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BUREAU OF REAL ESTATE
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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of) CALBRE NO. H-39999 LA
)
SUPERIOR MANAGEMENT AND REALTY) ACCUSATION
SERVICES, INC. and)
YVONNE MARIE SIMON,)
individually and as designated officer for)
Superior Management and Realty Services, Inc.,)
)
Respondents.)
)
)

The Complainant, Maria Suarez, a Supervising Special Investigator of the State of California, for cause of Accusation against SUPERIOR MANAGEMENT AND REALTY SERVICES, INC. and YVONNE MARIE SIMON, individually and as designated officer for Superior Management and Realty Services, Inc. (collectively "Respondents"), is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

1 2.

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

4 3.

5 All references to the "Code" are to the California Business and Professions Code and all
6 references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

7 4.

8 From July 3, 2013, through the present, Respondent SUPERIOR MANAGEMENT AND
9 REALTY SERVICES, INC. ("SMRSI") has been licensed by the Bureau of Real Estate
10 ("Bureau") as a real estate corporation, License ID 01931137.

11 5.

12 From June 5, 2012, through the present, Respondent YVONNE MARIE SIMON
13 ("SIMON") has been licensed by the Bureau as a real estate broker, License ID 01510957.

14 6.

15 From on or about July 3, 2013, through the present, SMRSI has been authorized to act by
16 and through Respondent SIMON as its broker designated pursuant to Code Section 10159.2 to be
17 responsible for ensuring compliance with the Real Estate Law. SIMON is the sole officer and
18 director of SMRSI.

19 Audit LA 130175

20 7.

21 On or about June 24, 2014, the Bureau completed an audit examination of the books and
22 records of Respondent SMRSI pertaining to SMRSI's property management activities which
23 require a real estate license pursuant to Code section 10131(b). The audit examination covered a
24 period of time beginning on July 3, 2013, to January 31, 2014. The audit examination revealed

1 violations of the Code and the Regulations as set forth in the following paragraphs, and more
2 fully discussed in Audit Report LA 130175 and the exhibits and work papers attached to said
3 audit report.

4 8.

5 During the audit period, SMRSI managed approximately 33 one-to-four family
6 residences and 11 apartment complexes for 32 property owners. SMRSI claimed to have
7 maintained three (3) open bank accounts for the handling of the receipts and disbursements of
8 property management activities for the audit period as follows:

9 Trust Account 1 (T/A 1)

10 Bank: JP Morgan Chase Bank, N.A.

11 Account Name: Superior Management and Realty Services, Inc. Broker Trust Account

12 Account #: xxxxx0090

13 Signatories: SIMON

14 Description: T/A 1 was a checking account for multiple beneficiaries that was used for
15 handling receipts and disbursements of trust funds for properties managed by SMRSI.

16 Trust Account 2 (T/A 2)

17 Bank: JP Morgan Chase Bank, N.A.

18 Account Name: Superior Management and Realty Services, Inc. Security Deposit &
19 Trust Reserve

20 Account #: xxxxx1021

21 Signatories: SIMON

22 Description: T/A 2 was a checking account for multiple beneficiaries that was used for
23 handling security deposits maintained for the properties managed by SMRSI.
24

1 Trust Account 3 (T/A 3)

2 Bank: JP Morgan Chase Bank, N.A.

3 Account Name: Superior Management and Realty Services, Inc. Reserves Trust Account

4 Account #: xxxxx1317

5 Signatories: SIMON

6 Description: T/A 2 was a checking account for multiple beneficiaries that was used for
7 handling reserves maintained for the properties managed by SMRSI.

8 Violations

9 9.

10 In the course of its property management activities during the examination period
11 described in Paragraph 7, Respondent SMRSI acted in violation of the Code and the Regulations
12 as follows:

13 Issue 1. Code Section 10145 and Regulation 2832.1 – Trust Fund Handling for Multiple
14 Beneficiaries

15 (a) As of January 31, 2014, T/A 1 had a shortage of <\$18,527.70> due to negative
16 property balances.

17 (b) As of January 31, 2014, T/A 2 had a shortage of <\$5,961.46> due to negative
18 property balances.

19 (c) As of January 31, 2014, T/A 3 had a shortage of <\$3,152.79>. The shortage was
20 caused by negative property balances totaling <\$2,860.00> and bank fees totaling
21 <\$292.79> as of January 31, 2014.

22 SMRSI provided no evidence that the owners of the trust funds gave written consent to
23 allow SMRSI to reduce the balance of the funds in T/A 1, T/A 2, and T/A 3 to an amount less
24 than the existing aggregate trust fund liabilities.

1 Based on the separate records and bank statements provided on May 6, 2014, and deposit
2 records on May 19, 2014, the shortages of <\$18,527.70> in T/A 1, <\$5,961.46> in T/A 2, and
3 <\$3,1552.79> in T/A 3 as of January 31, 2014, were cured as of May 13, 2014 with rent
4 payments and funds received from the properties' tenants and/or owners which were deposited
5 into T/A 1, T/A 2, and T/A 3. The separate transaction records revealed that the negative
6 property balances were cured and held positive balances as of May 6, 2014.

7 Issue 2. Code Sections 10145, 10176(e), and Regulation 2835. Commingling of Funds

8 As of January 31, 2014, \$1,085.42 of SMRSI's broker funds were maintained and
9 commingled with trust funds in T/A 1.

10 Issue 3. Code Section 10130 and/or 10159.5 and Regulation 2731. Unlicensed Activity
11 and/or Use of Unlicensed Fictitious Business Name.

12 From September 1, 2012, through July 2, 2013, SMRSI conducted, for compensation,
13 property management activities that required a real estate license without first obtaining a real
14 estate license from the Bureau. SMRSI was first issued a real estate license by the Bureau on
15 July 3, 2013. SIMON was not licensed to do business as SMRSI during this period. SIMON
16 was licensed to do business as Superior Property Management as of June 5, 2012.

17 10.

18 The violations noted above in Paragraph 9 constitute cause for the suspension or
19 revocation of the real estate license and license rights of Respondent SMRSI under the
20 provisions of Code Sections 10176(e), 10177(d), and/or 10177(g).

21 11.

22 The violations noted above in Paragraph 9 constitute cause for the suspension or
23 revocation of the real estate license and license rights of Respondent SIMON under the
24 provisions of Code Sections 10177(h), 10177(d) and/or 10177(g).

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Bureau of Real Estate, 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/or license rights of Respondents SUPERIOR MANAGEMENT AND REALTY SERVICES, INC. and YVONNE MARIE SIMON, individually and as designated officer for Superior Management and Realty Services, Inc. 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, and for such other and further relief as may be proper under other provisions of law.

Dated at Los Angeles, California this 5th day of October, 2015.


MARIA SUAREZ
Supervising Special Investigator

cc: Superior Management and Realty Services, Inc.
Yvonne Marie Simon
Maria Suarez
Audits-LA
Sacto.