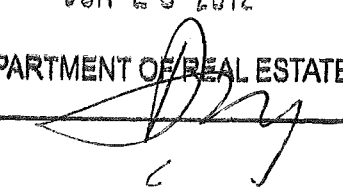


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7

FILED

JUN 28 2012

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 A REAL ESTATE & MANAGEMENT)
14 COMPANY INC.; and DREW)
15 CAMERON BAKER, individually and as)
16 designated officer of A Real Estate &)
17 Management Company Inc.,)
18)
19 Respondents.)
20)
21)
22)
23)
24)
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26)

No. H- 38225 LA

ACCUSATION

18 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the
19 State of California, Department of Real Estate ("Department") for cause of Accusation against A
20 REAL ESTATE & MANAGEMENT COMPANY INC. ("AREMCI") and DREW CAMERON
21 BAKER ("BAKER"), individually and as designated officer of A Real Estate & Management
22 Company Inc. (collectively "Respondents"), is informed and alleges as follows:
23

24 1.

25 The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the
26 State of California, makes this Accusation in her official capacity.

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2.

From January 17, 2001, through the present, Respondent AREMCI has been licensed as a real estate corporation. At all times relevant herein, AREMCI was acting by and through Respondent BAKER as its designated broker-officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

3.

Respondent BAKER was originally licensed as a real estate broker on January 17, 1986. BAKER has been the designated officer of AREMCI since its original licensure on January 17, 2001.

Table: Designated Officer Tenure

Designated Officer	Tenure
Drew Cameron Baker	January 17, 2001 to date

4.

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 officers, directors, employees, agents and real estate licensees employed by or associated with Respondents committed such act or omission while engaged in the furtherance of the business or operations of Respondents and while acting within the course and scope of their corporate authority and employment.

FIRST CAUSE OF ACCUSATION

(Audit)

5.

At all times mentioned, in the State of California, Respondents AREMCI and BAKER acted as real estate brokers and conducted licensed activities within the meaning of Code Section 10131(b) wherein they conducted a property management brokerage.

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On May 25, 2012, the Department completed an audit examination of the books and records of Respondent AREMCI pertaining to the property management activities described in Paragraph 5, which require a real estate license. The audit examination covered a period of time beginning on November 1, 2010 to December 31, 2011. The audit examination revealed violations of the Code and the Title 10, Chapter 6, California Code of Regulations ("Regulations") as alleged in the following paragraphs, and more fully set forth in Audit Report LA 110184 and the exhibits and work papers attached thereto.

7.

At all times mentioned, in connection with the activities described in Paragraph 6, above, AREMCI accepted or received funds including funds in trust ("trust funds") from or on behalf of owners and tenants handled by AREMCI and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, during the audit period and thereafter, said trust funds were deposited and/or maintained by AREMCI in the bank accounts described below. AREMCI did not maintain a trust fund during the audit period.

(“B/A 1”)

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1 "REMCO - A Real Estate & Management Company Inc."

2 XXX-06158

3 Bank of America

4 Los Altos Center Branch

5 P.O. Box 37176

6 San Francisco, CA 94137

7 (Security deposit collection account

("B/A 2")

8
9 "REMCO - A Real Estate & Management Company Inc."

10 XXX-09261

11 Bank of America

12 Los Altos Center Branch

13 P.O. Box 37176

14 San Francisco, CA 94137

15 (Certificate of Deposits for security deposits -interest-bearing account)

("B/A 3")

16 Violations Of The Real Estate Law

17 8.

18
19 In the course of activities described in Paragraph 5, above, and during the
20 examination period, described in Paragraph 6, Respondents AREMCI and BAKER acted in
21 violation of the Code and the Regulations in which Respondents:

22 (a) Permitted, allowed or caused the disbursement of trust funds from B/A 1,
23 B/A 2 and B/A 3, AREMCI' rent and security deposits accounts, where the disbursement of
24 funds reduced the total of aggregate funds in B/A 1, B/A 2 and B/A 3, to an amount which, on
25 December 31, 2011, was at a minimum accountability of \$330,700.07, less than the existing
26 aggregate trust fund accountability of AREMCI to every principal who was an owner of said

1 funds, without first obtaining the prior written consent of the owners of said funds, in violation
2 of Code Section 10145(a) and Regulation 2832.1. The shortage was caused by unauthorized
3 disbursements from B/A 1, B/A 2 and B/A 3. The shortage was cured on April 27, 2012;

4 (b) Failed to maintain an adequate control record, separate record and
5 reconciliation therewith for B/A 1, B/A 2 and B/A 3, with respect to trust fund handling,
6 monitoring and management and with regard to mis-posting account data, in violation of Code
7 Section 10145 and Regulations 2831, 2831.1 and 2831.2;

8 (c) Failed to perform a monthly reconciliation of the balance of all separate
9 beneficiary or transaction records maintained pursuant to Regulation 2831.1 with the record of
10 all trust funds received and disbursed by B/A 1, B/A 2 and B/A 3 in violation of Code Section
11 10145 and Regulations 2831.2;

12 (d) Failed to maintain an adequate control record in the form of a columnar record
13 in chronological order of trust funds received but not deposited into B/A 1 and B/A 2, received in
14 chronological order, in violation of Code Section 10145 and Regulation 2831;

15 (e) Failed to maintain a separate record for each beneficiary or transaction, thereby
16 failing to account for all rent and security deposit collections, in violation of Code Section 10145
17 and Regulation 2831.1;

18 (f) (1) Deposited trust funds into interest-bearing accounts without written
19 authorization, in violation of Code Section 10145(d)(4), and

20 (f)(2) Benefited from interest inured on the trust accounts that AREMCI failed to
21 designate as interest bearing accounts, in violation of Code Section 10145(d)(5);

22 ///

(g) B/A 1, B/A 2 and B/A 3 were not in the name of the broker as trustee at a bank or other financial institution, nor designated as a trust account, in violation of Code Section 10145 of the Code and Regulation 2832(a);

(h) Converted trust funds in the amounts as set forth below, by transferring trust funds from B/A 1 and B/A 2 into AREMCI's general operating account, which reduced the balance in B/A 1 and B/A #2, AI's general account, to an amount that was less than the amount of trust funds deposited into said accounts, in violation of Code Sections 10145 and 10176(i)/10177(j) and 2832:

Table: Designated Officer Tenure

Trust Funds Converted	Date of Transfers to general operating account
\$46,000.00	February 16, 2011 to August 25, 2011
\$16,000.00	February 16, 2011 to August 25, 2011

(i) Mixed and commingled trust funds and personal funds in AREMCI's general operating account, in violation of Code Sections 10145 and 10176(e) and Regulation 2832;

(j) Used the fictitious name of "REMCO", to conduct licensed activities including a property management brokerage, without first obtaining from the Department a license bearing said fictitious business name, in violation of Code Section 10159.5 and Regulation 2731;

(k) Failed to disclose AREMCI's and BAKERS' real estate license number on BAKER's business cards, in violation of Code Section 10140.6(b) and Regulation 2773.

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9.

The conduct of Respondents AREMCI and BAKER, described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

8(a)	Code Section 10145 and Regulation 2832.1
8(b)	Code Section 10145 and Regulations 2831, 2831.1 and 2831.2
8(c)	Code Section 10145 and Regulation 2831.2
8(d)	Code Section 10145 and Regulation 2831
8(e)	Code Section 10145 and Regulation 2831.1
8(f)	Code Section 10145(d)(4) & (5)
8(g)	Code Section 10145 and Regulation 2832(a)
8(h)	Code Sections 10145 and 10176(i)/10177(j) and 2832
8(i)	Code Sections 10145 and 10176(e) and Regulation 2832
8(j)	Code Section 10159.5 and Regulation 2731
8(k)	Code Section 10140.6(b) and Regulation 2773

The foregoing violations constitute cause for the discipline of the real estate licenses and license rights of Respondents AREMCI and BAKER under the provisions of Code Sections 10145, 10176(e), 10176(i) and/or 10177(j), 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION

(Negligence)

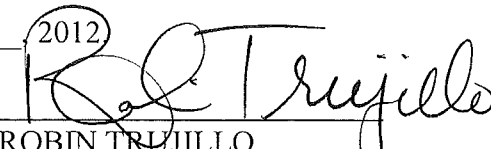
10.

The overall conduct of Respondents AREMCI and BAKER constitutes negligence and is cause for discipline of the real estate license and license rights of said Respondents pursuant to the provisions of Code Section 10177(g).

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and/or license rights of Respondents A REAL ESTATE &
4 MANAGEMENT COMPANY INC. and DREW CAMERON BAKER, individually and as
5 designated officer of A Real Estate & Management Company Inc., under the Real Estate Law
6 (Part 1 of Division 4 of the California Business and Professions Code) and for such other and
7 further relief as may be proper under other applicable provisions of law, including but not
8 limited to, final proof of cure of the shortage, prosecution costs including audit and enforcement
9 costs.

10 Dated at Los Angeles, California.

11
12 this 25 day of June 2012
13 
14 ROBIN TRUJILLO
15 Deputy Real Estate Commissioner
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23 cc: A Real Estate & Management Company Inc.
24 Drew Cameron Baker
25 Robin Trujillo
26 Audits - Gina King
Sacto