

FILED

February 10, 2014

BUREAU OF REAL ESTATE

By *L. Jones*

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9 **BEFORE THE BUREAU OF REAL ESTATE**

10 **STATE OF CALIFORNIA**

11 * * *

12 In the Matter of the Accusation of)
13) NO. H-11649 SF
14 PACIFIC PRIVATE MONEY, INC.,)
15 and MARK DIETER HANF,) ACCUSATION
16 Respondents.)

17 The Complainant, ROBIN S. TANNER, a Deputy Real Estate Commissioner of
18 the State of California, for Accusation against Respondents PACIFIC PRIVATE MONEY, INC.
19 (PPM), and MARK DIETER HANF (HANF), sometimes collectively referred to as
20 Respondents, is informed and alleges as follows:

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22 The Complainant makes this Accusation against Respondents in her official
23 capacity.

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25 PPM is presently licensed and/or has license rights under the Real Estate Law,
26 Part 1 of Division 4 of the California Business and Professions Code (Code) as a corporate real
27 estate broker.

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HANF is presently licensed and/or has license rights under the Code as a real estate broker.

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At all times herein mentioned, HANF was licensed by the Bureau as the designated broker/officer of PPM. As the designated broker/officer, HANF 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 PPM for which a real estate license is required.

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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 within the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a loan brokerage business with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders and borrowers for loans secured directly or collaterally by liens on real property, and wherein Respondents arranged negotiated, processed, and consummated such loans.

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

FIRST CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 7, above, and incorporates the same herein.

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Beginning July 3, 2012, and continuing intermittently through September 28, 2012, an audit was conducted of PPM's main office located at 1604 Grant Avenue, Novato, California and at the Oakland District Office of the Bureau of Real Estate at 1515 Clay Street, Suite 702, Oakland, California, where the auditor examined records for the period of April 11, 2011 through June 30, 2012 (the audit period).

While acting as a real estate broker as described in Paragraph 6, above, and within the audit period, PPM accepted or received funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others in connection with the mortgage loan brokerage activities, deposited or caused to be deposited those funds into bank accounts maintained by PPM as set forth below, and thereafter from time to time made disbursements of said trust funds.

Trust Account #1: First Community Bank, 100 Second Street, Petaluma, CA 94952, designated: "Pacific Private Money Inc. Loan Servicing Trust Account", Account No. XX XXXX180 1;

Trust Account #2: Wells Fargo Bank, N.A., 1590 Grant Avenue, Novato, CA 94945, designated: "Pacific Private Money Inc Loan Servicing Trust Account", Account No. XXXXXX4051;

Trust Account #3: First Community Bank, address as set forth above, designated: "Pacific Private Money Inc. FBO CRC Penngrove Loan Servicing Trust Account", Account No. XX XXXX184 3;

Bank Account #1: First Community Bank, address as set forth above, designated: "Pacific Private Money Inc. 3610 Auburn Blvd. Special Text", Account No. XX XXXX191 8;

Bank Account #2: First Community Bank, address as set forth above, designated: "Pacific Private Money Inc. CFL Special Text", Account No. XX XXXX197 5;

Bank Account #3: Wells Fargo Bank, N.A., address as set forth above,

1 designated: "Pacific Private Money Inc", Account No. XXXXXX4634.

3 In the course of the activities described in Paragraph 6, in connection with the
4 collection and disbursement of trust funds, Respondents:

5 (a) Failed to place trust funds in a trust account as required by Section 2832
6 of Chapter 6, Title 10, California Code of Regulations (Regulations) and
7 Section 10145 of the Code;

8 (b) Placed trust funds of \$350,000.00 into Bank Account #3, which is not a
9 trust account, thereby commingling funds in violation of Section 2835 of
10 the Regulations and Sections 10145 and 10176(e) of the Code;

11 (c) Failed to provide or provided incomplete Lender/Purchaser Disclosure
12 Statements, for the loans set forth below, as required by Section 10232.4
13 of the Code:

14 K & Development Loan, No. 2012-0617

15 Nissenbaum Loan, No. 2012-0417

16 CRC Penngrove Investors LLC Loan;

17 (d) Failed to notify the Bureau of a Self-Dealing Transaction wherein HANF
18 was a managing member of borrower, Reformation Holding Group, LLC,
19 for loans set forth below, as required by Section 10231.2 of the Code:

20 8/15/11 loan for \$220,000.00

21 8/24/11 loan for \$162,500.00

22 9/2/11 loan for \$145,600.00;

23 (e) Failed to provide, or provided incomplete Servicing Agreements, for
24 loans as set for the below, as required by Section 10238 (k) of the Code:

25 Cabugao loan, No. 2012-0129

26 Nissenbaum loan, No. 2012-0427

27 K & R Development loan;

- 1 (f) Failed to provide statements for the RLC Properties Inc loan, No. 2012-
2 0129, that loan payments shall not be commingled and shall be
3 transmitted on a pro rata basis within 25 days, as required by Section
4 10238 (k) of the Code;
- 5 (g) Failed to provide Statements of Investor Qualification for the RLC
6 Properties Inc. loan, as required by Section 10238 (f) of the Code;
- 7 (h) Failed to notify the Bureau of the employment of salesperson Christopher
8 Cary as required by Section 10161.8 of the Code;
- 9 (i) Failed to maintain a broker salesperson relationship agreement with
10 salesperson Louis Carlos Bardis as required by Section 2726 of the
11 Regulations;
- 12 (j) Failed to register the fictitious business names, Pacific Private Money
13 Loans and Pacific Private Money Loans and Servicing as required by
14 Section 2731 of the Regulations and Section 10159.5 of the Code.

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16 The acts and/or omissions of Respondents as alleged above violate Sections
17 2726, 2731, 2832 and 2835 of the Regulations and Sections 10145, 10159.5, 10161.8, 10231.2,
18 10232.4, 10238 (f) and 10238 (k) of the Code and are grounds for disciplinary action under
19 Section 10177 (d) (Willful Disregard/Violation of Real Estate Law and 10177 (g)
20 (Negligence/Incompetence of Real Estate Licensee) of the Code.

21 SECOND CAUSE OF ACTION

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23 Complainant refers to Paragraphs 1 through 12, above, and incorporates them
24 herein by reference.

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On March 7, 2012, Augusto Lorenzo Menendez (Menendez) obtained his real estate salesperson license. At no time before March 7, 2012, was Menendez licensed by the Bureau.

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Menendez was compensated by Respondents with checks indicating loan commissions as set forth below:

No. 1216	8/26/11	\$3,113.75	Bonner Loan Commission
No. 1239	9/8/11	\$3,035.00	Pletner Loan Commission

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The acts and/or omissions of HANF as alleged above violate Section 10137 (Compensating Unlicensed Person) and are grounds for discipline under Sections 10137 and 10177 (d) of the Code.

THIRD CAUSE OF ACTION

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Complainant refers to Paragraphs 1 through 16, above, and incorporates them herein by reference.

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At all times herein above mentioned, HANF was responsible, as the designated broker/officer of PPM, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. HANF failed to exercise reasonable supervision and control over the property management brokering activities of PPM. In particular, HANF permitted, ratified and/or caused the conduct described above, to occur, and failed to take reasonable steps, including but not limited to the handling of trust funds, supervision of employees, and the implementation of policies, rules, procedures, and systems to ensure the compliance of the corporation with the Real Estate Law and the Regulations.

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The above acts and/or omissions of HANF violate Section 10159.2 of the Code and Section 2725 of the Regulation and are grounds for disciplinary action under Sections 10177 (d) and 10177 (g) of the Code.

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 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), and for such other and further relief as may be proper under other provisions of law.



ROBIN S. TANNER
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 6th day of February, 2014.