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FILED

MAR 28 2016

BUREAU OF REAL ESTATE

By L. Frost

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of :

CATHY MACMULLIN, ALI ANN L. ARTIS and
THERESE LEE SPEARS,

Respondents.

No. H-6376 SAC
ACCUSATION

The Complainant, TRICIA D. PARKHURST, acting in her official capacity as Supervising Special Investigator for the State of California, brings this Accusation against CATHY MACMULLIN ("MACMULLIN"), ALI ANN L. ARTIS ("ARTIS") and THERESE LEE SPEARS ("SPEARS") (collectively referred to as "Respondents"), is informed and alleges as follows:

PRELIMINARY ALLEGATIONS

1

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

2

At all times mentioned herein, Respondent MACMULLIN was and is licensed by the State of California Bureau of Real Estate ("Bureau") as a real estate broker.

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2 At all times mentioned herein, Respondent ARTIS was licensed by the Bureau as
3 a real estate broker. On or about June 6, 2014, Respondent ARTIS' real estate broker license
4 expired.

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6 At all times mentioned herein, Respondent SPEARS was and is licensed by the
7 Bureau as a real estate broker.

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9 At no time mentioned was Niki Moore licensed by the Bureau in any capacity.

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11 At all times mentioned, Respondents engaged in the business of, acted in the
12 capacity of, advertised, or assumed to act as a real estate broker within the State of California
13 within the meaning of Sections 10131(b) of the Code, including the operation and conduct of a
14 property management business with the public wherein, on behalf of others, for compensation or
15 in expectation of compensation, Respondents leased or rented and offered to lease or rent, and
16 solicited for prospective tenants of real property or improvements thereon, and collected rents
17 from real property or improvements thereon.

18 FIRST CAUSE OF ACTION

19 Audit Violations

20 (As to Respondent MACMULLIN only)

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22 Each and every allegation in Paragraphs 1 through 6, inclusive, is incorporated
23 by this reference as if fully set forth herein.

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25 Beginning on or about February 17, 2015, and continuing intermittently through
26 June 30, 2015, an audit was conducted of MACMULLIN's records. The auditor herein
27 examined the records for the period of July 1, 2013, through February 28, 2014.

While acting as a real estate licensee as described in Paragraph 6, MACMULLIN accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

The trust funds accepted or received by MACMULLIN as described in Paragraph 9 were deposited or caused to be deposited by MACMULLIN into trust accounts which were maintained by MACMULLIN for the handling of trust funds, and thereafter from time-to-time MACMULLIN made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Umpqua Bank 2095 Central Avenue McKinleyville, CA 95519
Account No.:	XXXXXX7066
Entitled:	American Property Management
Signatories:	Niki M. Moore (unlicensed)
No. of Signatures Required:	One

TRUST ACCOUNT # 2	
Bank Name and Location:	North Valley Bank 1640 Central Avenue McKinleyville, CA 95519
Account No.:	XXXXX2924
Entitled:	American Property Management
Signatories:	Niki M. Moore (unlicensed)
No. of Signatures Required:	One

In the course of the activities described in Paragraph 9, Respondents:

(a) caused, suffered or permitted the combined balance of funds in Trust Accounts #1 and #2 to contain a shortage of \$29,063.13 without the prior written consent of each

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1 and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of
2 the Regulations;

3 (b) failed to maintain separate records for each beneficiary or property of trust
4 funds accepted or received for Trust Accounts #1 and #2 in violation of Section 10145(g) of the
5 Code and Section 2831.1 of the Regulations;

6 (c) failed to reconcile at least once a month, the balance of all separate
7 beneficiary or transaction records with the balance of the control records for Trust Accounts #1
8 and #2 in violation Section 10145 of the Code and Section 2831.2 of the Regulations;

9 (d) allowed unlicensed signer Niki Moore to serve as authorized signor on
10 Trust Accounts #1 and #2 without providing for fidelity bond coverage, in violation of Section
11 10145 of the Code and Section 2834 of the Regulations;

12 (e) conducted property management activities under the name American
13 Property Management during a time when American Property Management was not a licensed
14 dba, in violation of Section 10145 of the Code and Section 2731 of the Regulations; and

15 (f) conducted property management activities at 1225 Central Avenue, Suite
16 #12 McKinleyville, CA 95519 which is not registered with the Bureau, in violation of Section
17 10145 of the Code and Section 2715 of the Regulations.

18 12

19 The acts and/or omissions of MACMULLIN as alleged above in Paragraph 11
20 constitute grounds for the suspension or revocation of all licenses and license rights of
21 MACMULLIN pursuant to the following provisions of the Code and Regulations:

22 As to Paragraph 11(a), under Section 10177(d) and/or 10177(g) of the Code, in
23 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

24 As to Paragraph 11(b), under Section 10177(d) and/or 10177(g) of the Code, in
25 conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations;

26 As to Paragraph 11(c), under Section 10177(d) and/or 10177(g) of the Code, in
27 conjunction with Section 10145(g) of the Code and Section 2831.2 of the Regulations;

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2 As to Paragraph 11(d), under Section 10177(d) and/or 10177(g) of the Code, in
3 conjunction with Section 10145 of the Code and Section 2834 of the Regulations;

4 As to Paragraph 11(e), under Section 10177(d) and/or 10177(g) of the Code, in
5 conjunction with Section 10145 of the Code and Section 2731 of the Regulations; and

6 As to Paragraph 11(f), under Section 10177(d) and/or 10177(g) of the Code, in
7 conjunction with Section 10145 of the Code and Section 2715 of the Regulations.

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9 The acts and/or omissions of MACMULLIN as alleged above in Paragraph 12
10 entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148 of the
11 Code.

12 SECOND CAUSE OF ACTION

13 Audit Violations

14 (As to Respondent ARTIS only)

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16 Each and every allegation in Paragraphs 1 through 13, inclusive, is incorporated
17 by this reference as if fully set forth herein.

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19 Beginning on or about February 17, 2015, and continuing intermittently through
20 June 30, 2015, an audit was conducted of ARTIS' records. The auditor herein examined the
21 records for the period of March 1, 2014, through May 31, 2014.

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23 While acting as a real estate licensee as described in Paragraph 6, ARTIS accepted
24 or received funds in trust (trust funds) from or on behalf of owners and tenants in connection
25 with the leasing, renting, and collection of rents on real property or improvements thereon, as
26 alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

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The trust funds accepted or received by ARTIS as described in Paragraph 16 were deposited or caused to be deposited by ARTIS into trust accounts which were maintained by ARTIS for the handling of trust funds, and thereafter from time-to-time ARTIS made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Umpqua Bank 2095 Central Avenue McKinleyville, CA 95519
Account No.:	XXXXXX7066
Entitled:	American Property Management
Signatories:	Niki M. Moore (unlicensed)
No. of Signatures Required:	One

TRUST ACCOUNT # 2	
Bank Name and Location:	North Valley Bank 1640 Central Avenue McKinleyville, CA 95519
Account No.:	XXXX2924
Entitled:	American Property Management
Signatories:	Niki M. Moore (unlicensed)
No. of Signatures Required:	One

In the course of the activities described in Paragraph 16, Respondents:

(a) caused, suffered or permitted the combined balance of funds in Trust Accounts #1 and #2 to contain a shortage of \$35,715.90 without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

(b) failed to maintain separate records for each beneficiary or property of trust funds accepted or received for Trust Accounts #1 and #2 in violation of Section 10145(g) of the Code and Section 2831.1 of the Regulations;

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1 (c) failed to reconcile at least once a month, the balance of all separate
2 beneficiary or transaction records with the balance of the control records for Trust Accounts #1
3 and #2 in violation Section 10145(g) of the Code and Section 2831.2 of the Regulations;

4 (d) allowed unlicensed signer Niki Moore to serve as authorized signor on
5 Trust Accounts #1 and #2 without providing for fidelity bond coverage, in violation of Section
6 10145 of the Code and Section 2834 of the Regulations;

7 (e) failed to place trust funds into the hands of a principal on whose behalf the
8 funds were received, into a neutral escrow depository, or into a trust fund account into the name
9 of ARTIS as trustee at a bank or other financial institution, in conformance with the requirements
10 of Section 10145 of the Code and Section 2832 of the Regulations, in that Trust Accounts #1 and
11 #2 were not in the name of ARTIS or ARTIS' dba as trustee;

12 (f) failed to place trust funds into the hands of a principal on whose behalf the
13 funds were received, into a neutral escrow depository, or into a trust fund account in the name of
14 ARTIS as trustee at a bank or other financial institution for Trust Accounts #1 or #2 within three
15 (3) business days, in violation of Section 10145 of the Code and Section 2832 of the
16 Regulations;

17 (g) conducted property management activities under the name American
18 Property Management during a time when American Property Management was not a licensed
19 dba, in violation of Section 10145 of the Code and Section 2731 of the Regulations; and

20 (h) conducted property management activities at 1225 Central Avenue, Suite
21 #12 McKinleyville, CA 95519 which is not registered with the Bureau, in violation of Section
22 10145 of the Code and Section 2715 of the Regulations.

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24 The acts and/or omissions of ARTIS, as alleged above in Paragraph 18, constitute
25 grounds for the suspension or revocation of all licenses and license rights of ARTIS pursuant to
26 the following provisions of the Code and Regulations:

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1 As to Paragraph 18(a), under Section 10177(d) and/or 10177(g) of the Code, in
2 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

3 As to Paragraph 18(b), under Section 10177(d) and/or 10177(g) of the Code, in
4 conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations;

5 As to Paragraph 18(c), under Section 10177(d) and/or 10177(g) of the Code, in
6 conjunction with Section 10145(g) of the Code and Section 2831.2 of the Regulations;

7 As to Paragraph 18(d), under Section 10177(d) and/or 10177(g) of the Code, in
8 conjunction with Section 10145 of the Code and Section 2834 of the Regulations;

9 As to Paragraph 18(e), under Section 10177(d) and/or 10177(g) of the Code, in
10 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

11 As to Paragraph 18(f), under Section 10177(d) and/or 10177(g) of the Code, in
12 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

13 As to Paragraph 18(g), under Section 10177(d) and/or 10177(g) of the Code, in
14 conjunction with Section 10145 of the Code and Section 2731 of the Regulations; and

15 As to Paragraph 18(h), under Section 10177(d) and/or 10177(g) of the Code, in
16 conjunction with Section 10145 of the Code and Section 2715 of the Regulations.

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18 The acts and/or omissions of ARTIS as alleged above in Paragraph 18 entitle the
19 Bureau to reimbursement of the costs of its audit pursuant to section 10148 of the Code.

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21 THIRD CAUSE OF ACTION

22 Audit Violations

23 (As to Respondent SPEARS only)

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25 Each and every allegation in Paragraphs 1 through 20, inclusive, is incorporated
26 by this reference as if fully set forth herein.

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Beginning on or about February 17, 2015, and continuing intermittently through June 30, 2015, an audit was conducted of SPEARS's records. The auditor herein examined the records for the period of August 1, 2014, through January 31, 2015.

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While acting as a real estate licensee as described in Paragraph 6, SPEARS accepted or received funds in trust (trust funds) from or on behalf of owners and tenants in connection with the leasing, renting, and collection of rents on real property or improvements thereon, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

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The trust funds accepted or received by SPEARS as described in Paragraph 23 were deposited or caused to be deposited by SPEARS into trust accounts which were maintained by SPEARS for the handling of trust funds, and thereafter from time-to-time SPEARS made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Umpqua Bank 2095 Central Avenue McKinleyville, CA 95519
Account No.:	XXXXXX7066
Entitled:	American Property Management
Signatories:	Niki M. Moore (unlicensed)
No. of Signatures Required:	One

TRUST ACCOUNT # 2	
Bank Name and Location:	Tri Counties Bank 1640 Central Avenue McKinleyville, CA 95519
Account No.:	XXXXXX1119
Entitled:	American Property Management
Signatories:	Niki M. Moore (unlicensed)
No. of Signatures Required:	One

TRUST ACCOUNT # 3	
Bank Name and Location:	Umpqua Bank 2095 Central Avenue McKinleyville, CA 95519
Account No.:	XXXXXX5375
Entitled:	American Property Management
Signatories:	Niki M. Moore (unlicensed)
No. of Signatures Required:	One

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In the course of the activities described in Paragraph 23, Respondents:

(a) caused, suffered or permitted the combined balance of funds in Trust Accounts #1 and #2 to contain a shortage of \$46,934.33 without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of the Regulations;

(b) failed to maintain separate records for each beneficiary or property of trust funds accepted or received for Trust Accounts #1 and #2 in violation of Section 10145(g) of the Code and Section 2831.1 of the Regulations;

(c) failed to reconcile at least once a month, the balance of all separate beneficiary or transaction records with the balance of the control records for Trust Accounts #1 and #2 in violation section 10145(g) of the Code and Section 2831.2 of the Regulations;

(d) allowed unlicensed signer Niki Moore to serve as authorized signor on Trust Accounts #1, #2 and #3 without providing for fidelity bond coverage, in violation of Section 10145 of the Code and Section 2834 of the Regulations; and

(e) failed to place trust funds into the hands of a principal on whose behalf the funds were received, into a neutral escrow depository, or into a trust fund account in the name of ARTIS as trustee at a bank or other financial institution for Trust Accounts #1 or #2 within three (3) business days, in violation of Section 10145 of the Code and Section 2832 of the Regulations.

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The acts and/or omissions of SPEARS as alleged above in Paragraph 25 constitute grounds for the suspension or revocation of all licenses and license rights of SPEARS pursuant to the following provisions of the Code and Regulations:

As to Paragraph 25(a), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

As to Paragraph 25(b), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations;

As to Paragraph 25(c), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145(g) of the Code and Section 2831.2 of the Regulations;

As to Paragraph 25(d), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2834 of the Regulations; and

As to Paragraph 25(e), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2832 of the Regulations.

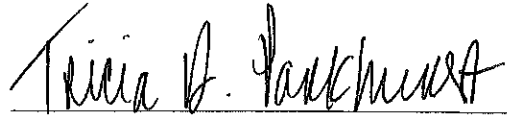
The acts and/or omissions of SPEARS as alleged above in Paragraph 25 entitle the Bureau to reimbursement of the costs of its audit pursuant to section 10148 of the Code.

COST RECOVERY

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the 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 imposing disciplinary action against all licenses and license rights of Respondents under the Code, for the costs of

1 investigation and enforcement as permitted by law, and for such other and further relief as may
2 be proper under the provisions of law.

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5 TRICIA D. PARKHURST
6 Supervising Special Investigator

7 Dated at Sacramento, California,
8 this 21st day of March, 2016

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10 DISCOVERY DEMAND

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