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DEPARTMENT OF REAL ESTATE

OCT 26 1989

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE
BY *K. Mederholt*

* * * *

In the Matter of the Accusation of)
)
MARINA FINANCIAL, INC., a)
California corporation;)
MARK JONATHON PAUL,)
individually and as)
designated officer of)
Marina Financial, Inc.)
Respondent.)

No. H- 23512 LA

DECISION

The Proposed Decision dated October 11, 1989,
of Randolph Brendia, Regional Manager, Department of Real Estate,
is hereby adopted as the Decision of the Real Estate Commissioner
in the above-entitled matter.

This Decision shall become effective at 12 o'clock
noon on November 28, 1989.

IT IS SO ORDERED October 24, 1989.

JAMES A. EDMONDS, JR.
Real Estate Commissioner

John R. Liberator
BY: John R. Liberator
Chief Deputy Commissioner

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) No. H-23512 LA
)
MARINA FINANCIAL, INC., a)
California corporation;)
MARK JONATHON PAUL,)
individually and as)
designated officer of)
Marina Financial, Inc.)
)
Respondents.)
)
)

PROPOSED DECISION

This Matter was presided over by Randolph Brendia, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner, in Los Angeles, California, on October 11, 1989.

Marilyn Mosher, Counsel, represented the Complainant. Respondents MARINA FINANCIAL, INC. and MARK JONATHON PAUL were not present, nor represented, each having filed a Waiver of Appearance in the Matter, through their respective attorneys.

The Matter was submitted upon the written Stipulation of the parties, and, pursuant thereto, the following Decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, made the Accusation in his official capacity.

II

MARINA FINANCIAL, INC., a California corporation, and MARK JONATHON PAUL (sometimes hereinafter collectively referred to as respondents), are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code).

III

On or about February 5, 1985, MARINA FINANCIAL, INC., became incorporated in the State of California by filing of Articles of Incorporation with the California Secretary of State, filed as Corporation Number 1330681.

IV

On or about September 13, 1985, MARINA FINANCIAL, INC. was licensed by the Department of Real Estate of the State of California (hereinafter the Department) as a corporate real estate broker by and through MARK JONATHON PAUL (hereinafter PAUL) as designated officer of MARINA FINANCIAL, INC., to qualify said corporation and to act for said corporation as a real estate broker. Said license authorized MARINA FINANCIAL, INC. to conduct business at 702 Washington Street, #29, in Marina Del Rey, California.

V

At all times herein mentioned, PAUL was and is now licensed by the Department as a real estate broker in his individual capacity. At all times herein mentioned from September 13, 1985 to and including April 1988, PAUL was the designated officer of MARINA FINANCIAL, INC.

VI

All further references to MARINA FINANCIAL, INC. shall be deemed to refer to, in addition to MARINA FINANCIAL, INC., the officers, directors, employees, agents and real estate licensees employed by or associated with MARINA FINANCIAL, INC., who at all times herein mentioned were engaged in the furtherance of the business or operations of MARINA FINANCIAL, INC. and who were acting within the course and scope of their authority and employment.

VII

At all times herein mentioned, MARINA FINANCIAL, INC. engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) of the Code, including the operation of a mortgage loan brokerage business with the public, wherein MARINA FINANCIAL, INC. solicited borrowers for loans secured by liens on real property and packaged said loans for referral to lenders, all for or in expectation of compensation.

VIII

In the conduct of the mortgage loan brokerage business, MARINA FINANCIAL, INC., accepted or received funds in trust from

or on behalf of borrowers and others in connection with soliciting, negotiating or packaging of said loans, and thereafter disbursed said funds.

IX

During 1986 and 1987, trust funds received and accepted by MARINA FINANCIAL, INC. were deposited in a bank account entitled "MARINA FINANCIAL", maintained at California Overseas Bank, Account Number [REDACTED]. During said period of time, MARINA FINANCIAL, INC. failed to place said trust funds into a trust account in the name of MARINA FINANCIAL, INC. as trustee or into a neutral escrow depository or the hands of the principal of said trust funds, in the manner required by Section 10145 of the Code and Section 2830 of Chapter 6, Title 10, California Code of Regulations (hereinafter the Regulations).

X

During 1986 and 1987, MARINA FINANCIAL, INC. failed to maintain adequate records of all trust funds received and disbursed, or to maintain a separate record for each beneficiary or transaction, in the manner required by Sections 2831 and 2831.1, respectively, of the Regulations.

XI

In connection with the aforesaid mortgage loan brokerage business, MARINA FINANCIAL, INC. employed and/or compensated Garry Crandall, aka Garry Krey, Melanie Crandall, Clarette Martin, and Ann Gillis, to solicit and/or negotiate loans for potential borrowers, including, but not necessarily limited to, Ennio Capra, Timothy McKeon, Howard McKeon, James Moore, Gilbert Starckenburg, Peter Stellar, Won Gin NG, and Vincent Jacobs. At no time herein mentioned, were Garry Crandall, aka Garry Krey, Melanie Crandall, Clarette Martin, or Ann Gillis, or any of them, licensed by the Department as a real estate salesperson or a real estate broker.

XII

The activities of Garry Crandall, aka Garry Krey, Melanie Crandall, Clarette Martin, and Ann Gillis, as described in Finding XI, are acts requiring a real estate license under Section 10131(d) of the Code.

XIII

Since in or about March 1987, and continuing until in or about April 1988, respondents have conducted the real estate broker activity, as described hereinabove, at 4333 Admiralty Way, Suite 619, Marina Del Rey, California. At no time herein mentioned, was MARINA FINANCIAL, INC. authorized by the Department to conduct business at the said address.

XIV

On or about December 1, 1986, the corporate powers, rights and privileges of MARINA FINANCIAL, INC. were suspended pursuant to the provisions of the California Bank and Corporation Tax Law, more particularly Section 23302 of the Revenue and Taxation Code. At no time since December 1, 1986, has MARINA FINANCIAL, INC. been revived to good standing.

XV

Since in or about December, 1986, respondents have continued to operate the mortgage loan brokerage business without having revived respondent MARINA FINANCIAL, INC. to good standing, in violation of Section 10177(f) of the Code, and Section 2742 of the Regulations.

XVI

The acts, omissions, and violations described in Findings IX, X, XI, XIII, XIV, and XV, were carried out, occurred, and/or committed while PAUL was the designated officer of the corporation pursuant to Section 10211 of the Code. PAUL's authorization and/or failure to terminate or remedy said acts, omissions and violations constitutes failure on PAUL's part, as the officer designated by a corporate respondent, to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

DETERMINATION OF ISSUES

I

The conduct of Respondent MARINA FINANCIAL, INC., as set forth in Findings IX and X, is in violation of Section 10145 of the Code and Section 2830 of the Regulations, and Sections 2831 and 2831.1 of the Regulations, respectively, and is cause for suspension or revocation of all licenses and license rights of MARINA FINANCIAL, INC. under Section 10177(d) of the Code.

II

The conduct of Respondent MARINA FINANCIAL, INC., in employing and compensating unlicensed persons for acts requiring a real estate license, as set forth in Finding XI, is cause for suspension or revocation of all licenses and license rights of MARINA FINANCIAL, INC., under Section 10137 of the Code.

III

The conduct of Respondent MARINA FINANCIAL, INC., as set forth in Finding XIII, is in violation of Section 10162 of

the Code, and is cause for suspension or revocation of all licenses and license rights of MARINA FINANCIAL, INC. under Section 10165 of the Code.

IV

The conduct of Respondent MARINA FINANCIAL, INC., as set forth in Findings XIV and XV, is in violation of Section 2742 of the Regulations and is cause for suspension or revocation of all licenses and license rights of MARINA FINANCIAL, INC. under Section 10177(f) of the Code.

V

The conduct of Respondent PAUL, as set forth in Finding XVI, constitutes failure on his part, as designated officer, to exercise reasonable supervision and control over the activities of the corporate respondent for which a real estate license is required, and is cause for suspension or revocation of all licenses and license rights of PAUL under Section 10177(h) of the Code.

ORDER

WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE WRITTEN STIPULATION OF THE PARTIES:

I

The corporate real estate broker license and all license rights of Respondent MARINA FINANCIAL, INC. under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) are hereby revoked.

II

The real estate broker license and license rights of Respondent MARK JONATHON PAUL are hereby suspended for one hundred and eighty (180) days; provided, however, that execution of said order of suspension is hereby stayed as to all but the first forty (40) days of said suspension; and provided further, however, that the first forty days of said suspension will be permanently stayed if Respondent petitions to pay to the Department of Real Estate \$5,000 prior to the effective date of the Decision pursuant to the provisions of Section 10175.2 of the Code.

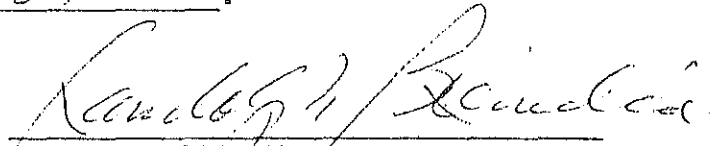
In the event Respondent MARK JONATHON PAUL fails to pay to the Department the said \$5,000 prior to the effective date of the Decision, the Commissioner shall select the 40-day period that Respondent's license and license rights shall be suspended from the six-month period immediately following the

effective date of the Decision; provided, however, that the Commissioner shall give Respondent at least ten (10) days prior notice of the 40-day suspension period so selected.

If the Real Estate Commissioner determines pursuant to the Administrative Procedure Act that further cause for disciplinary action against the real estate broker license of Respondent PAUL has occurred within one year from the effective date of this Decision, the stay of suspension hereby granted, or such portion as the Real Estate Commissioner shall deem to be appropriate, shall be vacated.

That if further cause for disciplinary action against the real estate broker license of Respondent PAUL does not occur within one year from the effective date of this Decision, the stay hereby granted shall become permanent.

DATED: 10/11/1989.



RANDOLPH BRENDIA
Regional Manager
Department of Real Estate

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FILED

DEC -7 1988

1 MARILYN L. MOSHER, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5 (213) 620-4790

DEPARTMENT OF REAL ESTATE
BY *Sylvia Williams*

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11	In the Matter of the Accusation of)	NO. H-23512 LA
12	MARINA FINANCIAL, INC., a)	<u>A C C U S A T I O N</u>
	California corporation;)	
13	MARK JONATHON PAUL,)	
	individually and as)	
14	designated officer of)	
	Marina Financial, Inc.,)	
15)	
16	_____, Respondents.)	

17 The complainant, Steven J. Ellis, a Deputy Real Estate
18 Commissioner of the State of California, for cause of accusation
19 against MARINA FINANCIAL, INC., a California corporation; MARK
20 JONATHON PAUL, individually and as designated officer of Marina
21 Financial, Inc., alleges as follows:

22 I

23 The complainant, Steven J. Ellis, a Deputy Real Estate
24 Commissioner of the State of California, makes this Accusation in
25 his official capacity.

26 II

27 MARINA FINANCIAL, INC., a California corporation, and

1 MARK JONATHON PAUL (sometimes hereinafter collectively referred
2 to as respondents), are presently licensed and/or have license
3 rights under the Real Estate Law (Part 1 of Division 4 of the
4 Business and Professions Code).

5 III

6 On or about February 5, 1985, MARINA FINANCIAL, INC.,
7 became incorporated in the State of California by filing of
8 Articles of Incorporation with the California Secretary of State,
9 filed as Corporation Number 1330681.

10 IV

11 On or about September 13, 1985, MARINA FINANCIAL, INC.
12 was licensed by the Department of Real Estate of the State of
13 California (hereinafter the Department) as a corporate real
14 estate broker by and through MARK JONATHON PAUL (hereinafter
15 PAUL) as designated officer of MARINA FINANCIAL, INC., to qualify
16 said corporation and to act for said corporation as a real estate
17 broker. Said license authorized MARINA FINANCIAL, INC. to con-
18 duct business at 702 Washington Street, #29, in Marina Del Rey,
19 California.

20 V

21 At all times herein mentioned, PAUL was and is now
22 licensed by the Department as a real estate broker in his
23 individual capacity. At all times herein mentioned from
24 September 13, 1985 to and including April 1988, PAUL was the
25 designated officer of MARINA FINANCIAL, INC. As the designated
26 officer of MARINA FINANCIAL, INC., PAUL was responsible for the
27 supervision of the activities of the officers and employees of

1 MARINA FINANCIAL, INC. for which a license is required, pursuant
2 to Section 10159.2 of the Code.

3 VI

4 All further references to MARINA FINANCIAL, INC. shall
5 be deemed to refer to, in addition to MARINA FINANCIAL, INC.,
6 the officers, directors, employees, agents and real estate
7 licensees employed by or associated with MARINA FINANCIAL, INC.
8 who at all times herein mentioned were engaged in the furtherance
9 of the business or operations of MARINA FINANCIAL, INC. and who
10 were acting within the course and scope of their authority and
11 employment.

12 VII

13 At all times herein mentioned, MARINA FINANCIAL, INC.
14 engaged in the business of, acted in the capacity of, advertised,
15 or assumed to act as a real estate broker in the State of Cali-
16 fornia within the meaning of Section 10131(d) of the Code
17 including the operation of a mortgage loan brokerage business
18 with the public, wherein MARINA FINANCIAL, INC. solicited bor-
19 rowers for loans secured by liens on real property and packaged
20 said loans for referral to lenders, all for or in expectation of
21 compensation.

22 VIII

23 During February 1988, the Department conducted an
24 examination of the books and records pertaining to trust funds
25 handled by MARINA FINANCIAL, INC. in connection with their
26 mortgage brokerage business referred to hereinabove. Said funds
27 were deposited in Account Number [REDACTED] at California

1 Overseas Bank in Marina Del Rey, California, in the Account name,
2 MARINA FINANCIAL. At all times herein mentioned, MARINA FINANCIAL,
3 INC. failed to place said trust funds into a trust account in the
4 name of the broker as trustee thereof or into a neutral escrow
5 depository or the hands of the principal of said trust funds.

6 IX

7 At no time herein mentioned did MARINA FINANCIAL, INC.
8 maintain and/or keep adequate records of all trust funds received
9 and disbursed, or, maintain and/or keep a separate record for
10 each beneficiary or transaction, as required by Sections 2831
11 and 2831.1, respectively, of Chapter 6, Title 10, California Code
12 of Regulations (hereinafter the Regulations).

13 X

14 In connection with the aforesaid mortgage loan broker-
15 age business, as described hereinabove, MARINA FINANCIAL, INC.
16 employed and/or compensated Garry Crandall, aka Garry Krey,
17 Melanie Crandall, Clarette Martin, and Ann Gillis, to solicit
18 and/or negotiate loans for potential borrowers, including but not
19 necessarily limited to the following potential borrowers:

20 <u>BORROWER</u>	<u>PROPERTY</u>	<u>PERIOD OF SOLICITATION/ NEGOTIATION</u>
21		
22 Ennio Capra	1411-1413 $\frac{1}{2}$ South Berendo Street 23 Los Angeles, CA	02/12/86 to 01/26/87
24 Timothy McKeon	26205 San Canyon Canyon Country, CA	03/25/87 to 08/04/87
25 Howard McKeon	26128 Ravenhill Rd. 26 Canyon Country, CA	06/20/87 to 07/15/87

27 /

1	James Moore	11960 Magnolia North Hollywood, CA	03/11/87 to 06/23/87
2			
3	Gilbert Starckenburg	20335 Avenida De Arboles Murrietta, CA	07/29/87 to 11/04/87
4			
5	Peter Stellar	3200 Santa Monica Boulevard Santa Monica, CA	07/15/87 to 12/14/87
6			
7	Won Gin NG	458 Tujunga Ave. Burbank, CA	08/05/87 to 11/02/87
8			
9	Vincent Jacobs	455 So. Campus Upland, CA	04/07/87 to 07/24/87

10 At no time herein mentioned, were Garry Crandall, aka Garry Krey,
 11 Melanie Crandall, Glarette Martin, or Ann Gillis, or any of them,
 12 licensed by the Department as a real estate salesperson or a real
 13 estate broker.

14 XI

15 Since in or about March 1987, and continuing until in
 16 or about April 1988, respondents have conducted the real estate
 17 broker activity, as described hereinabove, at 4333 Admiralty Way,
 18 Suite 619, Marina Del Rey, California. At no time herein
 19 mentioned, was MARINA FINANCIAL, INC. authorized by the Depart-
 20 ment to conduct business at the said address.

21 XII

22 On or about December 1, 1986, the corporate powers,
 23 rights and privileges of MARINA FINANCIAL, INC. were suspended
 24 pursuant to the provisions of the California Bank and Corpora-
 25 tion Tax Law, more particularly Section 23302 of the Revenue and
 26 Taxation Code.

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XIII

Since in or about December, 1986, respondents have continued to operate the mortgage loan brokerage business without having revived respondent MARINA FINANCIAL, INC. to good standing, in violation of Section 10177(f) of the Code, and Section 2742 of the Regulations.

XIV

At all times herein mentioned, while he was the designated officer of MARINA FINANCIAL, INC., PAUL failed to exercise supervision of the activities of the said respondent corporation and its employees for which a real estate license is required.

XV

The conduct of MARINA FINANCIAL INC., in receiving trust funds but not depositing said trust funds in a trust account, as described in Paragraph VIII above, violates Section 10145(a) of the Code and Section 2830 of the Regulations and is cause for suspension or revocation of all licenses and license rights of MARINA FINANCIAL, INC. under Section 10177(d) of the Code.

XVI

The conduct of MARINA FINANCIAL INC., in failing to maintain records of trust funds received and disbursed and in failing to maintain a separate record of each beneficiary and transaction, as described in Paragraph IX, above, violates Sections 2831 and 2831.1 of the Regulations and is cause for suspension or revocation of all licenses and license rights of

1 MARINA FINANCIAL, INC. under Section 10177(d) of the Code.

2 XVII

3 The conduct of MARINA FINANCIAL, INC., in employing
4 and compensating an unlicensed person or persons to perform acts
5 which require a real estate license, as described in Paragraph X
6 above, violates Section 10137 of the Code and is cause for
7 suspension or revocation of all licenses and license rights of
8 MARINA FINANCIAL, INC.

9 XVIII

10 The conduct of MARINA FINANCIAL, INC., in conducting
11 a real estate brokerage business at an unlicensed address, as
12 described in Paragraph XI above, violates Sections 10162, 10163,
13 and Section 2715 of the Regulations and is cause for suspension
14 or revocation of all licenses and license rights of MARINA
15 FINANCIAL, INC. under Section 10177(d) of the Code.

16 XIX

17 The conduct of MARINA FINANCIAL, INC., in acting as a
18 real estate broker when the corporation's powers, rights and
19 privileges are suspended, as described in Paragraphs XII and
20 XIII above, violates Section 2742 of the Regulations and is
21 cause for suspension or revocation of all license rights of
22 MARINA FINANCIAL, INC. under Sections 10177(d) and/or 10177(f)
23 of the Code.

24 XX

25 The conduct, acts and omissions of PAUL, in failing to
26 supervise the real estate activities of MARINA FINANCIAL, INC.
27 and its employees, and allowing or permitting MARINA FINANCIAL,

1 INC. to violate the Real Estate Law, as described in Paragraphs
2 VIII, IX, X, XI, XII, and XIII, above, constitutes a failure on
3 the part of PAUL, as the designated officer of MARINA FINANCIAL,
4 INC., to exercise reasonable supervision over the activities of
5 said corporate respondent for which a real estate license is
6 required under Section 10159.2 of the Code and is cause for
7 suspension or revocation of all licenses and license rights of
8 PAUL under Section 10177(h) of the Code.

9

10 WHEREFORE, complainant prays that a hearing be con-
11 ducted on the allegations of this Accusation and, that upon
12 proof thereof, a decision be rendered imposing disciplinary
13 action against all licenses and license rights of respondents
14 MARINA FINANCIAL, INC., a California corporation; MARK JONATHON
15 PAUL, individually and as designated officer of Marina Financial,
16 Inc. under the Real Estate Law (Part 1 of Division 4 of the Busi-
17 ness and Professions Code) and for such other and further relief
18 as may be proper under other applicable provisions of law.

19 Dated at Los Angeles, California

20 this 7th day of December, 1988.

21

22


Deputy Real Estate Commissioner

23

24

25 cc: Marina Financial, Inc.
26 Mark Jonathon Paul
27 Sacto
MJF