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**FILED**

MAY 01 2017

BUREAU OF REAL ESTATE

By B. Nicholas

7  
8 **BEFORE THE BUREAU OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 \* \* \*

11 In the Matter of the Accusation of:

) NO. H- 12095 SF

12 CHARLES JOSEPH FLYNN,

) ACCUSATION

13 Respondent.

14  
15 The Complainant, ROBIN S. TANNER, acting in her official capacity as a  
16 Supervising Special Investigator of the State of California, for cause of Accusation against  
17 CHARLES JOSEPH FLYNN (referred to herein as "Respondent") is informed and alleges as  
18 follows:

19 1.

20 Respondent is presently licensed and/or has license rights under the Real Estate  
21 Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

22 2.

23 At all times herein mentioned, Respondent was and is licensed by the Bureau  
24 individually as a real estate broker.

25 3.

26 From February 1997 to September 2014, Marin Mortgage Bankers Corporation  
27 was licensed by the Bureau as a corporate real estate broker. In April 2003, in Bureau Case No.

1 H-8120 SF, the Bureau revoked Marin Mortgage Bankers Corporation's license and granted the  
2 corporation the right to a restricted license. On or about September 10, 2014, in Bureau Case  
3 No. H-11563 SF, the Bureau revoked Marin Mortgage Bankers Corporation's license outright.

4 4.

5 From October 1986 to September 2014, Glenn Harvey Larson was licensed by the  
6 Bureau as an individual real estate broker. In April 2003, in Bureau Case No. H-8120 SF, the  
7 Bureau revoked Larson's license and granted him the right to a restricted license. On or about  
8 September 10, 2014, in Bureau Case No. H-11563 SF, the Bureau revoked Larson's license  
9 outright. From April 2011 to September 10, 2014, Larson was the designated officer of Marin  
10 Mortgage Bankers Corporation.

11 5.

12 At all times herein mentioned, Respondent engaged in the business of, acted in the  
13 capacity of, advertised, or assumed to act as a real estate licensee, in the State of California, on  
14 behalf of others, for compensation or in expectation of compensation, within the meaning of:

15 Section 10131(d) of the Code, including the operation and conduct of real estate  
16 business with the public wherein Respondent collects payments or performs services for  
17 borrowers or lenders or note owners in connection with loans secured directly or collaterally by  
18 liens on real property or on business opportunities;

19 Section 10131(e) of the Code, including the operation and conduct of a real estate  
20 business with the public wherein Respondent sold or offered to sell, bought or offered to buy, or  
21 exchanged or offered to exchange a real property sales contract, or a promissory note secured  
22 directly or collaterally by a lien on real property or a business opportunity, and performed  
23 services for the holders thereof; and/or

24 Section 10131.1 of the Code, including the operation and conduct of a real estate  
25 business with the public wherein Respondent engaged as a principal in the business of making  
26 loans or buying from, selling to, or exchanging with the public, real property sales contracts or  
27 promissory notes secured directly or collaterally by liens on real property, or who makes

1 agreements with the public for the collection of payments or for the performance of services in  
2 connection with real property sales contracts or promissory notes secured directly or collaterally  
3 by liens on real property.

4 6.

5 On October 13, 2015 and continuing intermittently until May 31, 2016, the  
6 Bureau conducted an audit of the books and records related to the real estate activities of  
7 Respondent at Respondent's main office located at 3100 Kerner Boulevard, Suite H in San  
8 Rafael, California, and at the Bureau's Oakland District Office located at 1515 Clay Street,  
9 Suite 702 in Oakland, California. The auditor examined Respondent's records for the period of  
10 October 1, 2014, to September 30, 2015 ("audit period").

11 7.

12 While doing business within the audit period, Respondent accepted or received  
13 funds in trust ("trust funds") from or on behalf of holders of notes secured by real property in  
14 connection with the servicing of loans, and thereafter from time-to-time Respondent made  
15 disbursements of said trust funds.

16 8.

17 The trust funds accepted or received by Respondent, as described above in  
18 Paragraph 7, were deposited or caused to be deposited by Respondent into a bank account which  
19 was maintained by Respondent for the handling of trust funds, identified as follows:

BANK ACCOUNT #1	
Bank Name and Location:	Umpqua Bank 1400 Grant Avenue Novato, CA 94945
Account No.:	XXXX6038
Entitled:	Marin Mortgage Bankers Common Client Servicing Trust Account A Fiduciary Trust Account
Signatories:	Charles Flynn (REB) Glenn Larson (Revoked REB) Holly Larsen (REB)
No. of Signatures Required:	One

In the course of the activities described above in Paragraph 5, in connection with the collection and disbursement of trust funds, Respondent:

(a) caused, suffered or permitted the balance of funds in Bank Account #1 to be reduced to an amount which, as of June 30, 2015, was \$15,982.88 less than the aggregate liability of Bank Account #1 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code and Section 2832.1 of Title 10 of the California Code of Regulations ("the Regulations");

(b) failed to properly designate Bank Account #1 as a trust account in the name of Respondent or his fictitious business name, as trustee, in violation of Section 10145 of the Code and Section 2832 of the Regulations;

(c) allowed Glenn Larsen to serve as authorized signor on Bank Account #1 without providing for fidelity bond coverage, in violation of Section 10145 of the Code and Section 2834 of the Regulations;

(d) failed to notify the Bureau within thirty (30) days of determining it will make collections of payments in an aggregate amount of \$250,000 or more, on behalf of owners of promissory notes secured by liens on real property, in violation of Section 10232(e) of the Code;

(e) failed to file quarterly trust fund status reports for the first and second quarters of 2015, in violation of Section 10232.25 of the Code;

(f) failed to file an annual trust account review for 2014, in violation of Section 10232.2(a) of the Code;

(g) failed to file a multi-lender transaction notice with the Bureau within thirty (30) days of becoming the servicing agent for notes upon which the payments due during any period of three (3) consecutive months exceeded \$125,000.00, in violation of Section 10238(b) of the Code; and

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1 (h) failed to notify the Bureau within thirty (30) business days of the change  
2 of Respondent's new main office location to 3100 Kerner Boulevard, Suite H, San Rafael, in  
3 violation of Section 10162 of the Code and Section 2715 of the Regulations.

4 10.

5 The acts and/or omissions of Respondent, as alleged above in Paragraph 9,  
6 constitute grounds for the suspension or revocation of all licenses and license rights of  
7 Respondent pursuant to the following provisions of the Code and Regulations:

8 As to Paragraph 9(a), under Section 10177(d) and/or 10177(g) of the Code, in  
9 conjunction with Section 10145 of the Code and Section 2832.1 of the Regulations;

10 As to Paragraph 9(b), under Section 10177(d) and/or 10177(g) of the Code, in  
11 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

12 As to Paragraph 9(c), under Section 10177(d) and/or 10177(g) of the Code, in  
13 conjunction with Section 10145 of the Code and Section 2834 of the Regulations;

14 As to Paragraph 9(d), under Section 10177(d) and/or 10177(g) of the Code, in  
15 conjunction with Section 10232(e) of the Regulations;

16 As to Paragraph 9(e), under Section 10177(d) and/or 10177(g) of the Code, in  
17 conjunction with Section 10232.25 of the Code;

18 As to Paragraph 9(f), under Section 10177(d) and/or 10177(g) of the Code, in  
19 conjunction with Section 10232.2(a) of the Code;

20 As to Paragraph 9(g), under Section 10177(d) and/or 10177(g) of the Code, in  
21 conjunction with Section 10238(b) of the Code; and

22 As to Paragraph 9(h), under Section 10177(d) and/or 10177(g) of the Code, in  
23 conjunction with Section 10162 of the Code and 2715 of the Regulations.

24 COST RECOVERY

25 11.

26 The acts and/or omissions of Respondent, as alleged above, entitle the Bureau to  
27 reimbursement of the costs of its audit pursuant to Section 10148(b) 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 Bureau, 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 revoking all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, and for such other and further relief as may be proper under other provisions of law.



ROBIN S. TANNER  
Supervising Special Investigator

Dated at Oakland, California,  
this 28<sup>th</sup> day of April, 2017.

#### DISCOVERY DEMAND

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