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FILED
AUG 11 2016

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

BUREAU OF REAL ESTATE
By R. Frost

In the Matter of the Accusation of:	)	
<u>CATHY MACMULLIN, ALI ANN L. ARTIS,</u>	)	CalBRE No. H-6376 SAC
and THERESE LEE SPEARS,	)	
	)	As to CATHY MACMULLIN, and
Respondents.	)	ALI ANN L. ARTIS only

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on July 21, 2016, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) express admissions by CATHY MACMULLIN ("MACMULLIN") and ALI ANN L. ARTIS ("ARTIS"); (2) affidavits; and (3) other evidence.

This Decision revokes a real estate license and/or license rights of MACMULLIN on the grounds of violations of Sections 10145, 10145(g), 10177(d), and 10177(g) of the Business and Professions Code ("the Code") and Sections 2715, 2731, 2831.1, 2831.2, 2832.1, and 2834 of Title 10 of the California Code of Regulations ("the Regulations").

This Decision revokes a real estate license and/or license rights of ARTIS on the grounds of violations of Sections 10145, 10145(g), 10177(d), and 10177(g) of the Code and Sections 2715, 2731, 2831.1, 2831.2, 2832.1, 2832, and 2834 of the Regulations.

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of MACMULLIN and ARTIS.

FINDINGS OF FACT

1

On March 21, 2016, ROBIN S. TANNER made the Accusation in her official capacity as a Supervising Special Investigator of the State of California, Bureau of Real Estate. On March 28, 2016, the Accusation, Statements to Respondent, and Notices of Defense were mailed, by certified mail, return receipt requested, to the last known mailing addresses on file with the Bureau of Real Estate of the State of California (hereinafter "the Bureau") for MACMULLIN and ARTIS.

On July 21, 2016, no Notices of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, defaults were entered herein for MACMULLIN and ARTIS.

2

MACMULLIN and ARTIS are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (herein "the Code") as real estate brokers.

3

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

AS TO RESPONDENT MACMULLIN ONLY

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

5

While acting as a real estate licensee as described in Paragraph 3, 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.

6

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

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In the course of the activities described in Paragraph 5, MACMULLIN:

(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 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 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 and #2 without providing for fidelity bond coverage, in violation of Section 10145 of the Code and Section 2834 of the Regulations;

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

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

The acts and/or omissions of MACMULLIN as alleged above in Paragraph 7 constitute grounds for the suspension or revocation of all licenses and license rights of MACMULLIN pursuant to the following provisions of the Code and Regulations:

As to Paragraph 7(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 7(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 7(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 7(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;

As to Paragraph 7(e), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2731 of the Regulations; and

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

AS TO RESPONDENT ARTIS ONLY

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

While acting as a real estate licensee as described in Paragraph 3, ARTIS 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 ARTIS as described in Paragraph 10 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.:	XXXXX2924
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 10, ARTIS:

- (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;
- (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 and #2 without providing for fidelity bond coverage, in violation of Section 10145 of the Code and Section 2834 of the Regulations;
- (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, in conformance with the requirements of Section 10145 of the Code and Section 2832 of the Regulations, in that Trust Accounts #1 and #2 were not in the name of ARTIS or ARTIS' dba as trustee;

(f) 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;

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

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

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The acts and/or omissions of ARTIS, as alleged above in Paragraph 12, constitute grounds for the suspension or revocation of all licenses and license rights of ARTIS pursuant to the following provisions of the Code and Regulations:

As to Paragraph 12(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 12(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 12(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 12(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;

As to Paragraph 12(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;

As to Paragraph 12(f), 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;

As to Paragraph 12(g), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2731 of the Regulations; and

As to Paragraph 12(h), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2715 of the Regulations.

DETERMINATION OF ISSUES

1

Cause for the suspension or revocation of all licenses and license rights of MACMULLIN exists with reference to the facts set out above in paragraphs 1 through 8, pursuant to Sections 10145, 10145(g), 10177(d), and 10177(g) of the Business and Professions Code ("the Code") and Sections 2715, 2731, 2831.1, 2831.2, 2832.1, and 2834 of the Regulations.

2

Cause for the suspension or revocation of all licenses and license rights of ARTIS exists with reference to the facts set out above in paragraphs 1 through 3 and 9 through 13, pursuant to Sections 10145, 10145(g), 10177(d), and 10177(g) of the Code and Sections 2715, 2731, 2831.1, 2831.2, 2832.1, 2832, and 2834 of the Regulations.

3

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondents CATHY MACMULLIN and ALI ANN L. ARTIS, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon on **AUG 18 2016**

DATED: 8/11/16

WAYNE S. BELL
REAL ESTATE COMMISSIONER

By: Dan Sandri
Dan Sandri, Assistant Commissioner