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Arizona Department of Real Estate 2910 North 44th Street, Suite 100 Phoenix, Arizona 85018 Telephone: (602) 771-7760

Facsimile: (602) 468-0562

BEFORE THE ARIZONA DEPARTMENT OF REAL ESTATE

In the matter of the real estate activities of:

Primary Residential Management, LLC, holder of license number LC557639000 and Snowball Investments, LLC, an unlicensed entity;

Respondents.

File No.: 12F-DI-225

CEASE AND DESIST ORDER AND NOTICE OF RIGHT TO REQUEST HEARING

DIRECTED TO:

Primary Residential Management, LLC Attn: Kevin Neal Ross, Designated Broker 668 N. 44th St., Ste. 238E Phoenix, Arizona 85008

Snowball Investments, LLC Attn: Richard Juhasz, Statutory Agent 668 N. 44th St., Ste. 238E Phoenix, Arizona, 85008

The Commissioner of the Arizona Department of Real Estate (the "Commissioner" and "Department", respectively), based upon information and belief, alleges:

FACTS

1. On or about January 6, 2005, the Department issued real estate broker entity license LC557639000 to Primary Residential Management, LLC ("PRM"). That license expires February 28, 2013. Kevin Neal Ross, holder of broker's license BR009310000 ("Ross"), is the Designated Broker for PRM.

Investigations C11-000876

2. In December of 2011, Department staff conducted an onsite audit of PRM. The audit period was from June 2011 through November 2011. The results of the audit indicated a shortage in the broker trust account of \$794,791.70

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- 3. The audit found that PRM's property management trust account and operating account bank statements convey the entity title of Snowball Investments, LLC, an unlicensed entity. In particular, the broker trust account and operating bank account statements show: "Snowball Investments, LLC dba Primary Residential Management, LLC, Investor Trust".
- Snowball Investments, LLC ("SNI") is a domestic entity, organized in Arizona on 4. listed as the is currently Juhasz ("Juhasz") 2005. Richard August 2, Manager/Member/Statutory Agent for Snowball Investments, LLC. The domestic address of record for SNI is 3295 N. Drinkwater Blvd., Ste. 6, Scottsdale, Arizona. Department records do not show that Snowball Investment, LLC is a licensed entity.
- 5. According to Arizona Corporation Commission records, PRM was organized as a domestic entity on January 6, 2005 with Mark K. Maddocks, holder of salesperson's license SA560015000 ("Maddocks")¹ as Manager/Member and Mychal Dobbins, an unlicensed individual, as Member.
- 6. On or about April 3, 2009, PRM submitted correspondence indicating that Ross was being appointed as the Designated Broker for PRM. The correspondence was signed by Maddocks and Juhasz as Members.
- 7. A.R.S. §32-2125 (A) requires that a corporation, limited liability company or partnership applying for a broker's license for the entity shall designate a natural person who is licensed as a broker and who is an officer of the corporation, manager of the limited liability company if management of the limited liability company is vested in one or more managers, member of the limited liability company if management is vested in the members or partner of the partnership who shall act as designated broker. The license shall extend no authority to act as designated broker to any other person. This subsection does not apply to a corporation or limited liability company applying for a license under subsection B of this section. An entity's broker's license issued pursuant to this subsection shall run concurrently with the corporation's, limited liability company's or partnership's designated broker's license.
 - 8. A further review of Arizona Corporation Commission records shows, with regards

¹ Maddocks' license is currently Inactive.

 to PRM:

- a. Juhasz has never been named as a member of PRM.
- b. Ross was not named as a Manager of PRM as required by A.R.S. §32-2125 (A).
- 9. A.R.S. §32-2125 (G) and A.A.C. R4-28-303 (E)(6) requires a corporation, limited liability company or partnership licensed under this section shall report to the Department within ten days: (1) any change in officers, directors, members, managers or partners or any change of control of the entity.
- 10. A.A.C. R4-28-303 (E) also requires a designated broker shall notify the Department in writing within 10 days of any change in the employing broker's qualifications under R4-28-301, and shall provide notice of any proposed change in the employing broker's business information under this Section: (2) if changing the employing broker's dba name.
- 11. PRM did not notify the Department as required that PRM was operating as a "dba" under SNI.
 - 12. PRM is operating under the control of an unlicensed entity, SNI.

VIOLATIONS

- 1. The Department has jurisdiction in this matter.
- 2. A.R.S. §32-2101 (44) defines "Person" as meaning "any individual, corporation, partnership or company and any other form of multiple organization for carrying on business, foreign or domestic".
- 3. A.R.S. §32-2101 (48) defines a "real estate broker" as meaning "a person, other than a salesperson, who, for another and for compensation: (a) Sells, exchanges, purchases, rents or leases real estate or timeshare interests, (b) Offers to sell, exchange, purchase, rent or lease real estate or timeshare interests, (d) Lists or offers, attempts or agrees to list real estate or timeshare interests for sale, lease or exchange, and (h) advertises or holds himself out as being engaged in the business of buying, selling, exchanging, renting or leasing real estate or timeshare interests or counseling or advising regarding real estate or timeshare interests".

- 4. A.R.S. § 32-2122 (A) stipulates that a license is required for any person acting in the capacity of a Real estate broker. Further, A.R.S. § 32-2122 (C) stipulates that a person, corporation, partnership or limited liability company that is licensed as a salesperson or broker pursuant to this article or that is engaging in any work for which a license is required under this article is subject to the requirements of this chapter in the performance of any acts included in the definition of a broker unless otherwise provided in this chapter.
- 5. A.R.S. § 32-2122 (B) provides that It shall be unlawful for any person, corporation, partnership or limited liability company to engage in any business, occupation or activity listed in subsection A without first obtaining a license as prescribed in this chapter and otherwise complying with the provisions of this chapter.
- 6. SNI, through actions described in Facts, conducted real estate activities in Arizona without holding a license to do so, in violation of A.R.S. §32-2153 (B)(6).
- 7. A.R.S. § 32-2165 provides "A person who acts as a broker or salesperson within the meaning of Title 32, Chapter 20, or who advertises in a manner that indicates that the person is licensed as a broker or salesperson, without being licensed as prescribed by this chapter is guilty of a class 6 felony."
- 8. PRM, through actions described in Facts, made substantial misrepresentations, in violation of A.R.S. §32-2153 (B)(3).
- 9. PRM, through actions described in Facts, violated state law involving substantial misrepresentation, in violation of A.R.S. §32-2153 (B)(10).
- 10. PRM, through actions described in Facts, disregarded or violated provisions of Title 32, Chapter 20, Arizona Revised Statutes and Title 4, Chapter 28, Arizona Administrative Code, in violation of A.R.S. §32-2153 (A)(3).
- 11. Pursuant to A.R.S §32-2154, if it appears that any person has engaged, is engaging or is preparing to engage in any act, practice or transaction that constitutes a violation of Title 32, Chapter 20, the Department may issue an order directing any person to cease and desist from engaging in the act, practice or transaction or doing any act in furtherance of the act, to make restitution or to take appropriate affirmative action to correct

the conditions resulting from the act, practice or transaction.

CEASE AND DESIST

NOW, THEREFORE, the Commissioner finds PRM and SNI are in violation of the Arizona Revised Statutes and Arizona Administrative Codes as outlined in Violations. Thus, the Commissioner is issuing this Cease and Desist Order directing PRM and SNI to cease and desist from engaging in acts, practices and transactions without first complying with all applicable laws and rules, pursuant to A.R.S. §§32-2154 (A) and 32-2122 (B).

IT IS ORDERED that PRM and SNI immediately cease and desist from engaging in any real estate activity, as defined by A.R.S. §32-2101 et seq., in any capacity whatsoever, directly or indirectly, within the State of Arizona, without first complying with all applicable laws and rules.

IT IS FURTHER ORDERED that this Cease and Desist Order shall be recorded in the offices of the Maricopa County Recorder within the State of Arizona.

NOTICE

This Cease and Desist Order is an appealable agency action under A.R.S. §41-1092. PRM AND SNI may request an administrative hearing to contest this Cease and Desist Order by filing a Notice of Appeal within thirty (30) days of receipt of this notice by PRM AND SNI. Failure to timely file a Notice of Appeal will constitute a waiver of PRM AND SNI's right to any hearing on this matter and to any other appeal right to which PRM AND SNI is otherwise entitled. The Notice of Appeal must identify the appealing party, the party's address, the action being appealed and must also contain a concise statement of the reason(s) for the appeal.

Upon the filing of a Notice of Appeal, the Department shall issue a Notice of Hearing scheduling the matter for hearing in accordance with A.R.S. §41-1092.05. The Notice of Hearing will inform Respondent of the date, time, and location of the hearing, as well as the allegations being contested.

If PRM AND SNI files a Notice of Appeal, PRM AND SNI may also request an Informal Settlement Conference at the time of filing the Notice of Appeal, or separately by filing a

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1	written request no later than twenty (20) days before the scheduled hearing. This conference
2	shall be held within fifteen (15) days after receipt of the request. A Department representative
3	with authority to act on behalf of the Department will be present at the conference. The
4	Department is under no obligation to accept settlement terms PRM AND SNI may offer.
5	The Informal Settlement Conference will not delay the scheduled hearing.
6	The Notice of Appeal and request for an Informal Settlement Conference should be
7	addressed to:
8	Enforcement and Compliance Division Arizona Department of Real Estate
9	2910 N. 44 th Street, Floor 1, Suite 100 Phoenix, Arizona 85018
10	DATED this 13 day of January, 2012.
12	'
13	JUDY LOWE Commissioner
14	Arizona Department of Real Estate
15	
16	COPY of the foregoing sent by CERTIFIED MAIL - RETURN RECEIPT REQUESTED
17	(Receipt No. 91 7108 2133 3938 2716 4455
18	this 134h day of January, 2012, to:
19	Primary Residential Management, LLC Attn: Kevin Neal Ross, Designated Broker
20	668 N. 44 th St., Ste. 238E Phoenix, Arizona 85008 Respondent
21	
22	COPY of the foregoing sent by
23	CERTIFIED MAIL - RETURN RECEIPT REQUESTED
24	(Receipt No. 91 7108 2133 3938 2716 4462 this <u>/ 2016</u> day of <u>Semeral (</u> , 2012, to:
25	Snowball Investments, LLC
26	Attn: Richard Juhasz, Statutory Agent 668 N. 44 th St., Ste. 238E Phoenix, Arizona, 85008
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1	COPY of the foregoing mailed this day of <u>succelled</u> , 2012 to:
2	day or factione, 2012 to.
3	Lynette Evans, AAG Office of the Attorney General, State of Arizona
	1275 W. Washington St.
4	Phoenix, AZ 85007
5	Attorney for the Department
6	COPY of the foregoing delivered this
7	13th day of Janerases, 2012 to:
8	Arizona Department of Real Estate
9	Manager, Licensing and Professional Education Manager, Investigations and Auditing (C11-000876)
10	Department Compliance Officer
11	Assistant Commissioner, Business Services & Communications E&C for Real Estate Bulletin
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