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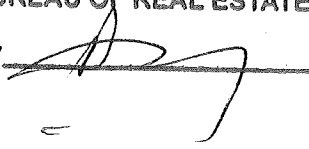
Martha J. Rosett, Counsel (SBN 142072)

Bureau of Real Estate
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JUL 10 2014

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

WILLIAM KENNETH O'DANIEL, individually
and as designated broker-officer of
Malibu Mortgage, Inc.; and
MALIBU MORTGAGE, INC., a corporate
real estate broker,

Respondent.

No. H-39150 LA

OAH No. 2014010149

FIRST AMENDED
ACCUSATION

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California ("Complainant"), does hereby amend the Accusation filed on November 13, 2013 in this matter against WILLIAM KENNETH O'DANIEL ("Respondent"), and is informed and alleges as follows:

1.

Complainant makes this First Amended Accusation in her official capacity.

2.

Respondent WILLIAM KENNETH O'DANIEL, aka "Ken O'Daniel" (hereinafter "Respondent"), is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate broker. Respondent was first licensed as a broker in 1996, and was licensed as a

1 salesperson prior to that time. Since 1999, Respondent has conducted licensed activities using
2 the licensed fictitious business name Malibu Mortgage, as well as several other licensed
3 fictitious business names.

4 3.

5 MALIBU MORTGAGE, INC. ("MMI") is a licensed corporate broker. MMI
6 was first licensed as a corporate real estate broker on or about March 28, 2011. Respondent is
7 the broker-officer designated pursuant to Code Section 10159.2 to be responsible for
8 supervising the activities of MMI to ensure compliance with the real estate law.

9 4.

10 MMI is a California corporation formed by Respondent O'DANIEL in 2001.
11 O'DANIEL is the President and agent for service of process for MMI.

12 5.

13 At times relevant herein, including between March 28, 2011 and on or about
14 February 26, 2014, 4222 Lost Springs Drive, Calabasas, CA was Respondent MMI's main office
15 address and was a mailing address for Respondent O'DANIEL on record with the Bureau.
16 Effective on or about February 27, 2014, both Respondents listed 1220 Witherspoon Dr.,
17 Thousand Oaks, CA 91360 as their main office and mailing addresses.

18 6.

19 All further references to O'DANIEL and/or MMI include that individual and
20 entity as well as their employees, agents and officers acting on their behalf.

21 FIRST CAUSE OF ACCUSATION

22 (Use of Marvin James Derrick's personal and business information)

23 7.

24 Marvin James Derrick ("Derrick") is licensed as a real estate broker. Between
25 August 8, 2007 and February 17, 2011, Derrick was licensed to conduct real estate activities
26 under the fictitious business name Cornerstone Real Estate.

27 ///

1 8.

2 Effective 2010, Derrick moved out of state, and maintained a mailing address on
3 record with the Bureau in Decatur, Illinois. Derrick made an arrangement with Respondent
4 O'DANIEL to use Respondent O'DANIEL's address at 4222 Lost Springs Drive, Calabasas
5 Hills, CA as his main office address of record.

6 9.

7 Beginning on or before June 18, 2010 and continuing through on or after
8 December 7, 2010, Respondent O'DANIEL engaged in loan origination activities for a fee
9 using the fictitious business name Cornerstone Real Estate. Respondent O'DANIEL did so
10 without Derrick's knowledge or authorization. Respondent O'DANIEL received commission
11 fees using the name Cornerstone Real Estate. Respondent O'DANIEL provided the lender with
12 Derrick's address in Decatur, Illinois, where the 1099 tax documents were sent. The lender
13 reported to the I.R.S. \$79,312.50 in compensation allegedly paid to Derrick as "Cornerstone," in
14 2010. In truth and fact, Derrick did not receive this compensation or any loan origination fees
15 or commissions from the lender for the 2010 tax year.

16 Bakersfield Refinance

17 10.

18 Beginning on or before September 7, 2010, and continuing through on or after
19 December 6, 2010, Respondent O'DANIEL represented borrowers SAH and SLH in
20 refinancing a mortgage loan on their property located in Bakersfield, California. Respondent
21 O'DANIEL used the fictitious business name Cornerstone Real Estate without the knowledge or
22 consent of Derrick. Respondent O'DANIEL received a loan origination fee in connection with
23 the transaction. Derrick did not receive any compensation for, and was not aware of this
24 transaction until after he received a 1099 Tax form from the lender.

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1 Simi Valley Refinance

2 11.

3 Beginning in July of 2010, and continuing through on or after December 1, 2010,
4 Respondent O'DANIEL, purporting to act as an agent of Derrick and Cornerstone Real Estate,
5 represented borrower JV in refinancing her mortgage loan secured by real property Simi Valley,
6 CA. Respondent O'DANIEL received fees for his broker services, falsely using the name
7 Cornerstone Real Estate. Derrick did not receive any fees and was not notified of or otherwise
8 involved in this loan transaction. The escrow in the transaction was handled by Chicago Title.

9 12.

10 In relation with JV's refinance transaction, Respondent falsely represented to JV
11 that she would be receiving \$3,687. 95 more cash out at the end of the transaction than she
12 actually received. Respondent promised that he would reimburse JV for that amount after the
13 close of escrow, but never did. JV sought recourse against Respondent and also against
14 Derrick, who was not in fact aware of or otherwise involved in the transaction.

15 13.

16 The conduct, acts and/or omissions set forth above constitutes grounds to
17 suspend or revoke Respondent's real estate broker license pursuant to Code Sections 10176(a),
18 10176(g), 10176(i), 10177(g) and/or 10177(j).

19 **SECOND CAUSE OF ACCUSATION**

20 (Use of Ronald M. Shannon's personal and business information)

21 14.

22 Ronald Madison Shannon ("Shannon") is licensed as a real estate broker. He
23 holds two MLO License Endorsement numbers: 355540 and 344185. At all times relevant
24 herein, Shannon's mailing and main office address on record with the Bureau is and was 644
25 Briar Cliff Road, Thousand Oaks, CA, 91360.

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15.

In 2011, Shannon worked on three personal loans with Respondent O'DANIEL and MMI. Shannon was the borrower on the loans, which involved farm land. At that time, although Respondent O'DANIEL and Shannon discussed collaborating on brokering other loans, no written business arrangement between the two was ever created.

16.

In 2012, Shannon received a 1099 from Provident Funding Associates L.P. ("Provident") indicating that he received \$28,517.50 in compensation as a mortgage broker in relation to the personal loans originated through O'DANIEL. Shannon never received the \$28,512.50, or any other compensation from Provident for 2011. Shannon was assigned an account number with Provident without his knowledge or consent. Upon further inquiry with Provident and the IRS, Shannon learned that the \$28,517.50 was transferred electronically from Provident to an account at Chase Bank held by O'DANIEL and MMI.

17.

In 2013, Shannon received another 1099 from Provident indicating that he had earned \$21,860 from them in compensation for brokering loans. Upon further inquiry, Shannon learned that the alleged compensation related to four loans which he had not brokered or worked on, and for which he had not received actual compensation. These included loans secured by property located at: (1) Green Meadow Drive in Newbury Park, CA; (2) Avenida Del Manzana in Camarillo, CA; (3) Kapalau Dr. in Oxnard, CA; and (4) Bryndale in Oak Park, CA.

18.

Between on or before September 15, 2011 and on or after March 1, 2012, Respondent O'DANIEL and/or other agents of Respondent MMI, used Shannon's name and personal identifying information in loan applications without Shannon's authorization. Respondent O'DANIEL and/or another or other agents of Respondent MMI provided lenders, including Provident, with Shannon's name and tax identifying information without Shannon's knowledge or authorization. Shannon did not in fact receive income for the loans attributed to

1 him. He did not consent to MMI or O'DANIEL using his NMLS number or name in
2 originating or brokering the loans attributed to him.

3 19.

4 In early 2012, borrower A.O. contacted O'DANIEL and MMI to assist in
5 refinancing loan or loans secured by residential property located on Avenida Del Manzo in
6 Camarillo, CA. During the course of the refinance, O'DANIEL and other employees or agents
7 of MMI assisted her, and she dealt primarily with O'DANIEL. She never met Shannon and was
8 not aware of any involvement by Shannon in the loan transaction.

9 20.

10 In early 2012, A.O.'s loan application and related documentation were submitted
11 to Provident. The application and documentation reflected Shannon's NMLS number and
12 signature. Provident reported income allegedly paid to Shannon for this loan to the IRS, and
13 provided Shannon with a 1099 that included compensation he allegedly received for this
14 transaction. Shannon never in fact received income as fees related to this transaction. He never
15 met or spoke with the borrower in connection with the brokering of this loan, and did not
16 authorize O'DANIEL or MMI to use his personal identifying information, signature or NMLS
17 number.

18 21.

19 The conduct, acts and/or omissions of Respondent O'DANIEL and Respondent
20 MMI as set forth in paragraphs 13 through 19 above constitutes grounds to suspend or revoke
21 Respondents' real estate broker licenses and license rights pursuant to Code Sections 10176(a),
22 10176(g), 10176(i), 10177(g) and/or 10177(j).

23 22.

24 The conduct of Respondent O'DANIEL in failing to adequately supervise the
25 real estate activities of MMI and its agents and employees to ensure compliance with the Real
26 Estate Law was in violation of Code Section 10159.2 and constitutes grounds to suspend or
27

1 revoke Respondent O'DANIEL's real estate broker license and license rights pursuant to Code
2 Section 10177(h).

3 23.

4 Business and Professions Code Section 10106 provides, in pertinent part, that in
5 any order issued in resolution of a disciplinary proceeding before the Bureau, the commissioner
6 may request the administrative law judge to direct a licensee found to have committed a
7 violation of this part to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

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

15 Dated at Los Angeles, California

16 this 10th day of July, 2014.

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20 
21 MARIA SUAREZ
22 Deputy Commissioner
23
24

25 cc: William Kenneth O'Daniel
26 Maria Suarez
27 Sacto.