

FILED

AUG 20 2014

BUREAU OF REAL ESTATE

By choime

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of:)
)
MARIN MORTGAGE BANKERS CORPORATION,)
GLENN HARVEY LARSEN and)
 SHERMAN RONALD KELL aka SHERMAN)
 RONALD KELL)
 Respondents.)

No. H-11563 SF

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on August 13, 2014, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondents' express admissions, (2) affidavits, and (3) other evidence.

This Decision revokes real estate licenses and/or license rights, on grounds pursuant to Sections 10148 (Record Retention), 10159.2 (Designated Officer-Broker Supervision), 10177(d) (Willful Disregard/Violation of Real Estate Law), 10177(g) (Negligence/Incomptence), and 10177(h) (Broker Supervision) of the California Business and Professions Code (hereinafter "the Code") and Title 10, Section 2725 (Broker Supervision) of the California Code of Regulations (hereinafter "the Regulations").

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondents.

FINDINGS OF FACT

1

On May 30, 2013, Robin S. Tanner made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by regular mail and by certified mail, return receipt requested, to Respondents' last known mailing addresses on file with the Bureau of Real Estate (hereinafter "the Bureau") on June 20, 2013.

2

On August 13, 2014, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondents' defaults were entered herein.

3

Respondent MARIN MORTGAGE BANKERS CORPORATION, (hereinafter "MARIN"), is presently licensed by the Bureau and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "the Code"), as a real estate corporation, acting by and through GLENN HARVEY LARSEN as its designated officer. At no time has the Bureau issued MARIN a mortgage loan originator license endorsement or license endorsement rights under the Code.

4

Respondent GLENN HARVEY LARSEN (hereinafter "LARSEN") is presently licensed by the Bureau 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 no time has the Bureau issued LARSEN a mortgage loan originator license endorsement or license endorsement rights under the Code.

5

At all times herein mentioned, LARSEN was licensed by the Department as the designated officer of MARIN. As the designated officer, LARSEN was 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 MARIN for which a real estate license is required.

6

Respondent KELL is presently licensed and/or has license rights under the Real Estate Law, Part 1 Division 4 of the Code as a real estate salesperson. On or about August 19, 2014, the Commissioner accepted KELL's offer to voluntarily surrender his real estate salesperson license. As a result of KELL voluntarily surrendering his license, this default Decision does not pertain to KELL.

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

At all times mentioned herein, MARIN engaged in the business of, acted in the capacity of, advertised, or assumed to act as a corporate real estate broker 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 and/or loan modification business with the public wherein MARIN 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)

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.

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

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

12

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

13

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

14

On several occasions relevant to this matter, KELL received incomplete and misleading responses to questions he posed to Thames via email regarding the Private Mortgage. For instance, when KELL sent Thames an email on August 3, 2010 asking her why the \$75,500 requested by GNB had to sit in an escrow account for a month prior to closing, Thames did not answer the question directly and simply stated that "the loan approval is based on the 30% down on all our loans". Furthermore, when KELL repeatedly asked Thames what GNB's fees were, how GNB's fees were calculated, and how the two points that were to be charged on the loan were to be distributed, Thames provided conflicting and inconsistent answers.

15

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

16

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

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

17

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

18

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.

19

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)

20

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 Bureau 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.

21

In connection with the Bureau's request described above in Paragraph 20, 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.

22

The acts and/or omissions of MARIN described above in Paragraphs 20 and 21, 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.

THIRD CAUSE OF ACTION
NEGLIGENT SUPERVISION
(As to LARSEN)

23

LARSEN, the designated officer of MARIN, was required to exercise reasonable supervision and control over the activities of MARIN and its employees, including KELL, and the real estate activities being conducted by MARIN.

24

LARSEN failed to exercise reasonable supervision over the acts and/or omissions of MARIN and its employees, including KELL, in such a manner as to allow the acts and/or omissions as described above in Paragraphs 9 through 22, to occur, which constitutes cause for the suspension or revocation of the licenses, license rights, endorsements and endorsement rights of LARSEN under Sections 10177(d) and/or 10177(g) of the Code, and Sections 10177(h) and 10159.2 of the Code and Title 10, Section 2725 of the Regulations.

MATTERS IN AGGRAVATION

25

On or about October 29, 2009, after giving Respondent LARSEN fair notice of the pending charges and affording him the opportunity for a hearing and other due process protections, the Bureau and Respondent agreed in DRE Case No. H-9115 SF to a stipulation whereby all licenses and license rights of Respondent LARSEN were publically reproved. Respondent LARSEN stipulated to violation of Section 11018.1 and 11018.2 of the Code in conjunction with Section 10177(d) of the Code for his part in failing to provide a copy of a valid public report to any of the purchasers listed in the transaction at issue in that case.

26

On or about February 12, 2003, after giving Respondents MARIN and LARSEN fair notice of the pending charges and affording them the opportunity for a hearing and other due process protections, the Bureau and Respondents MARIN and LARSEN agreed in DRE Case No. H-8120 SF to a stipulation whereby all licenses and license rights of Respondents MARIN and LARSEN were revoked with rights to restricted licenses.

Respondent MARIN pled no contest to violations of:

- Section 10145 of the Code in conjunction with Section 2832 of the Regulations for failing to deposit trust funds into an account designated as a trust account;
- Section 2834 of the Regulations for permitting withdrawals from accounts by non-licensed and un-bonded employees;

- Section 10145(b) of the Code for failing to place trust funds into neutral escrow depository;
- Section 10240 of the Code for failing to timely deliver to investors a written lender/purchaser disclosure statement;
- Section 10234 of the Code for failing to record a deed of trust naming only the lenders or nominees of the lenders as beneficiaries;
- Section 10234 of the Code for failing to record a deed of trust in the names of the investors within 10 working days of receiving each investor's fund or after close of escrow;
- Section 10229(e) for failing to obtain and/or retain for its records, a signed statement from each investor that the investment in each transaction did not exceed 10% of their net worth;
- Section 10229(g) for failing to limit the aggregate principal amount of the loan plus any unpaid principal amount of any encumbrance upon the real property to not more than 65% of the then-current market value of the unimproved real property;
- Section 10229(j)(2) for failing to transmit pro rata payments received on notes to the purchaser or lenders within 25 days after receipt of the payments;
- Section 10232.25 for failing to file with the Bureau quarterly trust fund status reports regarding all trust funds in the broker's custody;

Respondent LARSEN pled no contest to violating Section 10177(h) for failing to exercise reasonable supervision over the acts of MARIN in such a manner as to allow the acts and/or omissions on the part of MARIN to occur, as described above in paragraph 26.

DETERMINATION OF ISSUES

1

Cause for disciplinary action against Respondent MARIN exists with reference to the acts and/or omissions of Respondent MARIN, identified above in the First Cause of Action, under Section 10177(g) of the Code.

2

Cause for disciplinary action against Respondent MARIN exists with reference to the acts and/or omissions of Respondent MARIN, identified above in the Second Cause of Action, under Sections 10148, 10177(d) and 10177(g) of the Code.

Cause for disciplinary action against Respondent LARSEN exists with reference to the acts and/or omissions of Respondent LARSEN, identified above in the THIRD Cause of Action, under Sections 10177(d), 10177(g) and 10177(h) of the Code, in conjunction with Section 10159.2 of the Code and Section 2725 of the Regulations.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

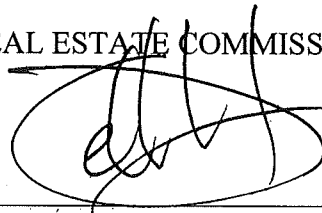
All licenses and licensing rights of Respondent MARIN under the provisions of Part I of Division 4 of the Business and Professions Code are REVOKED.

All licenses and licensing of Respondent LARSEN under the provisions of Part I of Division 4 of the Business and Professions Code are REVOKED.

This Decision shall become effective at 12 o'clock noon on SEP 10 2014.

DATED: AUG 19 2014

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner