

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

6 Telephone: (916) 227-0789
7

FILED

AUG 24 2009

DEPARTMENT OF REAL ESTATE

By *L. Frost*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

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

16 The Complainant, JOE M. CARRILLO, a Deputy Real Estate Commissioner of
17 the State of California, for Causes of Accusation against PEOPLES MORTGAGE BANC, a
18 California corporation, and against CONCETTA McBRIDE, also known as TINA McBRIDE, is
19 informed and alleges as follows:

20 1

21 Respondent PEOPLES MORTGAGE BANC (hereinafter "Respondent PMB"),
22 and Respondent CONCETTA McBRIDE, also known as TINA McBRIDE, (hereinafter
23 "Respondent McBRIDE") are presently licensed and/or have license rights under the Real
24 Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter
25 "the Code").

26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

2

The Complainant, JOE M. CARRILLO, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity.

3

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

4

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

5

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

6

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

7

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

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 Accusation with the
7 same force and effect as if herein fully set forth.

8 9

9 Within the three year period prior to the filing of this Accusation, Respondent
10 PMB and Respondent McBRIDE, in the course and scope of conducting the activities set forth
11 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 Hernandez, by representing to the lender, contrary to fact, as
15 Respondents knew or should have known at the time through the exercise of reasonable
16 diligence, that said borrower intended to occupy said real property as his primary residence, and
17 by concealing from said lender the fact, as Respondents knew or should have known at the time
18 through the exercise of reasonable diligence, that Vicente Hernandez was simultaneously
19 applying for and obtaining and/or had obtained mortgage loan obligations to other lenders to
20 finance the purchase of other real properties that said borrower was also claiming as his primary
21 residence, as follows:

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

27 ///

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

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
Fieldstone Mortgage Co.	540 Spruce Avenue Pacific Grove, California	\$629,000	9/26/06	9/14/06	11/1/06

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

///

///

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 Sections 10176(a), 10176(c), 10176(i), 10177(g) and/or 10177(j) of the Code.

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 Accusation with the same force and effect as if herein fully set forth.

13

Within the three year period prior to the filing of this 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 period of three (3) years the "Mortgage Loan Disclosure Statement", as signed and dated by the borrowers and by the broker or the broker's licensed real estate salesperson or broker employees, as required by Section 10240 of the Code, containing all required information in conformance with Section 10241 of the Code, including the requirement to disclose to borrowers all compensation,

1 commissions, origination fees, points, or bonuses contracted for, or to be received by the real
2 estate broker for services performed as an agent in negotiating, procuring, or arranging the loan.

3 14

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

13 15

14 In truth and in fact, the loan origination fee of \$9,420.00 was paid to Respondent
15 PMB by J. P. Morgan Chase and Respondent PMB received a Yield Spread Premium of
16 \$785.00 from lender J. P. Morgan Chase.

17 16

18 Within the three year period prior to the filing of this Accusation and at all times
19 herein mentioned, in connection with the loan brokerage business described in Paragraph 7,
20 above, Respondents provided a Mortgage Loan Disclosure Statement to borrower Vicente
21 Hernandez for the purchase loan concerning 14617 Charter Oak Blvd. in Salinas, California,
22 that represented to said borrower, contrary to fact, as Respondents knew or should have known
23 at the time through the exercise of reasonable diligence, that no additional compensation not
24 paid out of loan proceeds would be paid to the broker.

25 ///

26 ///

27 ///

1 17

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

5 18

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

9 19

10 The acts and/or omissions of Respondent PMB and Respondent McBRIDE as
11 alleged in Paragraphs 14, 15, 16, 17, and 18, above, constitute grounds for the revocation or
12 suspension of Respondents' licenses and/or license rights under Sections 10240 and 10241 of
13 the Code in conjunction with Section 10177(d) of the Code and under Sections 10176(a),
14 10176(c), 10176(i), 10177(g) and/or 10177(j) of the Code.

15 THIRD CAUSE OF ACTION

16 20

17 There is hereby incorporated in this Third, separate and distinct, Cause of Action,
18 all of the allegations contained in Paragraphs 1 through 19, inclusive, of the Accusation with the
19 same force and effect as if herein fully set forth.

20 21

21 At all times herein mentioned, Respondent McBRIDE was responsible, as the
22 designated broker officer of Respondent PMB, for the supervision and control of the activities
23 conducted on behalf of the corporation by its officers and employees. Respondent McBRIDE
24 failed to exercise reasonable supervision and control over the mortgage brokering real property
25 sales activities of Respondent PMB. In particular, Respondent McBRIDE permitted, ratified
26 and/or caused the conduct described in the First and Second Causes of Action, above, to occur,
27 and failed to take reasonable steps, including, but not limited to the review of loan applications

1 and transactional documents, supervision of employees, complete and accurate Mortgage Loan
2 Disclosure Statements, and the implementation of policies, rules, procedures, and systems to
3 ensure the compliance of the corporation with the Real Estate Law.

4 22

5 The above acts and/or omissions of Respondent McBRIDE constitute grounds
6 for the revocation or suspension of Respondent McBRIDE's licenses and/or license rights under
7 the provisions of Section 10177(h) of the Code and/or Section 10159.2 of the Code and Section
8 2725 of the Regulations in conjunction with Section 10177(d) of the Code.

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

14
15
16 
17 _____
18 JOE M. CARRILLO
19 Deputy Commissioner

20 Dated at Sacramento, California

21 this 20 day of AUGUST, 2009
22
23
24
25
26
27