

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 KELLY SUK (State Bar No. 301757)
Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-7571
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:) NMLS NO.: 1587904
12)
13 THE CALIFORNIA COMMISSIONER OF) STATEMENT OF ISSUES IN SUPPORT OF
BUSINESS OVERSIGHT,) ORDER DENYING APPLICATION FOR
14) MORTGAGE LOAN ORIGINATOR LICENSE
Complainant,)
15 v.) (FINANCIAL CODE SECTIONS 22109.1 &
50141)
16 ARLA DISABATINO,)
17)
Respondent.)
18)
19)

20 The California Commissioner of Business Oversight (Commissioner) is informed and
21 believes, and based upon such information and belief, alleges and charges Arla DiSabatino
22 (Respondent) as follows:

23 **I.**
24 **INTRODUCTION**

25 The proposed order seeks to deny the issuance of a Mortgage Loan Originator License to
26 Respondent under California Finance Lenders Law (Fin. Cod, § 22000 et seq.) (CFL) section
27 22109.1 and the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.)
28 (CRMLA) section 50141, because Respondent: (1) was previously convicted of a felony involving
an act of fraud, dishonesty, a breach of trust, or money laundering; (2) has not demonstrated

1 requisite financial responsibility as to command the confidence of the community and to warrant a
2 determination that the mortgage loan originator will operate honestly, fairly, and efficiently, and (3)
3 has not demonstrated the character and general fitness as to command the confidence of the
4 community and to warrant a determination that the Respondent will operate honestly, fairly, and
5 efficiently as a mortgage loan originator.

6
7 **II.**
8 **THE APPLICATION**

9 On February 2, 2017, Respondent filed an application for a Mortgage Loan Originator
10 License with the Commissioner under the CRMLA, pursuant to Financial Code section 50140.
11 Respondent submitted her application to the Commissioner by filing a Form MU4 through the
12 Nationwide Mortgage Licensing System (Form MU4).

13 Form MU4 at Question (D) asked: “Do you have any unsatisfied judgments or liens against
14 you?” Respondent answered “No.”

15 Form MU4 at Question (F)(1) asked: “Have you ever been convicted or pled guilty or nolo
16 contendere (“no contest”) in a domestic, foreign, or military court to any felony?” Respondent
17 answered “Yes.” Respondent did not provide an explanation or supporting documentation for the
18 disclosure as required by the application.

19 Form MU4 at Question (K) asked a series of questions, including:

20 “(K) Has any State or federal regulatory agency or foreign financial regulatory
21 authority or self-regulatory organization (SRO) ever:

22 (1) found you to have made a false statement or omission or been dishonest,
23 unfair or unethical?

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

26 ...
27 (5) revoked your registration or license?

28 (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 service-related business or restricted your activities?
...

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

3 Respondent answered “No” to questions (1) and (2). Respondent answered “Yes” to
4 questions (5), (6), and (9). Respondent did not provide an explanation or supporting documentation
5 for the disclosure as required by the application.

6 Form MU4 at Question (P) asked: “Have you ever been named as a respondent/defendant in
7 a financial service-related consumer-initiated arbitration or civil litigation which: . . . (2) resulted in
8 an arbitration award or civil judgment against you, regardless of amount, or that required corrective
9 action?” Respondent answered, “No.”

10 Form MU4 at Question (Q) asked:

11 “Have you ever voluntarily resigned, been discharged, or permitted to resign after
12 allegations were made that accused of:

13 (1) violating statute(s), regulations(s), or industry standards of conduct?

14 (2) fraud, dishonesty, theft, or the wrongful taking of property?”

15 To both above-listed questions, Respondent answered, “No.”

16 On or about February 14, 2017, Respondent was instructed to revise her Form MU4 by
17 providing a detailed explanation and to upload supporting documentation in connection with the
18 criminal disclosure Form MU4 Question (F)(1). On or about February 28, 2017, Respondent filed
19 an amended Form MU4 and provided her arraignment and general criminal minutes as detailed
20 explanation documents. Neither document stated the criminal counts nor the charge details.

21 On or about March 1, 2017, Respondent was instructed again to revise her Form MU4 by
22 providing a detailed explanation and to upload supporting documentation in connection with the
23 criminal disclosure Form MU4 Question (F)(1). On or about March 21, 2017, Respondent filed an
24 amended Form MU4 and provided further explanation of the criminal disclosure. The provided
25 documents showed that Respondent pled guilty in 2003 to two felony counts involving the false
26 representation of a social security number in a bankruptcy petition willfully affecting another
27 person’s credit.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III.
APPLICABLE LAW

Section 22109.1 of the CFL and section 50141 of the CRMLA contain substantially similar language and provide in relevant part:

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

...
(2) (A) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for licensing and registration, or at any time preceding the date of application, if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. Whether a particular crime is classified as a felony shall be determined by the law of the jurisdiction in which an individual is convicted.

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

(Fin. Code, §§ 22109.1 & 50141).

IV.
FELONY

Form MU4 at Question (F) (1) asked: “Have you ever been convicted or pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony?” Respondent answered, “Yes.”

Documents obtained by the Department in connection with the application reveal that on or about January 13, 2003, Respondent pled guilty to two felony counts: first, for false representation of social security number in bankruptcy petition willfully affecting another's credit, in violation of 42 USC § 408(a)(7)(B); second, for causing an act to be done in “an offense against the United States,” in violation of 18 USC § 2(b) . (*United State v. Waxman*, Docket No. CR 02-1264-NM).

Respondent’s felony resulting from false representation of a social security number in violation of 42 USC § 408(a)(7)(B) involved an act of fraud, dishonesty, a breach of trust, or money

1 laundering, as described in CFL section 22109.1, subsection (a)(2)(A), and CRMLA section 50141,
2 subsection (a)(2)(A).

3
4 **V.**

5 **FINANCIAL RESPONSIBLITIY**

6 Public records reveal that Respondent voluntary filed for bankruptcy at least four times under
7 various aliases. First, on April 11, 1996, Respondent voluntarily filed for a chapter 7 bankruptcy
8 under the names: Zolnoorian, Arla S., and Nikjeh, Arla; Respondent received a chapter 7 bankruptcy
9 discharge on August 8, 1996. Second, on August 9, 1999, Respondent voluntarily filed for a chapter
10 13 bankruptcy under the names: Waxman, Arla A, and Zolnoorian, Arla; this chapter 13 bankruptcy
11 case was dismissed on August 26, 1999. Third, on January 25, 2000, Respondent voluntarily filed
12 for a chapter 13 bankruptcy under the name Waxman, Arlasheri; this chapter 13 case was dismissed
13 on February 10, 2000. Fourth, on April 12, 2002, Respondent voluntarily filed for a chapter 7
14 bankruptcy under the names: Waxman Arla S, and Zolnoorian, Arla W; this chapter 7 bankruptcy
15 case was dismissed on May 11, 2006.

16 Form MU4 at Question (D) asked: "Do you have any unsatisfied judgments or liens against
17 you?" Respondent answered, "No." To the contrary, records from the Los Angeles County
18 Recorder reveal that a private individual obtained a civil judgment against Respondent, and in
19 connection with that judgment, recorded a judgment lien in Los Angeles County in the amount of
20 \$170,000.00 on October 27, 2006 against Respondent. *Abstract of Judgment*, Los Angeles County
21 Recorder's Office Doc. No. 06-2391894 (Oct. 27, 2006). This judgment lien does not appear to
22 have been satisfied.

23 In consideration of the multiple bankruptcy filings in 1998, 1999, 2000, and 2002, coupled
24 with the 2006 judgment lien filed against her, Respondent has failed to demonstrate the requisite
25 financial responsibility as required in CFL section 22109.1, subsection (a)(3), and CRMLA section
26 50141, subsection (a)(3).

27 **VI.**

28 **CHARACTER AND GENERAL FITNESS**

Form MU4 at Question (K) asked:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

“(K) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:

(1) found you to have made a false statement or omission or been dishonest, unfair or unethical?

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

...

(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 service-related business or restricted your activities?

...

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

Respondent answered “No” to questions (1) and (2) above. Respondent answered “Yes” to questions (5), (6), and (9). Respondent did not provide an explanation or supporting documentation for the disclosure as required by the application. Documents obtained by the Department in connection with this action reveal that Respondent has been the subject of numerous California Department of Real Estate (now Bureau of Real Estate) (BRE) disciplinary actions made a false statement or omission or been dishonest, unfair or unethical; or involved in a violation of a financial services-related business regulation or statute.

On September 4, 1996, the BRE entered an order restricting Respondent’s license after finding that she mishandled a client trust account, constituting cause to suspend or revoke her real estate license and license rights under the provisions of Business and Professions Code Section 10137, 10145, 10176(g), 10240 and 10177(d) and (h) and Title 10, Chapter 6, California Code of Regulations sections 2831, 2831.1, 2831.2, 2832.1, 2835 and 2842.5. *Stipulation and Agreement in Settlement and Order*, Department of Real Estate, Case No. H-26193 LA; L-9603238 (Sept. 4, 1996). On January 13, 1999, the BRE entered an order revoking Respondent’s license after finding that she engaged in a dishonest dealing by preparing false bank statements and forging documents, constituting cause to suspend or revoke her restricted real estate license under the provisions of Business and Professions Code section 10176(a) and 10177(j). *Decision*, Department of Real Estate, Case No. H-27654 LA; L-1998050139 (Jan. 13, 1999). On August 18, 2000, the BRE ordered Respondent to desist and refrain from engaging in the business of real estate broker without a

1 license. *Order to Desist and Refrain*, Department of Real Estate, Case no. H-3530 SAC (Aug. 18,
2 2000). In March 29, 2002, the BRE suspended Respondent's real estate license indefinitely.

3 In submitting her MU4 application and subsequent amendments, Respondent signed the
4 Form MU4 swearing, under penalty of perjury, that the answers were "current, true, accurate and
5 complete[.]" Therefore, Respondent made, or caused to be made, material misrepresentations to the
6 Commissioner as follows:

7 (1) Under Question (D), Respondent misrepresented that she has no unsatisfied judgment or
8 lien. To the contrary, as noted above, on October 27, 2006, a judgment lien in the amount of
9 \$170,000.00 was recorded in Los Angeles County against Respondent. *Abstract of Judgment*, Los
10 Angeles County Recorder's Office Doc. No. 06-2391894 (Oct. 27, 2006). This judgment lien does
11 not appear to have been satisfied.

12 (2) Under Question (K), Respondent misrepresented that no regulatory agency had found her
13 to have made a false statement or omission or been dishonest, unfair or unethical; or involved in a
14 violation of a financial services-related business regulation or statute. As noted above, Respondent
15 was subject to at least two separate BRE actions in which she was found to have made a false
16 statement or omission or been dishonest, unfair or unethical; or involved in a violation of a financial
17 services-related business regulation or statute. Further, Respondent failed to provide a complete
18 answer to Question (K) in failing to provide a detailed explanation or uploading supporting
19 documentation in connection with the BRE revocation of her broker's license.

20 (4) Under Question (P), Respondent misrepresented that she had not been named as a
21 defendant in a financial service-related consumer-initiated civil litigation which resulted in a civil
22 judgment against her. In reviewing Respondent's Form MU4, the Department discovered that a civil
23 judgment in a financial service-related consumer-initiated case entered against Respondent in 2001.
24 The court entered a default judgment in amount of \$150,000.00 after finding that Respondent had set
25 up improper loans and fraudulently concealed severe defects. *Abstract of Judgment*, Los Angeles
26 County Recorder's Office Doc. No. 06-2391894 (Oct. 27, 2006). This judgment lien does not
27 appear to have been satisfied.
28

1 The numerous BRE regulatory actions and the misrepresentations made by Respondent in her
2 Form MU4 cast doubt on Respondent's character and general fitness to command the confidence of
3 the community and operate honestly and fairly as a mortgage loan originator, as described in CFL
4 section 22109.1, subsection (a)(3), and CRMLA section 50140, subsection (a)(3).

5
6 **VII.**
CONCLUSION

7 The Commissioner finds, by reason of the foregoing, that Respondent does not meet the
8 requirements for issuance of a mortgage loan originator license. Pursuant to Financial Code 50141,
9 subdivisions (a)(2)(A) and (a)(3), Respondent: (1) pled guilty to a felony in 2003 that involved an
10 act of fraud, dishonesty, a breach of trust, or money laundering; (2) has not demonstrated financial
11 responsibility as to warrant a determination that Respondent will operate honestly, fairly, and
12 efficiently as a mortgage loan originator based on a judgment lien dated October 27, 2006 and the
13 four voluntary bankruptcy filings in 1998, 1999, 2000, and 2002; and (3) has not demonstrated such
14 character and general fitness as to command the confidence of the community to warrant a
15 determination that she will operate honestly, fairly, and efficiently within the purposes of this
16 division based on the underlying 2003 felony conviction, the facts underlying the BRE regulatory
17 actions, and the misrepresentations on the original Form MU4. Therefore, pursuant to CFL section
18 22109.1, subsection (a), and CRMLA section 50141, subsection (a), the Commissioner shall deny
19 Respondent's application for a mortgage loan originator license.

20 WHEREFORE IT IS PRAYED that the mortgage loan originator application filed by
21 Respondent be denied.

22
23 Dated: August 22, 2017
24 Los Angeles, California

25 JAN LYNN OWEN
26 Commissioner of Business Oversight

27 By: _____
28 KELLY SUK
Counsel
Enforcement Division