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FILED

AUG 20 2018

DEPARTMENT OF REAL ESTATE

By John C. Quint

7
8 BEFORE THE DEPARTMENT¹ OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation Against) No. H-41143 LA
12 PACIFIC MORTGAGE)
13 EXCHANGE, INC.; and GREGORY) ACCUSATION
14 GAIL SCHICK, individually, and as)
15 Designated Officer of Pacific)
16 Mortgage Exchange, Inc.,)
17 Respondents.)

18 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
19 State of California, acting in her official capacity, for cause of Accusation against PACIFIC
20 MORTGAGE EXCHANGE, INC. and GREGORY GAIL SCHICK, individually, and as
21 Designated Officer of Pacific Mortgage Exchange, Inc., is informed and alleges as follows:

22 1.

23 All references to the "Code" are to the California Business and Professions Code,
24 all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references
25 to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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27 ¹ Between July 1, 2013, and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate under the Department of Consumer Affairs.

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Respondent PACIFIC MORTGAGE EXCHANGE, INC. ("PMEI") is presently licensed or has license rights under the Real Estate Law as a corporate real estate broker.

Respondent PMEI was originally licensed as a corporate real estate broker by the Department on or about April 20, 1978. Since that date and continuing to the present, Respondent GREGORY GAIL SCHICK ("SCHICK") has been a Designated Officer of PMEI. Beginning May 5, 1994, and continuing to the present, Respondent SCHICK has been the sole Designated Officer of PMEI. Respondent PMEI's corporate real estate broker license is due to expire on August 16, 2018.

3.

Respondent SCHICK is licensed by the Department of Real Estate ("DRE") as a real estate broker. Respondent was originally licensed as a real estate broker on July 10, 1974. Respondent's real estate broker license is due to expire on January 28, 2021.

4.

At all times mentioned, in the cities of Big Bear Lake and Palm Desert, California, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the meaning of Code Section 10131(d), including the solicitation of borrowers or lenders for and/or negotiating loans, collecting payments and/or performing services for borrowers or lenders in connection with loans secured by liens on real property as the agent of others. In addition, Respondents conducted broker-controlled escrow activities under the real estate broker license of Respondent PMEI pursuant to Financial Code Section 17006(a)(4).

5.

On January 24, 2018 and January 31, 2018, the Department completed two audit examinations of the books and records of Respondent PMEI pertaining to the real estate activities described in paragraph 4, above. The audit examination for Respondent's mortgage loan and loan servicing activities covered the period of time from May 1, 2016, to June 30, 2017.

1 The audit examination for Respondent's broker-controlled escrow activities covered the period
2 May 1, 2016, to August 31, 2017. The primary purpose of the examinations was to determine
3 Respondent's compliance with the Real Estate Law. The audit examinations revealed numerous
4 violations of the Code and the Regulations as set forth in the following paragraphs, and more
5 fully discussed in Audit Reports LA160214 and LA170066, and the exhibits and work papers
6 attached to said audit reports.

7 Bank Accounts

8 6.

9 At all times herein relevant, in connection with the activities described in
10 Paragraph 4, above, Respondent PMEI accepted or received funds to be held in trust ("trust
11 funds") from or on behalf of actual or prospective parties in connection with mortgage loan and
12 broker-controlled escrow activities. Thereafter Respondent PMEI made deposits and or
13 disbursements of such trust funds. From time to time herein mentioned during the audit period,
14 said trust funds were deposited and/or maintained by Respondent in the following bank accounts:

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16 Pacific Mortgage Exchange Trust Account
17 Account No. 420XXXX (Redacted for security)
18 First Mountain Bank
19 Big Bear Lake, California

20 (TA 1 – trust account used for mortgage loan activities)

21 Pacific Mortgage Exchange Inc. Trust Account
22 Account No. 205XXXX (Redacted for security)
23 Citibank
24 Palm Desert, California

25 (TA 2 – trust account used for broker-controlled escrow)

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1 Audit of Mortgage Loan Activity

2 7.

3 With respect to the licensed mortgage loan activities referred to in Paragraph 4,
4 and the audit examination including the exhibits and work papers referenced in Paragraph 5, it is
5 alleged that Respondents:

6 (a) Failed to maintain an accurate and complete control record of the receipt and
7 disbursement of trust funds handled through TA 1 in violation of Code Section 10145 and
8 Regulation 2831;

9 (b) Failed to perform and maintain a monthly reconciliation of the separate
10 record to the control record of trust funds handled through TA 1 in violation of Code Section
11 10145 and Regulation 2831.2;

12 (c) Failed to provide borrowers with a Mortgage Loan Disclosure Statement
13 within three days following receipt of the loan application in violation of Code Section 10240
14 and Regulation 2842;

15 (d) Failed to use a neutral third party escrow to handle multi-lender construction
16 and rehabilitation loans in violation of Code Section 10238(h)(4)(A); and

17 (e) As to SCHICK, failed to exercise reasonable supervision over the activities of
18 PMEI's employees, to ensure compliance with the Real Estate Law and the Regulations in
19 violation of Code Sections 10159.2 and 10177(h) and Regulation 2725.

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1 8.

2 The conduct of Respondents as described in Paragraph 7, above, violated the
3 Code and the Regulations as set forth below:

4 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
5	
6 7(a)	Code Section 10145 and Regulation 2831
7	
8 7(b)	Code Section 10145 and Regulation 2831.2
9	
10 7(c)	Code Section 10240 and Regulation 2842
11	
12 7(d)	Code Section 10238(h)(4)(A)
13	
14 7(e)	Code Sections 10159.2 and 10177(h) and Regulation 2725
15	

16 Each of the foregoing violations constitute cause for the suspension or revocation
17 of the real estate license and license rights of Respondents under the provisions of Code Sections
18 10177(d), 10177(g) and/or 10177(h) (SCHICK).

19 Audit of Broker-Controlled Escrow

20 9.

21 With respect to the licensed mortgage loan activities referred to in Paragraph 4,
22 and the audit examination including the exhibits and work papers referenced in Paragraph 5, it is
23 alleged that Respondent PMEI:

24 (a) Failed to maintain an accurate and complete control record of the receipt and
25 disbursement of trust funds handled through TA 2 in violation of Code Section 10145 and
26 Regulations 2831, 2950(d), and 2951;

27 (b) Failed to disclose to borrowers in writing that SCHICK had an interest as an

1 officer and owner of the escrow holder in violation of Regulation 2950(h);

2 (c) Failed to include the words, "a non-independent broker escrow" on
3 transaction and bank documents used in the broker escrow activity in violation of Code Section
4 10159.5 and Regulation 2731;

5 (d) Failed to submit the escrow activity report to the DRE within 60 days of the
6 end of calendar year 2016 in violation of Code Section 10141.6; and

7 (e) Commingled broker funds with trust funds by leaving \$444.07 of SCHICK's
8 funds and \$244.07 of PMEI's funds in trust account in violation of Code Sections 10145 and
9 10176(e) and Regulations 2835 and 2951.

10 10.

11 The conduct of Respondent PLI and RODRIGUEZ as described in Paragraph 9,
12 above, violated the Code and the Regulations as set forth below:

13 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
15 9(a)	Code Section 10145 and Regulations 2831, 2950(d), and 16 2951
18 9(b)	Regulation 2950(h)
20 9(c)	Code Section 10159.5 and Regulation 2731
22 9(d)	Code Section 10141.6
24 9(e)	Code Sections 10145 and 10176(e) and Regulations 2835 25 and 2951

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1 Each of the foregoing violations constitute cause for the suspension or revocation
2 of the real estate license and license rights of Respondents PMEI and SCHICK under the
3 provisions of Code Sections 10176(e), 10177(d), and/or 10177(g).

4 11.

5 Code Section 10148(b) provides, in pertinent part, that the Real Estate
6 Commissioner shall charge a real estate broker for the cost of any audit if the Commissioner has
7 found in a final decision, following a disciplinary hearing, that the broker has violated Code
8 Section 10145 or a Regulation or rule of the Commissioner interpreting said Code section.

9 12.

10 California Business and Professions Code Section 10106 provides, in pertinent
11 part, that in any order issued in resolution of a disciplinary proceeding before the Department,
12 the Commissioner may request the administrative law judge to direct a licensee found to have
13 committed a violation of this part to pay a sum not to exceed the reasonable costs of
14 investigation and enforcement of the case.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the licenses and license rights of Respondents PACIFIC MORTGAGE
4 EXCHANGE, INC. and GREGORY GAIL SCHICK under the Real Estate Law, for the costs of
5 investigation and enforcement as provided by law, for costs of the audit, and for such other and
6 further relief as may be proper under other applicable provisions of law.

7 Dated at San Diego, California: August 7, 2018.

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11 Veronica Kilpatrick
12 Supervising Special Investigator
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24 cc: Pacific Mortgage Exchange, Inc.
25 Gregory Gail Schick
26 Veronica Kilpatrick
27 Sacto
Audits – Anna Hartoonian