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FILED

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DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 RMRF ENTERPRISES, INC.,)
14 a Corporation, and)
15 DANIEL SHAW,)
16 Respondents.)

NO. H-11483 SF

FIRST AMENDED
ACCUSATION

17 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
18 the State of California, makes this cause of First Amended Accusation in her official capacity
19 against RMRF ENTERPRISES, INC. (herein "RMRF"), and DANIEL SHAW (herein "SHAW")
20 (herein collectively "Respondents"), and is informed and alleges as follows:

21 1

22 At all times herein mentioned, Respondents were and now are licensed and/or
23 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
24 Professions Code) (herein the "Code").

25 2

26 At all times herein mentioned, RMRF was and now is licensed by the State of
27 California Department of Real Estate (herein the "Department") as a corporate real estate broker

1 by and through SHAW as designated officer-broker of RMRF to qualify said corporation and to
2 act for said corporation as a real estate broker.

3 3

4 At all times herein mentioned, SHAW was and now is licensed by the Department
5 as the designated officer-broker of RMRF. As said designated officer-broker, SHAW was at all
6 times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision
7 of the activities of the officers, agents, real estate licensees, and employees of RMRF for which
8 a license is required.

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

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17 At all times herein mentioned, Respondents engaged in the business of, acted in
18 the capacity of, advertised, or assumed to act on behalf of others for compensation or in the
19 expectation of compensation as real estate brokers within the State of California within the
20 meaning of:

- 21 (a) Section 10131(b) of the Code, the operation of a property
22 management business with the public wherein Respondents
23 leased or rented and offered to lease or rent, and placed for rent,
24 and/or solicited listings of places for rent, and/or solicited for
25 prospective tenants of real property or improvements thereon,
26 and collected rents from real property or improvements thereon;
27 and

1 (b) Section 10131(d) of the Code, the operation and conduct of a
2 mortgage loan brokerage with the public wherein Respondents
3 solicited borrowers or lenders for, or negotiated loans, or
4 collected payments, or performed services for borrowers or
5 lenders or note owners in connection with loans secured directly
6 or collaterally by liens on real property or on a business
7 opportunity.

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9 In so acting as real estate brokers, Respondents accepted or received funds in trust
10 (herein "trust funds") from or on behalf of lenders, investors, borrowers and others in connection
11 with the mortgage loan brokerage activities described in Paragraph 5, above, and thereafter from
12 time to time made disbursements of said trust funds.

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14 The aforesaid trust funds accepted or received by Respondents were deposited or
15 caused to be deposited by Respondents into one or more bank accounts (herein "trust fund
16 accounts") maintained by Respondents for the handling of trust funds at the Los Gatos,
17 California, branches of First Republic Bank and U.S. Bank including but not necessarily limited
18 to the following accounts:

19 (a) First Republic Bank:

20 "RMRF Enterprises Inc. dba Cupertino Capital Loan Servicing
21 Trust Account,"
22 account number xxx-xxxx-4953 (herein "Trust Account #1"); and

23 (b) U.S. Bank:

24 "RMRF Enterprises Inc. dba Cupertino Capital Property
25 Management Trust Account,"
26 account number xxxxxxxx2750 (herein "Trust Account #2").

27 8

28 Between about January 1, 2009 and May 31, 2011, in connection with the
29 activities described in Paragraphs 5 through 7, above, Respondent RMRF:

- 1 (a) authorized Michael T. Parsons, an unlicensed individual, without
2 fidelity bond coverage, to make withdrawals from Trust Account
3 #2, in violation of Section 2834 of Title 10, Chapter 6, of the
4 California Code of Regulations (herein "the Regulations");
- 5 (b) failed to record assignments and deeds of trust in the name of the
6 purchasers within 10 business days after receipt of funds by
7 seller from purchasers, in violation of Section 10234(c) of the
8 Code;
- 9 (c) failed to provide a Lender/Purchaser Disclosure Statement to
10 investor O. Family Trust, for a loan secured by a property located
11 on East Edmundson Avenue (herein "Edmundson property") in
12 Morgan Hill, California, for borrowers Ronald and Janice G., in
13 violation of Section 10232.4 of the Code; and,
- 14 (d) failed to provide an independent appraisal or written broker
15 evaluation for the Edmundson property, the securing property, in
16 violation of Section 10238(h)(3) of the Code.

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18 At all times mentioned herein, Respondent SHAW failed to exercise reasonable
19 supervision over the acts of Respondent RMRF and its agents and employees in such a manner
20 as to allow the acts and omissions on the part of RMRF described above, to occur in violation
21 of Sections 10159.2 and 10177(h) of the Code and Section 2725 of the Regulations.

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23 On about June 15, 2012, the Santa Clara County District Attorney filed a felony
24 complaint against SHAW, charging him with six counts of Felony PC 484-487 (Grand Theft Of
25 Personal Property Of A Value Over \$950), which SHAW failed to report to the Department
26 within 30 days of the filing of the felony complaint, in violation of Section 10186.2(a)(1) of the
27 Code.

The facts alleged above are grounds for the suspension or revocation of the license and license rights of Respondents under the following provisions of the Code and/or the Regulations:

- (a) as to Paragraph 8(a) and Respondent RMRF under Section 2834 of the Regulations in conjunction with Section 10177(d) of the Code;
- (b) as to Paragraph 8(b) and Respondent RMRF under Section 10234(c) of the Code in conjunction with Section 10177(d) of the Code;
- (c) as to Paragraph 8(c) and Respondent RMRF under Section 10232.4 of the Code in conjunction with Section 10177(d) of the Code;
- (d) as to Paragraph 8(d) and Respondent RMRF under Section 10238(h)(3) of the Code in conjunction with Section 10177(d) of the Code;
- (e) as to Paragraph 9 and Respondent SHAW under Sections 10159.2 and 10177(h) of the Code, and Section 2725 of the Regulations in conjunction with Section 10177(d) of the Code; and
- (f) as to Paragraph 10 and Respondent SHAW under Section 10186.2 of the Code in conjunction with Section 10177(d) of the Code.

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PRIOR DISCIPLINE

Effective May 21, 2004, in Case No. H-8634 SF, the Real Estate Commissioner suspended Respondents' real estate broker licenses for violating Sections 10145(b), 10232.2, 10234(a), 10234(c) of the Code in conjunction with Section 10177(d) of the Code.

COST RECOVERY

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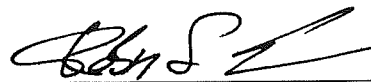
Audit Costs

The acts and/or omissions of Respondents as alleged in Paragraph 8(a), above, entitle the Department to reimbursement of the costs of its audit pursuant to Section 10148(b) of the Code.

Investigation and Enforcement Costs

Section 10106 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, 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 First Amended Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of the investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other applicable provisions of law.



ROBIN S. TANNER
Deputy Real Estate Commissioner

Dated at Oakland, California

this 5th day of April, 2013