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10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of the Accusation of THE) NMLS No. 459798
13 COMMISSIONER OF BUSINESS)
OVERSIGHT,) STATEMENT OF ISSUES IN SUPPORT OF
14) NON-ISSUANCE OF MORTGAGE LOAN
Complainant,) ORIGINATOR LICENSE
15)
16 vs.)
17 MARK STEVEN COHEN,)
18 Respondent.)
19)
20)

21 The California Commissioner of Business Oversight (“Commissioner” or “Complainant”) is
22 informed and believes, and based upon such information and belief, alleges and charges as follows:

23 I. INTRODUCTION

24 1. On June 30, 2014, Complainant indicated that it did not intend to issue a mortgage loan
25 originator license to Mark Steven Cohen (“Cohen”) pursuant to Financial Code section 50141.
26 Cohen did not respond truthfully on his application for a mortgage loan originator license and was
27 subject to prior regulatory actions involving financial services. Financial Code section 50141
28 provides in relevant part:

1 The commissioner shall deny an application for a mortgage loan originator license
2 unless the commissioner makes at a minimum the following findings:

3 ...

4 (a)(3) The applicant has demonstrated such financial responsibility,
5 character, and general fitness as to command the confidence of the
6 community and to warrant a determination that the mortgage loan
7 originator will operate honestly, fairly, and efficiently within the
8 purposes of this division.

9 II. FALSE INFORMATION ON APPLICATION

10 2. By way of background, Cohen and his controlled company, Southland Funding Corporation,
11 Inc. (“Southland”), were licensed as real estate brokers by the Department of Real Estate (now
12 known as the Bureau of Real Estate).¹ Cohen operated Southland as a mortgage broker; thus, they
13 were involved in a financial services-related business. As a mortgage broker, Cohen and Southland
14 made or arranged loans to borrowers. To fund these loans, Cohen and Southland collected monies
15 from private investors. Cohen and Southland established trust accounts for the funds of others. The
16 Bureau of Real Estate took five regulatory actions against Cohen and Southland based on numerous
17 violations of statutes and regulations including, but not limited to, laws that are designed to prevent
18 mismanagement, misrepresentation, and misuse of trust funds of others.

19 3. On February 10, 2014, Cohen filed an application (“Form MU4 application”) for a mortgage
20 loan originator license with the Commissioner pursuant to the California Residential Mortgage
21 Lending Act (“CRMLA”) (Financial Code section 50000 et seq.), in particular, Financial Code
22 section 50140. The Form MU4 application was for employment on behalf of First California
23 Mortgage Company, with a place of business at 504 East Route 66, Suite 102, Glendora, California
24 91740. Cohen submitted his Form MU4 application to the Commissioner by filing this application
25 through the Nationwide Mortgage Licensing System (“NLMS”). The Form MU4 application, at
26 Question (K), under the heading of “Disclosure Questions,” asks the following:

27 (K) Has any state or federal regulatory agency or foreign financial regulatory authority or
28 self-regulatory organization (SRO) ever:

¹ See Business and Professions Code section 10050 amended by Governor’s Reorganization Plan No. 2 of 2011-12,
§16, effective July 3, 2012 and operative July 1, 2013.

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(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?

(3) found you to have been the cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted?

(4) entered an order against you in connection with a financial services-related activity?

(5) revoked your registration or license?

(6) denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?

(8) issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?

(9) entered an order concerning you in connection with any license or registration?

4. Cohen answered “No” to all of the subparts of Question K of the Form MU4 application on: February 10, 2014 and March 10, 2014. Each time, Cohen signed the Form MU4 application under penalty of perjury that the information and statements contained in the application are current, true, accurate, and complete. The Form MU4 application provides that “if an Applicant has made a false statement of a material fact in this application or in any documentation provided to support the foregoing application, then the foregoing application may be denied.”

5. On March 10, 2014, the Commissioner notified the Respondent that he should have answered “Yes” to Question K(5), above. On March 12, 2014, due to the prompting of the Commissioner, Cohen amended his Form MU4 application and changed his response to Question K(5) from “No” to “Yes.” On April 8, 2014, Cohen amended his Form MU4 application and attached documents showing that his real estate broker license was restricted, suspended, and revoked; and that the Real Estate Commissioner denied Cohen’s petition to reinstate the license. Despite his Form MU4 application being amended numerous times from March 12, 2014 to May 21, 2014, Cohen failed to respond truthfully to all subparts of Question K of the Form MU4 application, and failed to provide copies of all other regulatory actions taken against him and Southland by the Bureau of Real Estate.

1 6. Cohen answered “No” to Questions (K)(2), (3), (4), (5), (6), (8), and (9), above. By doing
2 so, he made false statements of fact on the MU4 application. Based on the following actions by the
3 Bureau of Real Estate, including those that were not disclosed by Cohen on the Form U4
4 application, Cohen should have answered “Yes” to all these questions.

5 III. ACTIONS BY THE BUREAU OF REAL ESTATE

6 7. On or about August 17, 1990, the Bureau of Real Estate issued an order requiring Cohen
7 and Southland to desist and refrain from accepting trust funds from others unless and until they:
8 deposit sufficient amounts to cover liabilities; segregate the trust funds; maintain adequate books
9 and records; file requisite reports; and satisfy other requirements of law. This action also ordered
10 Cohen and Southland to desist and refrain from using fictitious business names for which a license
11 was required. Among other things, Cohen and Southland commingled trust funds of others, and
12 withdrew trust funds without the consent of others. This action noted violations of several statutes
13 and regulations.

14 8. On or about May 30, 1991, the Bureau of Real Estate issued a decision revoking and
15 restricting the licenses of Cohen and Southland based, in part, on misuse of trust funds of others.
16 Cohen and Southland commingled trust funds of others with the funds of Cohen and Southland, and
17 withdrew trust funds without the consent of others. Moreover, this action was based on the failure
18 to report transactions to the Bureau of Real Estate; the failure to adequately disclose facts to
19 borrowers; the failure to obtain authorization for fictitious business names; the failure to document
20 transactions; and the failure by Cohen to exercise reasonable supervision over these activities. This
21 action noted violations of several statutes and regulations, including willful violations.

22 9. On or about February 10, 1992, the Bureau of Real Estate issued another desist and refrain
23 order against Cohen and Southland. In this action, the Bureau of Real Estate stated, in part, “you
24 caused or permitted the withdrawal or disbursement of trust funds from said accounts, thereby
25 reducing the aggregate account balances to an amount approximately \$746,528.08 less than the
26 aggregate trust fund liability to all owners of the trust funds without prior written consent of all said
27 owners, in violation of Section 10145 of the Code and Section 2832.1 of the Regulations.”

28 10. On or about May 18, 1992, the Bureau of Real Estate issued an order suspending the

1 restricted licenses of Cohen and Southland. This action was based on the filing of an accusation on
2 or about April 24, 1992 charging Cohen and Southland with violating several statutes and
3 regulations involving the misuse of trust funds of others, among other things.

4 11. On or about June 16, 1992, the Bureau of Real Estate issued a Stipulation and Agreement in
5 Settlement and Order revoking the licenses of Cohen and Southland based, in part, on misuse of
6 trust funds and misrepresentations to others. Cohen and Southland withdrew trust funds of others
7 without consent and failed to inform investors about withdrawals of funds. The Bureau of Real
8 Estate determined that certain acts and omissions of Cohen and Southland constituted fraud and
9 dishonest dealing. This action was also based on Cohen’s failure to exercise reasonable supervision
10 and control over these activities. In addition, this action noted violations of several statutes and
11 regulations, including willful violations.

12 12. On or about April 10, 1996, the Bureau of Real Estate issued an order denying reinstatement
13 of Cohen’s license based on, among other things, a determination that Cohen and Southland caused
14 or permitted the withdrawal or disbursement of trust funds from various accounts in their control to
15 an amount which was, on September 30, 1991, approximately \$849,775.26 without the prior
16 consent of others. In addition, the Bureau of Real Estate found that Cohen, among other things,
17 made untruthful statements in his petition for reinstatement of his license.

18 IV. CONCLUSION

19 Complainant finds, by reason of the foregoing, that Cohen, by making false statements on
20 his Form MU4 application, by being the subject of regulatory actions by the Bureau of Real Estate,
21 which found that he misused trust funds of others, committed numerous and willful violations of
22 laws, and engaged in acts or omissions that constitute fraud or dishonest dealing, has failed to
23 demonstrate such financial responsibility, character, or general fitness as to command the
24 confidence of the community and to warrant a determination that he will operate honestly, fairly,
25 and efficiently within the purposes of the California Residential Mortgage Lending Act.

26 THEREFORE, Complainant asserts that Financial Code section 50141 mandates that the
27 Commissioner deny Cohen’s application for a mortgage loan originator license.

28 WHEREFORE IT IS PRAYED that the determination of the Commissioner to deny

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Cohen’s application for a mortgage loan originator license be upheld.

Dated: November 18, 2014
Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
TIMOTHY L. Le BAS
Senior Corporations Counsel
Enforcement Division