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FILED

APR 8 2014

BUREAU OF REAL ESTATE
 By *[Signature]*

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 8 **BEFORE THE BUREAU OF REAL ESTATE**
 9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation of)
)
 11 REAL ESTATE MANAGEMENT SERVICES,) NO. H-11670 SF
)
 12 INC. and MICHAEL LEE CARLSON,) ACCUSATION
)
 13 Respondents.)
 14)

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 REAL ESTATE
 17 MANAGEMENT SERVICES, INC. and MICHAEL LEE CARLSON, is informed and alleges as
 18 follows:

19 1

20 Respondent REAL ESTATE MANAGEMENT SERVICES, INC. (hereinafter
 21 "REMSI") is presently licensed by the California Bureau¹ of Real Estate (hereinafter "the Bureau")
 22 and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business
 23 and Professions Code (hereafter "the Code"), as a real estate broker corporation, and at all relevant
 24 times herein was acting by and through MICHAEL LEE CARLSON as its designated broker
 25 officer.

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27 ¹ Effective July 1, 2013, the Department of Real Estate has become the Bureau of Real Estate pursuant to the Governor's Reorganization Plan of 2012.

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At all times relevant herein, REMSI conducted real estate activity under its individual license name, and the fictitious business name "Aapex Property Management" registered with the Bureau.

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Respondent MICHAEL LEE CARLSON (hereinafter "CARLSON") is presently licensed by the Bureau and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as a real estate broker.

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At all times relevant herein, CARLSON was licensed by the Bureau as the designated broker officer of REMSI. As the designated broker officer, CARLSON was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees and employees of REMSI for which a real estate license is required.

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

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At all times relevant herein, Respondents 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 Section 10131(b) of the Code (Broker Defined – Property Management/Collection of Rent), 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

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1 leased or rented or offered to lease or rent, and solicited for prospective tenants of real property or
2 improvements thereon, and collected rents from real property or improvements thereon.

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4 FIRST CAUSE OF ACTION
As Against All Respondents

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

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9 On or about August 1, 2012, and continuing intermittently through September 11,
10 2012, an audit was conducted of Respondents' business activities at Respondents' main office
11 location at 22693 Hesperian Blvd., Ste. 100, Hayward, California, wherein the auditor examined
12 Respondents' records for the period of July 1, 2011 through August 31, 2012 (hereinafter "the audit
13 period").

14 9

15 While acting as a real estate broker as described in Paragraph 6, above, and within
16 the audit period, Respondents accepted or received funds in trust (hereinafter "trust funds") and
17 deposited or caused the trust funds to be deposited into bank accounts maintained by Respondents,
18 and thereafter, from time-to-time, Respondents made disbursements of said trust funds, identified as
19 follows:

20 Trust Account #1

21 Bank Name: Fremont Bank
22 Account No.: Last 4 Digits: xxx1985
23 Account Name: "Real Estate Management Services Inc dba Aapex Property
Management Trust Account"
24 Signatories: Michael Lee Carlson (DO/REB); Jodie Chambers (RES);
Deanna Lynn Hansen (RES); Susan Carol Carlson
25 (unlicensed); Tiffany Renee Goodfellow (unlicensed)
26 Purpose: Used for deposits and disbursements related to properties
managed by REMSI.

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1 (b) collected and retained unearned fees, compensation, and/or profit in the
2 amount of \$52,915.79 for the period July 1, 2011 to June 30, 2012, from homeowners in connection
3 with payment for property management maintenance and repair services performed by vendors, and
4 failed to disclose the collection of the unearned fees, compensation, and/or profit to the
5 homeowners, in violation of Sections 10145(a)(1) and 10176(g) of the Code. Specifically,
6 Respondents contracted with vendors to perform various services on the properties they managed
7 for homeowners. Vendors would bill Respondents at a discounted rate, but Respondents would
8 collect payment from homeowners at the full rate. Respondents retained the profit from the vendor
9 discount for themselves without disclosing the profit to homeowners; and,

10 (c) failed to perform and maintain reconciliations of the total of separate
11 beneficiary records with a control record on at least a monthly basis for Trust Account #1 and Trust
12 Account #2, in violation of Section 10145 of the Code and Section 2831.2 of the Regulations.

13 11

14 The acts and/or omissions of Respondents as alleged in paragraph 10, above,
15 constitute grounds for the suspension or revocation of all licenses and license rights of Respondents
16 pursuant to the following provisions of the Code and Regulations:

17 As to Paragraph 10(a), under Section 10177(d) (willful disregard or violation of
18 Real Estate Law) and/or 10177(g) (negligence or incompetence in performing licensed act) of the
19 Code, in conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

20 As to Paragraph 10(b), under Section 10176(g) (retaining secret profit) of the Code;
21 and,

22 As to Paragraph 10(c), under Section 10177(d) and/or 10177(g) of the Code, in
23 conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations.

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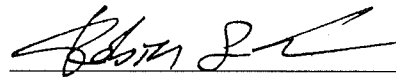
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1 Investigation and Enforcement Costs

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3 Section 10106 of the Code provides, in pertinent part, that in any order issued in
4 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
5 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
6 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
8 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license
9 rights of all Respondents named herein under the Real Estate Law (Part 1 of Division 4 of the
10 Business and Professions Code), for the cost of investigation and enforcement as permitted by law,
11 for the cost of the audit as permitted by law, and for such other and further relief as may be proper
12 under other provisions of law.

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15 ROBIN S. TANNER
16 Supervising Special Investigator

17 Dated at Oakland, California,
18 this 2nd day of April, 2014.