

1 RICHARD K. UNO, Counsel III (SBN 98275)  
2 Bureau of Real Estate  
3 P. O. Box 137007  
4 Sacramento, CA 95813-7007

5 Telephone: (916) 263-8670  
6 (916) 263-3767 (Fax)  
7 (916) 263-8679 (Direct)

**FILED**

JUL 22 2016  
BUREAU OF REAL ESTATE  
By B. Nicholas

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

11 \* \* \*

12 In the Matter of the Accusation of )  
13 REAL ESTATE MANAGEMENT SERVICES, ) No. H-11991 SF  
14 INC. and MICHAEL LEE CARLSON, ) ACCUSATION  
15 Respondents. )

16  
17 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of  
18 the State of California, for Accusation against Respondents REAL ESTATE MANAGEMENT  
19 SERVICES, INC. (REMS) and MICHAEL LEE CARLSON (CARLSON), sometimes  
20 collectively referred to as Respondents, is informed and alleges as follows:

21 1

22 The Complainant makes this Accusation against Respondents in her official  
23 capacity.

24 2

25 REMS is presently licensed and/or has license rights under the Real Estate Law,  
26 Part 1 of Division 4 of the California Business and Professions Code (Code), by the Bureau of  
27 Real Estate (Bureau) as a corporate real estate broker whose license has since October 30, 2014,

1 been, and now is, a restricted corporate real estate broker license subject to terms, conditions  
2 and restrictions pursuant to Section 10156.6 and 10156.7 of the Code.

3 3

4 CARLSON is presently licensed and/or has license rights under the Code as a  
5 real estate broker whose license has since October 30, 2014, been, and now is, a restricted real  
6 estate broker license subject to terms, conditions and restrictions pursuant to Section 10156.6  
7 and 10156.7 of the Code.

8 4

9 At all times mentioned herein, CARLSON was the designated broker-officer of  
10 REMS. As the designated broker-officer, CARLSON was responsible, pursuant to Section  
11 10159.2 of the Code, for the supervision of the activities of officers, agents, real estate licensees  
12 and employees of REMS for which a real estate license is required to ensure the compliance of  
13 the corporation with the Real Estate law and the Regulations.

14 5

15 At all times herein mentioned, Respondents engaged in the business of, acted in  
16 the capacity of, advertised, or assumed to act as real estate brokers within the State of California  
17 within the meaning of Section 10131(b) of the Code, including the operation and conduct of a  
18 property management business with the public wherein, on behalf of others, for compensation or  
19 in expectation of compensation, Respondents leased or rented or offered to lease or rent, or  
20 placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or  
21 negotiated the sale, purchase or exchanges of leases on real property, or on a business  
22 opportunity, or collected rents from real property, or improvements thereon, or from business  
23 opportunities.

24 FIRST CAUSE OF ACTION

25 6

26 Complainant refers to Paragraphs 1 through 5, above, and incorporates the same.

27 ///

Beginning on January 25, 2016, and continuing intermittently through January 27, 2016, an audit was conducted at REMS's office located at 21550 Foothill Blvd., Ste. 201, Hayward, California 94541, and at the Bureau's district office located at 1515 Clay Street, Oakland, California, where the auditor examined records for the period of January 1, 2015, through December 31, 2015 (the audit period).

While acting as a real estate broker as described in Paragraph 5, above, and within the audit period, REMS accepted or received funds in trust (trust funds) from or on behalf of property owners, lessees and others in connection with property management activities, and deposited or caused to be deposited those funds into bank accounts maintained by REMS, at Fremont Bank, 25151 Clawiter Road, Hayward, California 94545, as described below:

TRUST ACCOUNT #1	
Account No.:	XXX1985
Entitled:	REAL ESTATE MANAGEMENT SERVICES INC DBA AAPEX PROPERTY MANAGEMENT TRUST ACCOUNT

TRUST ACCOUNT #2	
Account No.:	XXXX2367
Entitled:	VINCETA YEE AAPEX PROPERTY MANAGEMENT TRUST ACCOUNT

TRUST ACCOUNT #3	
Account No.:	XXXX5289
Entitled:	STAN JEGLUM AAPEX PROPERTY MANAGEMENT TRUST ACCOUNT

and thereafter from time-to-time made disbursement of said trust funds.

In the course of the activities described in Paragraph 5, in connection with the collection and disbursement of trust funds, it was determined that:

- (a) An accountability was performed on Trust Account #1, and as of December 31, 2015, a shortage of \$27,924.02 was revealed, in violation of Section 10145 of the Code;
- (b) REMS failed to obtain written permission from owners of trust funds in Trust Account #1 to allow the balance to drop below accountability, in violation of Section 2832.1 of the Regulations; and
- (c) REMS commingled trust funds with non-trust funds in violation of Section 10176(e) of the Code RE failed to maintain accurate records of all funds received and disbursed for Trust Account #1, as required by Section 2831 of the Regulations.

The acts and/or omissions described above constitute violations of Section 2832.1 (written permission balance below accountability) of the Regulations and of Sections 10145 (trust fund handling) and 10176 (e) (commingling) of the Code, and are grounds for discipline under Sections 10177(d) (willful disregard of real estate laws) and 10177(g) (negligence/incompetence licensee) of the Code.

SECOND CAUSE OF ACTION

Complainant refers to Paragraphs 1 through 10, above, and incorporates them herein by reference.

At all times herein above mentioned, CARLSON was responsible, as the supervising designated broker/officer for REMS, for the supervision and control of the activities conducted on behalf of REMS's business by its employees to ensure its compliance with the Real

1 Estate Law and Regulations. CARLSON failed to exercise reasonable supervision and control  
2 over the property management activities of REMS. In particular, CARLSON permitted, ratified  
3 and/or caused the conduct described above to occur, and failed to take reasonable steps,  
4 including but not limited to, the handling of trust funds, supervision of employees, and the  
5 implementation of policies, rules, and systems to ensure the compliance of the business with the  
6 Real Estate Law and the Regulations.

7 13

8 The above acts and/or omissions of CARLSON violate Section 2725 (broker  
9 supervision) of the Regulations and Section 10159.2 (responsibility/designated officer) of the  
10 Code and constitute grounds for disciplinary action under the provisions of Sections 10177(d),  
11 10177(g) and 10177(h) (broker supervision) of the Code.

12 14

13 Prior Administrative Discipline

14 Effective October 30, 2014, in Case No. H-11670 SF, pursuant to a Stipulation  
15 and Agreement, the Real Estate Commissioner revoked the respective real estate licenses of  
16 REMS and CARLSON, with the right for each to apply for a restricted real estate license.

17 15

18 Audit Costs

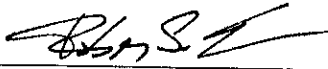
19 The acts and/or omissions of Respondents, as alleged above, entitle the Bureau to  
20 reimbursement of the costs of its audits pursuant to Section 10148(b) (audit costs for trust fund  
21 handling violations) of the Code.

22 16

23 Costs of Investigation and Enforcement

24 Section 10106 of the Code provides, in pertinent part, that in any order issued  
25 in resolution of a disciplinary proceeding before the Bureau, the commissioner may request the  
26 administrative law judge to direct a licensee found to have committed a violation of this part to  
27 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1                    WHEREFORE, Complainant prays that a hearing be conducted on the  
2 allegations of this Accusation and that upon proof thereof a decision be rendered imposing  
3 disciplinary action against all licenses and license rights of Respondents under the Real Estate  
4 Law, and for such other and further relief as may be proper under other provisions of law.  
5

6  
7   
8 ROBIN S. TANNER  
Supervising Special Investigator

9 Dated at Oakland, California,  
10 this 18<sup>th</sup> day of July, 2016.  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27