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**FILED**

MAY 06 2016

BUREAU OF REAL ESTATE

By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of )  
12 THE AZARI GROUP REAL ESTATE, INC., and ) NO. H- 11965 SF  
13 MARIO ANTONIO BANUELOS, ) ACCUSATION  
14 Respondents. )

15 The Complainant, ROBIN S. TANNER, in her official capacity as a Supervising  
16 Special Investigator of the State of California, brings this Accusation against THE AZARI GROUP  
17 REAL ESTATE, INC. and MARIO ANTONIO BANUELOS, (collectively "Respondents") and is  
18 informed and alleges as follows:

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20 Respondent THE AZARI GROUP REAL ESTATE, INC. ("Respondent AZARI  
21 GROUP") is presently licensed by the California Bureau<sup>1</sup> 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 MARIO ANTONIO BANUELOS as its designated officer  
25 broker.

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27 <sup>1</sup> 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, Respondent AZARI GROUP conducted real estate activity under its individual license name, and the fictitious business name "Azari Property Management" registered with the Bureau.

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Respondent MARIO ANTONIO BANUELOS ("Respondent BANUELOS") 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, Respondent BANUELOS was licensed by the Bureau as the designated officer broker of Respondent AZARI GROUP. As the designated officer broker, Respondent BANUELOS 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 Respondent AZARI GROUP 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.

6

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.

3 FIRST CAUSE OF ACTION

4 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 July 10, 2014, and continuing intermittently through September 29,  
10 2014, an audit was conducted of Respondents' business activities at Respondents' main office  
11 location at 521 Gough St., San Francisco, California, wherein the auditor examined Respondents'  
12 records for the period of January 1, 2013 through September 12, 2014 (hereinafter "the audit  
13 period").

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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: Bank of America  
22 Account No.: Last 4 Digits: xxxxxx3105  
23 Account Name: "The Azari Group Real Estate, Inc. Trust Account"  
24 Signatories: Mario Antonio Banuelos (DO/REB)

25 Bank Account #1

26 Bank Name: Bank of America  
27 Account No.: Last 4 Digits: xxxxxx4635  
Account Name: "The Azari Group Real Estate, Inc. General 1 dba Azari  
Property Management"  
Signatories: Manzar Azari (unlicensed); Eugenia Mantzoros (RES)

In the course of the real estate broker activities described in paragraph 6, above, and during the audit period, Respondents:

(a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be reduced to an amount which, as of April 30, 2014 and June 30, 2014, was approximately \$43,250.00 less than the aggregate liability of Trust Account #1 to all owners of such funds, 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 Title 10 of the California Code of Regulations ("the Regulations"). The cause of said trust fund shortage was attributed to a transaction wherein maintenance reserves were transferred from Trust Account #1 to Bank Account #1 (general operating account), on April 28, 2014;

(b) caused, suffered, or permitted the balance of funds in Trust Account #1 to be reduced to an amount which, as of September 12, 2014, was approximately \$1,400.00 less than the aggregate liability of Trust Account #1 to all owners of such funds, 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. The cause of said trust fund shortage was attributed to a negative balance for one property;

(c) failed to maintain separate records for each beneficiary or property of trust funds accepted or received for Trust Account #1, in violation of Section 10145(g) of the Code and Section 2831.1 of the Regulations, in that Trust Account #1 contained unidentified and/or unaccounted for funds totaling \$190.04 as of April 30, 2013, and \$260.58 as of June 30, 2014;

(d) deposited trust funds into Bank Account #1, and failed to designate Bank Account #1 as a trust fund account in the name of Respondent AZARI GROUP or its registered fictitious business name, as trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations;

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1 (e) caused, suffered or permitted money of others, trust funds in the form of  
2 maintenance reserves, which were received and held by Respondents in Bank Account #1 on or  
3 about April 28, 2014, to be commingled with Respondents' own money, in violation of Section  
4 10176(e) of the Code and Section 2835 of the Regulations;

5 (f) failed to maintain complete and accurate records of all trust funds received  
6 and disbursed (control records) for Trust Account #1, including, but not limited to the failure to  
7 record a transfer of maintenance reserves totaling \$43,250.00 on April 28, 2014 from Trust Account  
8 #1 into Bank Account #1, and the failure to record the deposit of trust funds totaling \$4,398.00 in  
9 the form of a security deposit collected from tenant Peter D., all in violation of Section 10145 of the  
10 Code and Section 2831 of the Regulations;

11 (g) failed to maintain and/or keep accurate and complete separate records for  
12 each beneficiary or property of trust funds accepted or received and disbursed for Trust Account #1,  
13 in violation of Section 10145(g) of the Code and Section 2831.1 of the Regulations. Specifically,  
14 after transferring maintenance reserves from Trust Account #1 into Bank Account #1, Respondents  
15 failed to record the disbursement on any of the affected separate records. Additionally, the separate  
16 record for the property located at 88 Amhurst Lower Unit, Daly City, CA was inaccurate and  
17 incomplete in that a security deposit totaling \$4,398.00 deposited into Trust Account #1 on or about  
18 May 2, 2014 pertaining to that property was not recorded on the separate property record;

19 (h) failed to maintain and/or keep accurate and complete separate records for  
20 each beneficiary or property of trust funds accepted or received and disbursed for Bank Account #1,  
21 in violation of Section 10145(g) of the Code and Section 2831.1 of the Regulations. After April 27,  
22 2014, Bank Account #1 held trust funds in the form of maintenance reserves totaling \$43,250.00 for  
23 more than 170 properties;

24 (i) failed to reconcile the total of the separate beneficiary/property records with  
25 the records of all trust funds received and disbursed (control records) on at least a monthly basis for  
26 Bank Account #1, in violation of Section 2831.2 of the Regulations;

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1 (j) conducted activities requiring a real estate license during the period August  
2 13, 2014 through August 28, 2014, when Respondent AZARI GROUP did not have a designated  
3 officer broker registered with the Bureau, in violation of Section 10130 of the Code and Section  
4 2740 of the Regulations. Specifically, Respondent AZARI GROUP collected and disbursed trust  
5 funds in the form of rent receipts totaling \$31,468.33 pertaining to at least 7 properties during that  
6 unlicensed period; and,

7 (k) employed and/or compensated unlicensed individuals including, but not  
8 limited to, Manzar Azari ("Azari"), Denise Kilker ("Kilker"), Jenny Filchenko ("Filchenko"), James  
9 Quintero ("Quintero"), and Mark Machado ("Machado"), to perform real estate activities on behalf  
10 of Respondent AZARI GROUP within the meaning of Section 10131(b) of the Code (property  
11 management-lease solicitation and negotiation), in violation of Sections 10130 and 10137 of the  
12 Code. Specifically, Azari, Kilker, and Filchenko entered into at least 7 property management  
13 agreements on behalf of Respondent AZARI GROUP from April 9, 2013 through July 15, 2014.  
14 Additionally, Kilker, Quintero, and Machado were compensated by Respondent AZARI GROUP  
15 for such real estate activities during the period January 2014 through October 2014.

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

20 As to paragraph 10(a), under Section 10177(d) and/or 10177(g) of the Code, in  
21 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

22 As to paragraph 10(b), under Sections 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 10(c), under Section 10177(d) and/or 10177(g) of the Code, in  
25 conjunction with Section 10145(g) of the Code and Section 2832.1 of the Regulations;

26 As to paragraph 10(d), under Section 10177(d) and/or 10177(g) of the Code, in  
27 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

1 As to paragraph 10(e), under Sections 10176(e), and 10177(d) and/or 10177(g) of  
2 the Code, in conjunction with Section 2835 of the Regulations;

3 As to paragraph 10(f), under Section 10177(d) and/or 10177(g) of the Code, in  
4 conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

5 As to paragraph 10(g), under Section 10177(d) and/or 10177(g) of the Code, in  
6 conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations;

7 As to paragraph 10(h), under Section 10177(d) and/or 10177(g) of the Code, in  
8 conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations;

9 As to paragraph 10(i), under Section 10177(d) and/or 10177(g) of the Code, in  
10 conjunction with Section 2831.2 of the Regulations;

11 As to paragraph 10(j), under Section 10177(d) and/or 10177(g) of the Code, in  
12 conjunction with Section 2740 of the Regulations; and,

13 As to paragraph 10(k), under Section 10177(d) and/or 10177(g) of the Code, in  
14 conjunction with Sections 10130 and 10137 of the Code.

15 SECOND CAUSE OF ACTION

16 As Against Respondent BANUELOS

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18 Each and every allegation in paragraphs 1 through 11, inclusive, above, is  
19 incorporated by this reference as if fully set forth herein.

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21 At all times relevant herein, Respondent BANUELOS, as the designated officer  
22 broker of Respondent AZARI GROUP, was required to exercise reasonable supervision and control  
23 over the activities of Respondent AZARI GROUP and its employees pursuant to Section 10159.2 of  
24 the Code and Section 2725 of the Regulations.

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Respondent BANUELOS failed to exercise reasonable supervision over the acts and/or omissions of Respondent AZARI GROUP and its employees in such a manner as to allow the acts and/or omissions as described in paragraph 10, above, to occur, which constitutes cause for the suspension or revocation of the licenses and license rights of Respondent BANUELOS under Sections 10177(d) and/or 10177(g) of the Code, and Section 10177(h) of the Code, in conjunction with Section 10159.2 of the Code and Section 2725 of the Regulations.

COST RECOVERY

Audit Costs

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

Investigation and Enforcement Costs

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 revoking all licenses and license rights of all Respondents named herein under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, for the cost of the audit as permitted by law, and for such other and further relief as may be proper under other provisions of law.

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1 Dated at Oakland, California,  
2 this 4<sup>th</sup> day of 12<sup>th</sup> May, 2016.

  
ROBIN S. TANNER  
Supervising Special Investigator

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