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9
10 BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues of THE) NMLS No. 314287
12 CALIFORNIA CORPORATIONS) Sponsor File No:417-0027
13 COMMISSIONER,)
14 Complainant,) **ORDER WITHDRAWING STATEMENT**
15 vs.) **OF ISSUES IN SUPPORT OF NON-**
16 CHRISTOPHER DAMON CASTRO,) **ISSUANCE OF MORTGAGE LOAN**
17 Respondent.) **ORIGINATOR LICENSE**
18

19 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the Statement
20 of Issues in Support of Non-Issuance of Mortgage Loan Originator License issued on April 11, 2011
21 against Christopher Damon Castro is withdrawn. This Order shall take immediate effect.
22

23 DATED: June 21, 2011
24 Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

25
26
27 By _____
28 Alan S. Weinger
Deputy Commissioner

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15 In the Matter of the Statement of Issues of THE) NMLS No. 314287
16 CALIFORNIA CORPORATIONS)
17 COMMISSIONER,) Sponsor File No:417-0027
18 Complainant,) **STATEMENT OF ISSUES IN SUPPORT OF**
19 vs.) **NON-ISSUANCE OF MORTGAGE LOAN**
20 CHRISTOPHER DAMON CASTRO,) **ORIGINATOR LICENSE**
21 Respondent.)
22)

23
24 The California Corporations Commissioner (“Complainant” or “Commissioner”) is informed
25 and believes, and based upon such information and belief, alleges and charges Respondent
26 CHRISTOPHER DAMON CASTRO as follows:

27 **I.**
28 **INTRODUCTION**

On or about December 27, 2010, Complainant determined not to issue a mortgage loan

1 originator license to CHRISTOPHER DAMON CASTRO ("Respondent" or "Castro") pursuant to
2 California Financial Code section 50141 because Respondent has not demonstrated financial
3 responsibility, character, and general fitness as to command the confidence of the community and to
4 warrant a determination that the applicant will operate honestly, fairly, and efficiently within the
5 purposes of the Mortgage Loan Originator Law of California.

6 II.

7 THE APPLICATION

8 In or about June, 2010, Respondent filed an application for a mortgage loan originator license
9 ("License Application") with the Complainant pursuant to the California Residential Mortgage
10 Lending Act ("CRMLA")(Financial Code sections 50000 *et. seq.*), in particular, California Financial
11 Code section 50401. The License Application was for employment at or working on behalf of
12 Neighbor's Financial Corporation at 3031 F Street, Sacramento, California, 95816. The License
13 Application was submitted to the Commissioner by filing Form MU4 through the Nationwide
14 Mortgage Licensing System ("NMLS"). Respondent signed the Form MU4 swearing that the
15 answers were true and complete to the best of Respondent's knowledge. The Department, in
16 considering the License Application for approval, reviewed the License Application and all
17 supporting documentation submitted by Castro accordingly.

18 A. Regulatory Action

19 NMLS Form MU4 at Question 8 (I)(1 - 7) specifically asked "Has any State or federal
20 regulatory agency or foreign financial regulatory authority ever: (1) found you to have made a false
21 statement or omission or been dishonest, unfair or ethical; (2) found you to have been involved in a
22 violation of a financial services-related business regulation or statute; (3) found you to have been a
23 cause of a financial services-related business having its authorization to do business denied,
24 suspended, revoked or restricted; (4) entered an order against you in connection with a financial
25 services-related activity; (5) revoked your registration or license; (6) denied or suspended your
26 registration or license, disciplined you, or otherwise by order, prevented you from associating with a
27 financial services-related business or restricted your activities; or (7) barred you from association
28 with an entity regulated by such commissions, authority, agency, or officer, or from engaging in a

1 financial services-related business?” Respondent answered “yes” to each of these interrogatories.

2 Respondent disclosed that Respondent was previously licensed by the California Department
3 of Real Estate (“DRE”) as a real estate broker, holding real estate broker license number 00888077
4 (“DRE License”). The DRE revoked the DRE License on or about August, 2009, pursuant to
5 California Business and Professions Code section 10177. The DRE revoked the DRE License
6 subsequent to: (1) an administrative hearing on the merits (administrative case number H-5129
7 SAC); (2) the making of judicial factual findings based upon evidence presented at that
8 administrative hearing; and (3) a judicial order that was issued in or about June, 2009, adopted in or
9 about August, 2009, based upon the foregoing. Attached hereto as “Exhibit 1” is a true and correct
10 copy of the DRE Proposed Decision which was adopted on August 18, 2009 issued in this matter.
11 The DRE License was revoked because Castro (1) employed an unlicensed person as a real estate
12 salesperson or broker; (2) failed to deliver to a borrower all required loan documents; (3) failed to
13 maintain copies of all required loan documents; (4) failed to maintain any trust accounts; (5) had
14 demonstrated dishonest and unethical behavior; and (6) presented false and misleading information
15 to borrowers.

16 **B. Civil Action**

17 NMLS Form MU4 at Question 8(H)(1) specifically asked: “Are you named in any pending
18 financial service-related civil action that could result in a “yes” answer to any part of H(1)?”. Also,
19 NMLS Form MU4 at Question 8(L)(1) specifically asked “Have you ever been named as a
20 respondent/defendant in a financial services-related consumer-initiated arbitration or civil litigation
21 which is still pending?”. Respondent answered “yes” to each of the aforementioned interrogatories.

22 Respondent Castro disclosed that on or about May 21, 2009, Castro was named as a
23 defendant in a civil complaint for negligence, fraud, and breach of Castro’s fiduciary duty as a loan
24 broker. Specifically, Castro was named as a defendant doing business as Sierra Valley Mortgage by
25 plaintiff Spero Pappas in Superior Court of California, County of Placer, civil case number CV24990
26 (“Civil Complaint”). Attached hereto as “Exhibit 2”, is a true and correct copy of the Civil
27 Complaint and statement of decision. The Civil Complaint is based upon wrongs committed by
28 Castro while he was engaged in mortgage lending or brokering transactions. On or about June 1,

1 2010, Honorable Angus Saint-Evens issued a statement of decision finding against Castro and
2 awarding the plaintiff \$50,000.00 with interest. Honorable Angus Saint-Evens specifically found
3 that Castro’s acts (1) amounted to significant fraud and intentional misrepresentations; (2) such
4 fraudulent conduct and misrepresentations were intended to induce the plaintiff to invest in
5 transactions; (3) Castro engaged in such conduct with the intent and knowledge that plaintiff would
6 rely on them, thereby defrauding the plaintiff; and (4) that Castro breached his duty of care owed as
7 a broker to the plaintiff.

8 **C. Department Determination Not To Issue License**

9 On or about December 27, 2010, the Department issued notice that it would not issue an
10 approval of the License Application (“Notice”) pursuant to California Financial Code section 50141.
11 The Department based this decision upon various facts, issues and reasons, including, but not limited
12 to, the DRE License revocation and Civil Complaint previously referenced herein. Castro received
13 the Notice by confirmed certified mail number 70091410000216413328, on or about December 31,
14 2010. Pursuant to California Government Code section 11500 *et. seq.*, Castro may request an
15 administrative hearing in writing to challenge the decision of the Department. Castro requested an
16 administrative hearing in writing on or about January 6, 2010. Therefore, this Statement of Issues
17 and a Notice of Hearing shall be served upon Castro, and this matter will be set for an administrative
18 hearing, accordingly.

19 **III.**

20 **FAILURE TO DEMONSTRATE FINANCIAL RESPONSIBILITY,**
21 **CHARACTER AND GENERAL FITNESS**

22 Pursuant to California Financial Code section 50141, the Commissioner shall not issue a
23 California mortgage loan originator license where the applicant has not demonstrated financial
24 responsibility, character, and general fitness as to command the confidence of the community and
25 to warrant a determination that the applicant will operate honestly, fairly, and efficiently within
26 the purposes of the Mortgage Loan Originator Law of California.

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1 **A. Castro’s Previous Role as a Licensed Real Estate Broker.**

2 The duties, obligations, licensing, and transactions of a mortgage loan originator are
3 similar to the duties, obligations, licensing, and transactions of a real estate broker. Thus,
4 Castro’s previous performance and ability to act (or failure to) as a legally abiding DRE licensed
5 real estate broker is indicative and certainly probative of Castro’s ability to act as a mortgage
6 loan originator in a legally abiding manner. The fact that the DRE revoked Castro’s DRE License
7 as recently as in June, 2009 is also extremely probative and arguably conclusive in weighing
8 heavily against any Department finding in favor of approving Respondent’s License Application
9 and issuing any mortgage loan originator license.

10 As a real estate broker, Castro engaged in the business of, and acted in the capacity of, a
11 real estate broker for compensation in the State of California. Castro’s actions, while in this
12 capacity, did include or may have included (1) the operation of a real estate brokerage; (2) the
13 solicitation of prospective sellers or buyers of real property or real property listings; (3) the
14 negotiation of the purchase, sale or exchange of real property or business opportunities; (4) the
15 operation and conduct of a mortgage loan brokerage business with the public; (5) the solicitation
16 of borrowers and/or lenders for negotiated loans and collected payments; (6) performed services
17 for borrowers, lenders, or note owners in connection with loans secured directly or collaterally by
18 liens on real property or business opportunities; and (7) the negotiation of private and
19 institutional lender loans.

20 The foregoing duties, transactions and acts are closely nexused to, or are the same or
21 similar to the acts, transactions and duties of a mortgage loan originator licensed by the
22 Department. Obviously, when considering the foregoing, there is also close nexus between a real
23 estate broker’s duties, mortgage loan originator duties and financial transactions. Thus, Castro’s
24 financial responsibility, character and general fitness are paramount, essential and detrimental in
25 both the real estate broker and mortgage loan originator roles and duties. Therefore, Castro’s
26 previous acts while a licensed real estate broker must be examined and considered in any License
27 Application approval.

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1 **B. Castro’s Financial Responsibility Pursuant to California Financial Code**
2 **section 50141.**

3 Castro has not demonstrated financial responsibility as to command the confidence of the
4 community and to warrant a determination that he would operate honestly, fairly, and efficiently,
5 as required by California Financial Code section 50141.

6 Not two (2) years have passed since the DRE revoked Castro’s DRE License on the basis
7 of financial irresponsibility. Specifically, the DRE revoked the license because Castro did not
8 keep proper accountings of monies and Castro did not maintain trust accounts, as required by
9 law. The failure to account as required by law does not command the confidence of the
10 community and warrant a determination that Castro would operate honestly, fairly and
11 efficiently, today. Therefore, based on the foregoing and when considering the recent nature of
12 the DRE revocation, a DRE finding that Castro failed to account and maintain trust accounts
13 does not equate to Castro being financially responsible. As such, and pursuant to California
14 Financial Code section 50141, the Department must not issue a mortgage loan originator license.

15 Moreover, as recently as June 1, 2010, Honorable Angus Saint-Evens of the State of
16 California, County of Placer, Superior Court, ruled that Castro committed fraudulent acts while
17 engaging in financial transactions. *See “Exhibit 2”, Civil Complaint and Statement of Decision,*
18 *attached.* A finding that Castro committed fraudulent acts while engaging in financial
19 transactions does not warrant or equate to a finding of financial responsibility. This finding also
20 does not command the confidence of the community and does not warrant a determination that
21 Castro would currently operate honestly, fairly, and efficiently. Therefore, based on the
22 foregoing and when considering the recent nature of the Statement of Decision, the Department
23 must not issue a mortgage loan originator license pursuant to California Financial Code section
24 50141.

25 Finally, there have been no subsequent findings of Castro’s financial responsibility to
26 mitigate the DRE or Superior Court findings noted herein by any court, administrative or
27 otherwise. Respondent also has not submitted sufficient or persuasive evidence to establish a
28 showing of current financial responsibility or evidence to negate the previous DRE or Superior

1 Court findings noted herein. Therefore, the Department must not issue a mortgage loan originator
2 license, pursuant to California Financial Code section 50141.

3 **C. Castro's Character and General Fitness Pursuant to California Financial**
4 **Code section 50141.**

5 Castro also has not demonstrated character and general fitness as to command the
6 confidence of the community and to warrant a determination that he would operate honestly,
7 fairly, and efficiently, as required by California Financial Code section 50141.

8 Again, not two (2) years have passed since the DRE revoked Castro's DRE License on
9 the basis of, among other reasons, lack of character and general fitness. Specifically, the DRE
10 also revoked the DRE License because Castro demonstrated dishonest behavior, unethical
11 behavior, and presented false and misleading information to borrowers. Because of this poor
12 behavior, consumer community members suffered financially detrimental consequences. This
13 behavior is indicative of poor character and lack of general fitness. This kind of character and
14 lack of general fitness is a far cry from what is required to approve a License Application and
15 ultimately establish an applicant as having good character and general fitness, pursuant to
16 California Financial Code section 50141.

17 Clearly, this kind of poor character and lack of general fitness does not command the
18 confidence of the community and does not warrant a determination that Castro would currently
19 operate honestly, fairly, and efficiently. Therefore, based on the foregoing and when considering
20 the recent nature of the DRE revocation and pursuant to California Financial Code section 50141,
21 the Department must not issue a mortgage loan originator license.

22 Moreover, when considering, once again, the recent June 1, 2010 finding made by
23 Honorable Angus Saint-Evens of the State of California, Superior Court, County of Placer, that
24 Castro's acts (1) amounted to significant fraud and intentional misrepresentations; (2) such
25 fraudulent conduct and misrepresentations were intended to induce the plaintiff to invest in
26 transactions; (3) Castro engaged in such conduct with the intent and knowledge that plaintiff
27 would rely on them, thereby defrauding the plaintiff; and (4) that Castro breached his duty of
28 care owed as a broker to the plaintiff, it is clear that Castro lacks the character and

1 general fitness as required by California Financial Code section 50141.

2 Finally, there have been no subsequent findings of Castro’s good character or general
3 fitness to mitigate the DRE or Superior Court findings noted herein by any court, administrative
4 or otherwise. Respondent also has not submitted sufficient or persuasive evidence to establish a
5 showing of current good character and general fitness or evidence to negate the previous DRE or
6 Superior Court findings noted herein. Therefore, the Department must not issue a mortgage loan
7 originator license, pursuant to California Financial Code section 50141.

8 California Financial Code section 50141, permits the non-issuance of a mortgage loan
9 originator license where the applicant has not demonstrated financial responsibility, character,
10 and general fitness as to command the confidence of the community and to warrant a
11 determination that the mortgage loan originator will operate honestly, fairly, and efficiently
12 within the purposes of the Mortgage Loan Originator Law of California. The foregoing
13 establishes that Castro has not demonstrated financial responsibility, character, and general
14 fitness as to command the confidence of the community and to warrant a determination that he
15 will operate honestly, fairly, and efficiently within the purposes of the Mortgage Loan Originator
16 Law of California. As such, the Department must not issue a mortgage loan originator license,
17 pursuant to section 50141.

18 **III.**
19 **LICENSING REQUIREMENTS**

20 California Financial Code section 50141 in effect as of the time of the Commissioner's non-
21 issuance of the license provides in pertinent part:

22 The commissioner shall not issue a mortgage loan originator license
23 unless the commissioner makes at a minimum the following findings:

24 . . .

- 25 (3) The applicant has demonstrated such financial responsibility,
26 character, and general fitness as to command the confidence of the
27 community and to warrant a determination that the mortgage loan
28 originator will operate honestly, fairly, and efficiently within the
purposes of this division.

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IV.
CONCLUSION

Complainant finds that each and every above stated act by Respondent CHRISTOPHER DAMON CASTRO is sufficient grounds to not issue a California mortgage loan originator license to CHRISTOPHER DAMON CASTRO, pursuant to California Financial Code section 50141.

WHEREFORE IT IS PRAYED that the determination of Complainant to not issue a California mortgage loan originator license to CHRISTOPHER DAMON CASTRO in connection with Respondent’s June, 2010 California Mortgage Loan Originator License Application be upheld.

Dated: April 11, 2011
Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Marisa I. Urteaga-Watkins
Corporations Counsel