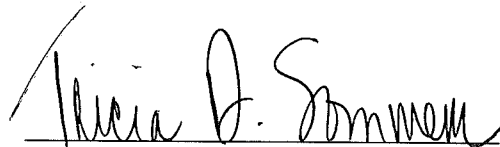
1 and are grounds for disciplinary action under Sections 10177(d) and/or 10177(g), and 10177(h)
2 (reasonable broker supervision) of the Code.

3 COST RECOVERY

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

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

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17 TRICIA D. SOMMERS
18 Deputy Real Estate Commissioner

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20 Dated at Sacramento, California

21 this 19th day of March, 2014.
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