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FILED

MAY 05 2020

DEPARTMENT OF REAL ESTATE
By *[Signature]*

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of:) NO. H-12432 SF
13 MICHELE LAVERNE JACQUES) ACCUSATION
14 Respondents.)

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 MICHELE LAVERNE JACQUES ("Respondent"), is informed and alleges as follows:

18 1.

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

21 2.

22 At all times herein mentioned, Respondent held a company mortgage loan
23 originator license with Nationwide Mortgage Licensing System and Registry ("NMLS"),
24 identification number 1195299. At all times herein mentioned, Respondent held an individual
25 mortgage loan originator license with NMLS, identification number 1152062.

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1 3.

2 At all times mentioned herein, Respondent engaged in the business of, acted in
3 the capacity of, advertised, or assumed to act as real estate licensees, in the State of California,
4 on behalf of others, for compensation or in expectation of compensation, within the meaning of:

5 Section 10131(a) of the Code, including the operation and conduct of a real estate
6 resale brokerage with the public, wherein, on behalf of others, for compensation or in expectation
7 of compensation, Respondent sold and offered to sell, bought and offered to buy, solicited
8 prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the
9 purchase and resale of real property;

10 Section 10131(d) of the Code, including the operation and conduct of real estate
11 business with the public wherein Respondent solicited borrowers or lenders for or negotiated
12 loans or collected payment or performed services for borrowers or lenders or note owners in
13 connection with loans secured directly or collaterally by liens on real property or on a business
14 opportunity; and/or

15 Section 10131.1 of the Code, including the operation and conduct of a real estate
16 business with the public wherein Respondent engaged as a principal in the business of making
17 loans or buying from, selling to, or exchanging with the public, real property sales contracts or
18 promissory notes secured directly or collaterally by liens on real property, or who made
19 agreements with the public for the collection of payments or for the performance of services in
20 connection with real property sales contracts or promissory notes secured directly or collaterally
21 by liens on real property.

22 4.

23 In the course of the activities described above in Paragraph 3, Respondent was
24 involved in originating, funding, negotiating and/or closing the following mortgage loan
25 transactions:

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| | Borrower | Property Address | Date Closed | Lender |
|----|-----------------------------|--|--------------------|-------------------------------------|
| 2 | | | | |
| 3 | a. Michael Y. | 4004 Crescent Court, Antioch, CA 94509 | 1/8/19 | Loan Depot.com, LLC |
| 4 | b. Dominique W. Ivory W. | 1017 View Dr., Richmond, CA 94803 | 1/18/19 | Best Capital Funding |
| 5 | c. Valerie M. Michael M. | 14 Monterosa Ct., Sacramento, CA 95823 | 2/20/18 | American Financial Network, Inc. |
| 6 | | | | |
| 7 | d. Imelda J. | 976 Stonegate Cir., Oakley, CA 94561 | 10/30/18 | Royal Pacific Funding Corp. |
| 8 | e. Melodi D. | 136 South 42 nd Street, Richmond, CA 94804 | 1/22/18 | American Financial Network, Inc. |
| 9 | f. Dedanim A. | 2237 62 nd Ave. #D, Oakland, CA 94605 | 7/31/18 | Civic Financial Services, Inc. |
| 10 | g. Rajwant P. | 3760 Pintail Dr., Antioch, CA 94509 | 7/12/18 | Civic Financial Services, Inc. |

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12 5.

13 Beginning on April 19, 2019, and continuing intermittently through April 29,
14 2019, the California Bureau of Real Estate conducted an audit of the books and records related
15 the real estate activities of Respondent at Respondent's main office located at 2213 Buchanan
16 Rd., Suite 212, Antioch, CA 94509, where the auditor examined records for the period of April
17 1, 2017, through March 31, 2019 ("audit period").

18 6.

19 While doing business within the audit period, Respondent accepted or received
20 funds in trust (trust funds) from or on behalf of lenders, investors, borrowers and others
21 in connection with the mortgage loan brokerage activities and deposited or caused to be
22 deposited those funds into the following bank account maintained by Respondent:

| BANK ACCOUNT #1 | |
|--------------------------------|---|
| 23 Bank Name and Location: | US Bank |
| 24 Account No.: | XXXXXXXXX5989 |
| 25 Entitled: | Michele L. Jacques DBA New Beginnings Lending/Realty Group |
| 26 Signatories: | Michele L. Jacques (REB) |
| 27 No. of Signatures Required: | One |

1 From time to time, Respondent made collections to and disbursement from said trust funds.

2 **COUNT ONE**
3 **COMMINGLING TRUST FUNDS WITH PERSONAL FUNDS**

4 7.

5 Each and every allegation set forth above in Paragraphs 1 through 6, inclusive, is
6 incorporated by this reference as if fully set forth herein.

7 8.

8 In July 2017, during the course of assisting Rebecca S. with the purchase of
9 residential real estate located at 4520 Shannondale Dr., Antioch, CA 94531, Respondent
10 collected a \$25,000 down payment from Rebecca S. and deposited the money into Bank
11 Account #1.

12 9.

13 In the course of the activities described above in Paragraph 3, Respondent caused,
14 suffered or permitted money of others which was received and held by Respondent in Bank
15 Account #1 to be commingled with broker funds in violation of Sections 10145 and 10176(e) of
16 the Code and Section 2835 of the Regulations.

17 10.

18 The acts and/or omissions of Respondent, as alleged above in Paragraphs 7
19 through 10, constitute grounds for the suspension or revocation of all licenses and license rights
20 of Respondent under Sections 10176(e) and 10145 of the Code and Section 2835 of the
21 Regulations.

22 **COUNT TWO**
23 **FAILURE TO OBTAIN MORTGAGE LOAN DISCLOSURE STATEMENTS**

24 11.

25 Each and every allegation contained above in Paragraphs 1 through 10, inclusive,
26 is incorporated by this reference as if fully set forth herein.

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12.

Pursuant to Section 10240 of the Code, a real estate broker acting within Section 10131(d) of the Code shall deliver to the borrower a written mortgage loan disclosure statement (“MLDS”), and obtain the borrower’s signature on the MLDS within a specified time period. Additionally, a real estate broker is required to maintain a copy of the MLDS for three years.

13.

In the transactions noted above in Paragraphs 4(a) through 4(f), Respondent failed to deliver an MLDS to the borrower, failed to obtain the borrower’s signature on the MLDS, and/or failed to maintain an MLDS regarding the subject transactions.

14.

The acts and/or omissions of Respondent, as alleged above in Paragraphs 11 through 13, constitute grounds for the suspension or revocation of all licenses and license rights of Respondent under Sections 10240, 10177(d), and/or 10177(g) of the Code.

COUNT THREE
FAILURE TO PROVIDE FAIR LENDING NOTICE

15.

Each and every allegation set forth above in Paragraphs 1 through 14, inclusive, is incorporated by this reference as if fully set forth herein.

16.

Pursuant to Section 35830 of the Health and Safety Code and Section 7114 of Title 21, California Code of Regulations (“the Regulations”), a real estate broker engaged in mortgage banking shall provide each applicant for financial assistance upon the submission of a written application as completed by and submitted by the application, a Fair Lending Notice which sets forth the prohibitions of Chapter 3 of the Act, the complaint procedures set forth in Chapter 4 of the Act, and the name and address of the office where complaints may be filed and where questions may be asked.

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17.

In the transactions noted above in paragraphs 4(a) through 4(f), Respondent failed to provide each applicant with a Fair Lending Notice, as required by Pursuant to Section 35830 of the Health and Safety Code, and Section 7114 of Title 21 of the Regulations.

18.

The acts and/or omissions of Respondent, as alleged above in Paragraphs 15 through 17, constitute grounds for the suspension or revocation of all licenses and license rights of Respondent under Sections 10177(d), 10177(g) of the Code, and Section 35830 of the Health and Safety Code, in conjunction with Section 7114 of Title 21 of the Regulations.

COUNT FOUR
FAILURE TO DISCLOSE MLO ENDORSEMENT

19.

Each and every allegation in Paragraphs 1 through 18, inclusive, above, is incorporated by this reference as if fully set forth herein.

20.

Pursuant to Section 10140.6(b) of the Code, a real estate licensee shall disclose his or her unique identifier assigned to that licensee by the Nationwide Mortgage Licensing System and Registry on real estate property purchase agreements when acting as an agent in those transactions.

21.

In the transactions noted above in paragraphs 4(e) and 4(f), Respondent failed to submit the lender/purchaser disclosure statement to the Department prior to providing the lender/purchaser disclosure statement to the lender, as required by Section 10231.2(b) of the Code.

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22.

The acts and/or omissions of Respondent, as alleged above in Paragraphs 18 through 21, constitute grounds for the suspension or revocation of all licenses and license rights of Respondent under Sections 10177(d), 10177(g) and/or 10231.2 of the Code.

COUNT FIVE
FAILURE TO FILE ANNUAL BUSINESS ACTIVITY REPORTS

23.

Each and every allegation contained above in Paragraphs 1 through 22, inclusive, is incorporated by this reference as if fully set forth herein.

24.

Pursuant to Section 10166.07 of the Code, a real estate broker who makes, arranges, or services one or more loans in a calendar year that are secured by real property containing one to four residential units, shall file a business activities report within 90 days after the end of the broker's fiscal year.

25.

The transactions noted above in Paragraph 4(a) through 4(g) involved transactions secured by real property containing one-to-four residential units.

26.

Respondent failed to submit an annual mortgage loan business activity report for reporting years 2018 and 2019 for the transactions described above in Paragraphs 4(a) through 4(g).

27.

The acts and/or omissions of Respondent, as alleged above in Paragraphs 23 through 26, are grounds for the revocation or suspension of Respondent's real estate licenses or license rights under Sections 10166.07 and 10177(d) of the Code.

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1 COST RECOVERY

2 28.

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

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

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15 ROBIN S. TANNER
16 Supervising Special Investigator

17 Dated at Oakland, California,
18 this 18th day of March, 2020.

19
20 DISCOVERY DEMAND

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