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1 JASON D. LAZARK, Counsel (SBN 263714)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
Office: (916) 227-0789
Direct: (916) 227-0822

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DEPARTMENT OF REAL ESTATE
By L. Just

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 MARIN MORTGAGE BANKERS CORPORATION,) No. H-11563 SF
13 GLENN HARVEY LARSEN and) ACCUSATION
14 SHERMAN RONALD KELL aka SHERMAN)
RONALD KELL,)
15 Respondents.)

16 The Complainant, ROBIN S. TANNER, acting in her official capacity as a
17 Deputy Real Estate Commissioner of the State of California, for cause of Accusation against
18 MARIN MORTGAGE BANKERS CORPORATION ("MARIN"), GLENN HARVEY
19 LARSEN ("LARSEN") and SHERMAN RONALD KELL aka SHERMAN RONALD KELL
20 ("KELL"), (collectively referred to as "Respondents"), is informed and alleges as follows:

21 GENERAL ALLEGATIONS

22 1.

23 MARIN is presently licensed and/or has license rights under the Real Estate Law
24 Part 1 of Division 4 of the Business and Professions Code (herein "the Code") as a restricted
25 real estate corporation.

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2.

LARSEN is presently licensed and/or has license rights under the Real Estate Law Part 1 of Division 4 of the Code as a restricted real estate broker. At all times mentioned herein, LARSEN is and was the designated broker officer of MARIN.

3.

KELL is presently licensed and/or has license rights under the Real Estate Law Part 1 of Division 4 of the Code as a real estate salesperson in the employ of MARIN.

4.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public in the name of Marin Mortgage Bankers Corporation wherein they solicited lenders and borrowers for or negotiated loans or collected payments and/or performed services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property for or in expectation of compensation.

FIRST CAUSE OF ACTION
NEGLIGENCE
(As to MARIN and KELL)

5.

Each and every allegation set forth above in Paragraphs 1 through 4, inclusive, is incorporated by this reference as if fully set forth herein.

6.

On or about July 27, 2010, Michael S. contacted MARIN seeking assistance with obtaining a private money mortgage ("Private Mortgage") for which to purchase a home in Myrtle Beach, South Carolina ("Subject Property"). KELL returned Michael S.'s call and offered to represent him, on behalf of MARIN, to obtain the Private Mortgage.

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1 7.

2 On or after July 27, 2010, in the course and scope of his duties pursuant to
3 Section 10131(d) of the Code, KELL conducted an internet search and located GNB Royal
4 Finance, LLC ("GNB"), a private money lending company allegedly willing to provide Michael
5 S. with a Private Mortgage to purchase the Subject Property. KELL made contact with GNB
6 and began inquiring about their services.

7 8.

8 On or about August 2, 2010, KELL began exchanging e-mail messages with an
9 alleged GNB underwriter named Mrs. Vantriss Thames ("Thames"). In one of the e-mails
10 between KELL and Thames, Thames attached a document referred to as "approval and escrow
11 instructions" detailing, among other things, the procedures necessary for GNB to allegedly fund
12 the Private Mortgage.

13 9.

14 On or about August 2, 2010, Thames informed KELL that GNB worked with
15 their own escrow company and that KELL's client (Michael S.) would be required to deposit
16 \$75,500 into said separate escrow account in order to execute the Private Mortgage.

17 10.

18 On several occasions relevant to this matter, KELL attempted to schedule a
19 telephone conversation with Thames and/or attempted to contact Thames via telephone but
20 KELL was unsuccessful.

21 11.

22 On several occasions relevant to this matter, KELL received incomplete and
23 misleading responses to questions he posed to Thames via email regarding the Private
24 Mortgage. For instance, when KELL sent Thames an email on August 3, 2010 asking her why
25 the \$75,500 requested by GNB had to sit in an escrow account for a month prior to closing,
26 Thames did not answer the question directly and simply stated that "the loan approval is based
27 on the 30% down on all our loans". Furthermore, when KELL repeatedly asked Thames what

1 GNB's fees were, how GNB's fees were calculated, and how the two points that were to be
2 charged on the loan were to be distributed, Thames provided conflicting and inconsistent
3 answers.

4 12.

5 On several occasions relevant to this matter, KELL made inadequate attempts to
6 verify the authenticity of GNB and, as KELL termed it, its "complicated" and "mysterious"
7 lending procedures. For instances, KELL attempted to verify licenses allegedly held by GNB to
8 perform real estate loan activities in the states of Michigan, South Carolina and California.
9 However, KELL was unable to verify any such licenses held by GNB in any of the
10 aforementioned states. KELL also attempted to verify the existence of the escrow company
11 allegedly used by GNB but was unable to accomplish this goal as well.

12 13.

13 On or about August 3, 2010, Michael S. informed KELL via email that he was
14 having reservations about obtaining the Private Mortgage through GNB and told KELL the
15 following:

16 "Unless you change my mind, I feel uncomfortable. If they
17 [GNB] are (sic) not so mysterious, then we could proceed. If not,
18 maybe we can check another lender?"

19 14.

20 Despite not being able to: talk to Thames on the telephone; verify the
21 authenticity of the licenses purportedly held by GNB; verify the existence of the escrow
22 company allegedly used by GNB; obtain legitimate and reasonably understandable answers to
23 questions regarding how GNB calculated fees, points and costs; and despite Michael S.'s email
24 to KELL noting his concern about GNB; KELL advised, directed and/instructed Michael S. to
25 deposit \$75,500 into GNB's alleged escrow account.

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15.

By or before October 1, 2010, GNB failed to fund the Private Mortgage. As a result, the purchase contract regarding the Subject Property terminated. Shortly thereafter, Michael S. discovered that GNB had converted \$75,500 from him.

16.

The acts and or omissions of MARIN and KELL, as alleged above, are grounds for the suspension or revocation of the license and license rights of MARIN and KELL under Section 10177(g) of the Code.

SECOND CAUSE OF ACTION
FAILURE TO RETAIN RECORDS
(As to MARIN)

17.

Each and every allegation described above in Paragraphs 1 through 16, inclusive, is incorporated by this reference as if fully set forth herein.

18.

On or about January 20, 2012, a designated representative of the Real Estate Commissioner made demand, pursuant to Section 10148 of the Code, that MARIN make available for examination, inspection and copying by the Department, all of MARIN's books and records pertaining to MARIN's real estate brokerage activities regarding the Private Mortgage and/or Subject Property, including the transaction file.

19.

In connection with the Department's request described above in Paragraph 18, MARIN failed and refused to make said records available for inspection and/or failed to retain said records in violation of Section 10148 of the Code.

20.

The acts and/or omissions of MARIN described above in Paragraphs 18 and 19, violate Section 10148 of the Code and constitute cause for the suspension or revocation of the licenses and license rights of MARIN under Section 10177(d) and/or 10177(g) of the Code.

1 Respondent LARSEN pled no contest to violating Section 10177(h) for failing to
2 exercise reasonable supervision over the acts of MARIN in such a manner as to allow the acts
3 and/or omissions on the part of MARIN to occur, as described above in paragraph 25.

4 COST RECOVERY

5 Section 10106 of the Code provides, in pertinent part, that in any order issued in
6 resolution of a disciplinary proceeding before the Department, the Commissioner may request
7 the Administrative Law Judge to direct a licensee found to have committed a violation of this
8 part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
9 case.

10 WHEREFORE, Complainant prays that a hearing be conducted on the
11 allegations of this Accusation and that upon proof thereof, a decision be rendered revoking all
12 licenses, license rights, endorsements and endorsement rights of the Respondents named herein
13 under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the
14 cost of investigation and enforcement as permitted by law, and for such other and further relief
15 as may be proper under other provisions of law.

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17 
18 ROBIN S. TANNER
19 Deputy Real Estate Commissioner

20 Dated at Oakland, California,
21 this 30th day of May, 2013.

22 DISCOVERY DEMAND

23
24 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the
25 Department hereby makes demand for discovery pursuant to the guidelines set forth in the
26 *Administrative Procedure Act*. Failure to provide Discovery to the Department may result in the
27 exclusion of witnesses and documents at the hearing or other sanctions that the Office of
Administrative Hearings deems appropriate.