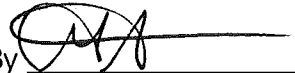


**FILED**

**June 18, 2012**

1 MICHAEL B. RICH, Counsel  
2 State Bar No. 84257  
3 Department of Real Estate  
4 P. O. Box 187007  
5 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

By  \_\_\_\_\_

6 Telephone: (916) 227-0789

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	
12	PEOPLES MORTGAGE BANC, a California	)	NO. H-2416 FR
13	corporation, and CONCETTA McBRIDE,	)	<u>FIRST AMENDED</u>
14	Respondents.	)	<u>ACCUSATION</u>

15 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
16 of the State of California, for Causes of this First Amended Accusation against PEOPLES  
17 MORTGAGE BANC, a California corporation, and against CONCETTA McBRIDE, also  
18 known as TINA McBRIDE, is informed and alleges as follows:

19 1

20 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner  
21 of the State of California, makes this Amended Accusation against Respondent in her official  
22 capacity.

23 2

24 Respondent PEOPLES MORTGAGE BANC (hereinafter "Respondent PMB"),  
25 and Respondent CONCETTA McBRIDE, also known as TINA McBRIDE, (hereinafter  
26 "Respondent McBRIDE") are presently licensed and/or have license rights under the Real Estate  
27

1 Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter “the  
2 Code”).

3 3

4 At all times herein mentioned, Respondent PMB was and is licensed by the  
5 Department of Real Estate (hereinafter “the Department”) as a corporate real estate broker.

6 4

7 At all times herein mentioned, Respondent McBRIDE was and is licensed by the  
8 Department as an individual real estate broker.

9 5

10 At all times herein mentioned, Respondent McBRIDE was and is licensed by the  
11 Department as the designated broker/officer of Respondent PMB. As said designated  
12 broker/officer, Respondent McBRIDE was at all times mentioned herein responsible pursuant to  
13 Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real  
14 estate licensees and employees of Respondent PMB for which a real estate license is required.

15 6

16 Whenever reference is made in an allegation in this Amended Accusation to an  
17 act or omission of Respondent PMB, such allegation shall be deemed to mean that the officers,  
18 directors, employees, agents and real estate licensees employed by or associated with  
19 Respondent PMB committed such act or omission while engaged in the furtherance of the  
20 business or operations of Respondent PMB and while acting within the course and scope of their  
21 corporate authority and employment.

22 7

23 At all times herein mentioned, Respondent PMB and Respondent McBRIDE  
24 engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate  
25 brokers within the meaning of Section 10131(d) of the Code, soliciting borrowers or lenders for  
26 or negotiating loans or collecting payments or performing services for borrowers or lenders or  
27

1 note owners in connection with loans secured directly or collaterally by liens on real property or  
2 on a business opportunity.

3 FIRST CAUSE OF ACTION

4 8

5 There is hereby incorporated in this First, separate and distinct, Cause of Action,  
6 all of the allegations contained in Paragraphs 1 through 7, inclusive, of the Amended Accusation  
7 with the same force and effect as if herein fully set forth.

8 9

9 Within the three year period prior to the filing of the original Accusation,  
10 Respondent PMB and Respondent McBRIDE, in the course and scope of conducting the  
11 activities set forth in Paragraph 7, above:

12 (a) Induced J. P. Morgan Chase to make a loan in the sum of \$628,000.00 to  
13 be secured by real property at 5 Glenn Avenue, Salinas, California, to finance the purchase of  
14 said real property by Vicente H., by representing to the lender, contrary to fact, as Respondents  
15 knew or should have known at the time through the exercise of reasonable diligence, that said  
16 borrower intended to occupy said real property as his primary residence, and by concealing from  
17 said lender the fact, as Respondents knew or should have known at the time through the exercise  
18 of reasonable diligence, that Vicente H. was simultaneously applying for and obtaining and/or  
19 had obtained mortgage loan obligations to other lenders to finance the purchase of other real  
20 properties that said borrower was also claiming as his primary residence, as follows:

21 <b>Lender</b>	<b>Property</b>	<b>Loan</b>	<b>Loan</b>	<b>Purchase</b>	<b>Escrow</b>
		<b>Amount</b>	<b>Application</b>	<b>Contract</b>	<b>Close</b>
22 Greenpoint	14617 Charter Oak Bld.	\$612,000	8/14/06	8/19/06	9/21/06
23 Mortgage Funding	Salinas, California				
24 Fieldstone	540 Spruce Avenue	\$629,000	9/26/06	9/14/06	11/1/06
25 Mortgage Co.	Pacific Grove, California				

1 (b) Induced Greenpoint Mortgage Funding, Inc., to make a loan in the sum of  
 2 \$612,000.00 to be secured by real property at 14617 Charter Oak Blvd., Salinas, California, to  
 3 finance the purchase of said real property by Vicente H., by representing to the lender, contrary  
 4 to fact, as Respondents knew or should have known at the time through the exercise of  
 5 reasonable diligence, that said borrower intended to occupy said real property as his primary  
 6 residence, and by concealing from said lender the fact, as Respondents knew or should have  
 7 known at the time through the exercise of reasonable diligence, that Vicente H. was  
 8 simultaneously applying for and obtaining and/or had obtained mortgage loan obligations to  
 9 other lenders to finance the purchase of other real properties that said borrower was also  
 10 claiming as his primary residence, as follows:

11 Lender	Property	Loan Amount	Loan Application	Purchase Contract	Escrow Close
12 J.P.Morgan Chase	5 Glenn Avenue 13 Salinas, California	\$628,000	8/14/06	8/16/06	9/18/06
14 Fieldstone 15 Mortgage Co.	540 Spruce Avenue Pacific Grove, California	\$629,000	9/26/06	9/14/06	11/1/06

16 (c) Induced Fieldstone Mortgage Company to make a loan in the sum of  
 17 \$629,000.00 to be secured by real property at 540 Spruce Avenue, Pacific Grove, California, to  
 18 finance the purchase of said real property by Vicente H., by representing to the lender, contrary  
 19 to fact, as Respondents knew or should have known at the time through the exercise of  
 20 reasonable diligence, that said borrower intended to occupy said real property as his primary  
 21 residence, and by concealing from said lender the fact, as Respondents knew or should have  
 22 known at the time through the exercise of reasonable diligence, that Vicente H. was  
 23 simultaneously applying for and obtaining and/or had obtained mortgage loan obligations to  
 24 other lenders to finance the purchase of other real properties that said borrower was also  
 25 claiming as his primary residence, as follows:

26 ///  
 27 ///

Lender	Property	Loan Amount	Loan Application	Purchase Contract	Escrow Close
J.P.Morgan Chase	5 Glenn Avenue Salinas, California	\$628,000	8/14/06	8/16/06	9/18/06
Greenpoint Mortgage Funding	14617 Charter Oak Bld. Salinas, California	\$612,000	8/14/06	8/19/06	9/21/06

10

The acts and/or omissions of Respondent PMB and Respondent McBRIDE described in Paragraph 9, above, constituted substantial misrepresentations, fraud, and dishonest dealing.

11

The acts and/or omissions of Respondent PMB and Respondent McBRIDE as alleged in Paragraphs 9 and 10, above, constitute grounds for the revocation or suspension of Respondents' licenses and/or license rights under Section 10176(a) of the Code (making a substantial misrepresentation), Section 10176(c) of the Code (continued flagrant course of misrepresentation through real estate agents), Section 10176(i) of the Code (any other conduct, whether of the same or different character than specified in this section that constitute fraud or dishonest dealing), and/or Section 10177(g) of the Code (demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license).

SECOND CAUSE OF ACTION

12

There is hereby incorporated in this Second, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 11, inclusive, of the Amended Accusation with the same force and effect as if herein fully set forth.

13

Within the three year period prior to the filing of the original Accusation and at all times herein mentioned, in connection with the loan brokerage business described in Paragraph 7, above, Respondent PMB was required to provide to borrowers and to retain for a

1 period of three (3) years the "Mortgage Loan Disclosure Statement", as signed and dated by the  
2 borrowers and by the broker or the broker's licensed real estate salesperson or broker  
3 employees, as required by Section 10240 of the Code, containing all required information in  
4 conformance with Section 10241 of the Code, including the requirement to disclose to  
5 borrowers all compensation, commissions, origination fees, points, or bonuses contracted for, or  
6 to be received by the real estate broker for services performed as an agent in negotiating,  
7 procuring, or arranging the loan.

8 14

9 Within the three year period prior to the filing of the original Accusation and at  
10 all times herein mentioned, in connection with the loan brokerage business described in  
11 Paragraph 7, above, Respondents provided a Mortgage Loan Disclosure Statement to borrower  
12 Vicente H. for the purchase loan concerning 5 Glenn Avenue in Salinas, California, that  
13 represented to said borrower, contrary to fact, as Respondents knew or should have known at the  
14 time through the exercise of reasonable diligence, that a loan origination fee of \$9,240.00 would  
15 be paid to others and not to the broker and which concealed from said borrower the fact that  
16 Respondent PMB collected a "Yield Spread Premium" of \$785.00 from lender J. P. Morgan  
17 Chase.

18 15

19 In truth and in fact, the loan origination fee of \$9,420.00 was paid to Respondent  
20 PMB by J. P. Morgan Chase and Respondent PMB received a Yield Spread Premium of  
21 \$785.00 from lender J. P. Morgan Chase.

22 16

23 Within the three year period prior to the filing of the original Accusation and at  
24 all times herein mentioned, in connection with the loan brokerage business described in  
25 Paragraph 7, above, Respondents provided a Mortgage Loan Disclosure Statement to borrower  
26 Vicente H. for the purchase loan concerning 14617 Charter Oak Blvd. in Salinas, California,  
27 that represented to said borrower, contrary to fact, as Respondents knew or should have known

1 at the time through the exercise of reasonable diligence, that no additional compensation not  
2 paid out of loan proceeds would be paid to the broker.

3 17

4 In truth and in fact, Respondent PMB by J. P. Morgan Chase and Respondent  
5 PMB received a Yield Spread Premium of \$6,885.00 from lender Greenpoint Mortgage  
6 Funding, Inc.

7 18

8 The acts and/or omissions of Respondent PMB and Respondent McBRIDE  
9 described in Paragraphs 14, 15, 16, and 17, above, constituted substantial misrepresentations,  
10 fraud, and dishonest dealing.

11 19

12 The acts and/or omissions of Respondent PMB and Respondent McBRIDE as  
13 alleged in Paragraphs 14, 15, 16, 17, and 18, above, constitute grounds for the revocation or  
14 suspension of Respondents' licenses and/or license rights under Section 10240 of the Code  
15 (broker negotiating loan shall within 3 days provide disclosure statement to borrower) and  
16 10241 of the Code (specifying all material information and costs to be included in mortgage  
17 loan disclosure statement) in conjunction with Section 10177(d) of the Code (suspension or  
18 revocation of license for willful disregard or violation of the Real Estate Law, §§ 10000 et seq.  
19 and §§ 11000 et seq. of the Code, or of the Regulations), and under Section 10176(a) of the  
20 Code (making a substantial misrepresentation), Section 10176(c) of the Code (continued  
21 flagrant course of misrepresentation through real estate agents), Section 10176(i) of the Code  
22 (any other conduct, whether of the same or different character than specified in this section that  
23 constitute fraud or dishonest dealing), and/or Section 10177(g) of the Code (demonstrated  
24 negligence or incompetence in performing an act for which he or she is required to hold a  
25 license).

26 ///

27 ///





1 procedures for compliance with Real Estate Law; supervise transactions requiring a real estate  
2 license; trust fund handling; etc.) in conjunction with Section 10177(d) of the Code.

3 FOURTH CAUSE OF ACTION

4 23

5 There is hereby incorporated in this Fourth, separate and distinct, Cause of  
6 Action, all of the allegations contained in Paragraphs 1 through 22, inclusive, of the Amended  
7 Accusation with the same force and effect as if herein fully set forth.

8 24

9 On or about March 3, 2010, Respondent McBRIDE made application to the State  
10 of California Department of Real Estate (hereinafter "the Department") for a mortgage loan  
11 originator license endorsement (hereinafter "license endorsement").

12 25

13 In response to the Disclosure Question Section at Question (K) of said  
14 application, to wit: "Are you now the subject of any regulatory action proceeding that could  
15 result in a 'yes' answer to any part of I or J?", Respondent answered "No" and concealed and  
16 failed to disclose the Accusation proceeding herein under Department Case No. H-2416 FR  
17 described in Paragraph 28, below.

18 26.

19 On or about January 4, 2011, Respondent McBRIDE made application to the  
20 State of California Department of Real Estate (hereinafter "the Department") on behalf of  
21 Respondent PMB for a mortgage loan originator license endorsement (hereinafter "license  
22 endorsement").

23 27

24 In response to the Disclosure Question Section at Question (E) of the application  
25 filed on behalf of Respondent PMB, to wit: "Is the entity or control affiliate now the subject of  
26 any regulatory action proceeding that could result in a 'yes' answer to any part of (C)?",  
27

1 Respondent McBRIDE answered "No" and concealed and failed to disclose the Accusation  
2 proceeding herein under Department Case No. H-2416 FR described in Paragraph 28, below.

3 28

4 On or August 24, 2009, the Department of Real Estate filed an Accusation under  
5 Department Case No. H-2416 containing the allegations set forth in the First, Second and Third  
6 Causes of Action herein above.

7 29

8 The facts alleged in Paragraphs 24 through 28, above, constitute cause for  
9 revocation of Respondents' license endorsement under Section 10166.05(c) of the Code  
10 (applicant lacks character, general fitness to command confidence in community) and Section  
11 10166.051(b) of the Code (deny suspend, or revoke mortgage loan originator license for  
12 withholding information or makes material misstatement on application for mortgage loan  
13 originator license.).

14 30

15 Respondents' failure to disclose in the mortgage loan originator applications the  
16 disciplinary proceeding set forth in Paragraph 28, above, constituted substantial  
17 misrepresentations, fraud, and dishonest dealing and constitutes cause for the suspension or  
18 revocation of Respondents' licenses and/or license rights under Sections 110176(i) and/or  
19 10177(j) of the Code (any other conduct, whether of the same or different character than  
20 specified in these sections that constitute fraud or dishonest dealing).

21 COST RECOVERY

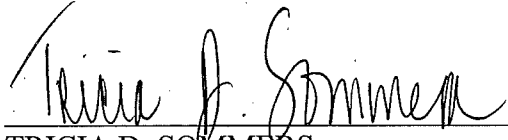
22 Section 10106 of the Code provides, in pertinent part, that in any order issued in  
23 resolution of a disciplinary proceeding before the Department, the Commissioner may request  
24 the administrative law Judge to direct a licensee found to have committed a violation of this part  
25 to pay a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

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this First Amended Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all license(s) and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.

  
\_\_\_\_\_  
TRICIA D. SOMMERS  
Deputy Commissioner

Dated at Sacramento, California  
this 13<sup>th</sup> day of JUNE, 2012