

FILED

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9 BEFORE THE BUREAU OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 III CREATE INC. and BARBARA A. BRENZEL,)
14 Respondents.)

No. H-11752 SF
ACCUSATION

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16 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
17 the State of California, for cause of Accusation against III CREATE INC. and BARBARA A.
18 BRENZEL (Respondents), is informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

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21 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
22 the State of California, makes this Accusation in her official capacity.

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

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At all times mentioned, Respondent III CREATE INC. (3CI) was and is licensed by the State of California Bureau of Real Estate (Bureau) as a restricted real estate corporation. At all times mentioned, Larry Spiteri was licensed as the designated officer of 3CI.

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At all times mentioned, Respondent BARBARA A. BRENZEL (BRENZEL) was and is licensed by the Bureau as a real estate salesperson. Beginning on or about January 29, 2013, and continuing thereafter, Respondent's salesperson license was affiliated under the brokerage of 3CI.

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At no time mentioned was BB Property Management Inc. (BBPM) licensed by the Bureau as a real estate broker corporation. BRENZEL is the sole shareholder, officer and director of BBPM.

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At all times mentioned, 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 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, Respondent 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.

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Beginning on or about December 19, 2013, and continuing intermittently through December 30, 2013, an audit was conducted of the records of 3CI. The auditor herein examined the records for the period of February 1, 2013, through November 30, 2013.

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1 FIRST CAUSE OF ACTION

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

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6 Within the last three years, Respondents willfully caused, suffered, permitted,
7 and/or disregarded the real estate law by allowing BBPM to perform the acts and conduct the
8 real estate activities described in Paragraph 6, including, but not limited to, the activities
9 described in Paragraph 10, below.

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11 Within the last three years, in the course of the employment and activities
12 described in Paragraph 9, BRENZEL, on behalf of BBPM, solicited prospective tenants for,
13 negotiated rental agreements for, and/or collected rents from real properties owned by another or
14 others, including, but not limited to, the following:

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| <u>Property Address</u> | <u>Type of the Agreement</u> | <u>Name of the Owner/Tenant</u> | <u>Date of the Agreement</u> |
|-------------------------|------------------------------|---------------------------------|------------------------------|
| 564 Amberwood Way | Property Management | Rick B. | 2/22/13 |
| 792 Adams Avenue | Property Management | John H. | 6/7/13 |
| 4217 Davis Way | Property Management | Norman M. | 9/20/13 |
| 564 Amberwood Way | Rental Agreement | David T. | 5/3/13 |
| 792 Adams Avenue | Rental Agreement | Barbara N. | 9/17/13 |
| 4217 Davis Way | Rental Agreement | Dan G. | 10/30/13 |

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18 In acting as described above, Respondents willfully caused, suffered, and/or
19 permitted, BBPM to violate and/or willfully disregard Section 10130 of the Code.

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The facts alleged in the First Cause of Accusation are grounds for the suspension or revocation of Respondents' licenses and license rights pursuant to Section 10130 of the Code, in conjunction with Section 10177(d) of the Code.

SECOND CAUSE OF ACTION

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Each and every allegation in Paragraphs 1 through 12, inclusive, is incorporated by this reference as if fully set forth herein.

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In the course of the activities described in Paragraph 6, BRENZEL collected rents from tenants and failed to deliver the rent collected to her employing broker, into the custody of the broker's principal, to a neutral escrow depository, or deposit the rents collected into a trust fund account in the name of the broker as trustee in violation of Section 10145(c) of the Code (salesperson licensee shall deliver trust funds to broker, into the custody of the broker's principal, to a neutral escrow depository, or into broker's trust account) and Section 2832 of the Regulations (salesperson licensee shall deliver trust funds to broker, into the custody of the broker's principal, to a neutral escrow depository, or into trust fund account in the name of the broker as trustee).

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The facts alleged in the Second Cause of Action are grounds for the suspension or revocation of BRENZEL's license and license rights under Section 10177(d) of the Code in conjunction with Section 10145(c) of the Code and Section 2832 of the Regulations.

COST RECOVERY

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The acts and/or omissions of Respondents as alleged above, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b) (audit costs for trust fund handling violation) of the Code.

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


ROBIN S. TANNER
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 29th day of August, 2014

DISCOVERY DEMAND

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