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

12 In the Matter of:) NMLS No.: 205734
13)
14 THE COMMISSIONER) ACCUSATION TO REVOKE
OF BUSINESS OVERSIGHT,) MORTGAGE LOAN ORIGINATOR
15) LICENSE
Complainant,)
16 v.)
17)
18 PAULETTE MAUREEN DYSTANT,)
Respondent.)
19 _____)

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21 The Complainant, the Commissioner of Business Oversight (Commissioner) files this
22 Accusation to revoke the mortgage loan originator license of Paulette Maureen Dystant (Respondent).
23 The Commissioner is informed and believes and, based upon that information and belief, alleges and
24 charges as follows:

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I.

STATEMENT OF FACTS

1. On May 28, 2010, the Commissioner approved Respondent’s application for a mortgage loan originator license pursuant to section 22109.1 of the California Finance Lenders Law (CFLL) (Fin. Code, § 22000 et seq.).

2. Respondent’s application was submitted to the Commissioner on a Uniform Individual Mortgage License/ Registration & Consent Form (Form MU4) in the Nationwide Mortgage Licensing System and Registry (NMLS), as required by section 1422.6 of Title 10 of the California Code of Regulations.

3. In or about November 2013, Respondent’s sponsoring employer, DHI Mortgage Company, LTD. (DHI) (NMLS No. 14622), self-reported unlicensed residential mortgage loan activity to the Division of Mortgage Lending of the State of Nevada Department of Business and Industry (Nevada DBI). DHI discovered that the unlicensed activity had occurred at a DHI California branch office between December 2, 2012 and July 29, 2013, during a period when Respondent was employed at that location as a mortgage loan originator.

4. DHI’s internal audit disclosed that Respondent had colluded with her branch manager to originate 15 residential mortgage loans in the Reno market using the manager’s Nevada mortgage agent license. DHI determined that Respondent’s branch manager manipulated DHI’s internal systems to redirect payment to Respondent for commissions of \$12,197.01 from the Nevada loans. DHI further found that six of the loans originated by Respondent contained violations of the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C., § 2601 et seq.).

5. DHI’s discovery of Respondent’s unlicensed activity resulted in DHI voluntarily making refunds to affected Nevada borrowers in the sum of \$14,812.70, securing the resignation of the complicit branch manager, and terminating the employment of Respondent in or about September 2013.

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1 6. On or about November 26, 2013, Respondent filed with the Commissioner an amended
2 application on Form MU4 through the NMLS, seeking sponsorship with a new employer.

3 Respondent reported on Form MU4 that she was unemployed from September 2013 to October 2013.

4 7. In or about July 2014, Respondent filed with the Commissioner two additional applications on
5 Form MU4, seeking approval of sponsorship with new employers.

6 8. On August 22, 2014, to resolve the regulatory concerns arising from Respondent's unlicensed
7 conduct, DHI entered into an agreement with the Nevada DBI, whereby DHI agreed to cease and
8 desist from violating the laws governing the licensing and conduct of mortgage agents and mortgage
9 brokers doing business in the State of Nevada, exercise reasonable supervision and control over its
10 staff, implement and maintain a post-closing quality control program, and pay administrative fines
11 and costs totaling \$10,290.00.

12 9. On September 4, 2014, the Nevada DBI issued to Respondent a Final Order to Cease and
13 Desist from engaging in activity requiring a license and ordered payment of administrative fines and
14 costs totaling \$20,026.01 (hereafter, "Nevada Order").

15 10. On November 3, 2014, Respondent filed with the Commissioner an application through the
16 NMLS to annually renew her mortgage loan originator license. Respondent did not disclose the
17 Nevada Order in the Regulatory Action Disclosure section of her application notwithstanding the
18 following attestation on her application, which provided in relevant part:

19
20 I Paulette M. Dystant (205734), (Applicant) on this date Monday,
21 November 3, 2014 swear (or affirm) that I executed this application on
22 my own behalf, and agree to and represent the following:
23 (1) That the information and statements contained herein, including
24 exhibits attached hereto, and other information filed herewith, all of
25 which are made a part of this application, are current, true, accurate and
26 complete and are made under the penalty of perjury, or un-sworn
27 falsification to authorities, or similar provisions as provided by law;
28 (2) To the extent any information previously submitted is not amended
and hereby, such information remains accurate and complete;
...
(4) To keep the information contained in this form current and to file
accurate supplementary information on a timely basis. . . .

1 11. It was not until November 3, 2015 that Respondent first disclosed the Nevada Order to the
2 Commissioner when she filed an application to annually renew her mortgage loan originator license.
3 At that time, over one year after issuance of the Nevada Order, Respondent amended her application
4 to answer “Yes” to Regulatory Action Disclosure Question (K)(8), which asks:

5
6 (K) Has any State or federal regulatory agency or foreign financial regulatory authority or
self-regulatory organization (SRO) ever:

7 . . .
8 (8) issued a final order against you based on violations of any law or regulations that
prohibit fraudulent, manipulative, or deceptive conduct?

9 12. Despite filing multiple amended applications on Form MU4 through the NMLS after being
10 terminated from her employment with DHI in September 2013, Respondent has not changed her
11 negative response to the “Termination Disclosure Question,” which asks:

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13 (Q) Have you ever voluntarily resigned, been discharged, or permitted to resign after
allegations were made that accused you of:

14 (1) violating statute(s), regulation(s), rule(s), or industry standards of conduct?

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16 II.

17 DISCIPLINARY ACTION TAKEN BY ANOTHER STATE GROUNDS FOR DISCIPLINARY
18 ACTION BY THE COMMISSIONER

19 13. Financial Code section 22705.1, subdivision (a), provides in pertinent part:

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21 (a) For any licensee, a disciplinary action taken by the State of California, another state, an
agency of the federal government, or another country for an action substantially related to the
22 activity regulated under this division may be grounds for disciplinary action by the
commissioner. . . .

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24 14. The Commissioner finds that the Nevada Order is a disciplinary action taken against
25 Respondent by another state for an action substantially related to the residential mortgage loan
26 originator activity regulated under the CFLL, and such action constitutes grounds under Financial
27 Code section 22705.1, subdivision (a), for disciplinary action by the Commissioner against
28 Respondent.

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III.

FAILURE TO TIMELY AMEND MORTGAGE LOAN ORIGINATOR APPLICATION

15. Title 10 of the California Code of Regulations, section 1409.1, subdivisions (a) and (c), require a licensee to file timely amendments to his or her application as follows:

(a) Each licensed mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator shall, upon any change in the information contained in its license application (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information.

...

(c) A mortgage loan originator shall file changed information contained in its Form MU4, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty (20) days of changes to the information as provided in Section 1422.6 of Subchapter 6 of these rules. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. A mortgage loan originator may not renew his or her license under Section 1422.6.3 of Subchapter 6 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.

16. The Commissioner finds that the issuance of the Nevada Order on September 4, 2014 was a change in the information contained in Respondent’s license application and that Respondent did not promptly file an amendment to the “Regulatory Action Disclosure Question” on Form MU4 within 20 days but, instead, waited over one year to disclose the Nevada Order to the Commissioner, in violation of section 1409.1.

17. The Commissioner is also of the opinion that Respondent’s September 2013 termination by DHI, after allegations were made that Respondent violated Nevada’s mortgage lending laws, was a change in the information contained the “Termination Disclosure Question” of Respondent’s license application, which she also failed to timely amend, in violation of section 1409.1.

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IV.

CHARACTER OF THE RESPONDENT

18. Financial Code section 22109.1, subdivision (a)(3), provides:

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

...
(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.

19. Due to the unlicensed activity leading to the issuance of the Nevada Order and Respondent's failure to timely and accurately update the Regulatory Action and Termination Disclosure questions of her application, the Commissioner finds that Respondent has failed to demonstrate the financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that she will operate honestly, fairly, and efficiently as a mortgage loan originator within the purposes of the CFLL, as required by Financial Code section 22109.1, subdivision (a)(3).

V.

REVOCATION AUTHORITY

20. Financial Code section 22172 provides in pertinent part:

(a) The commissioner may do one or more of the following:

(1) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license for a violation of this division, or any rules or regulations adopted thereunder.

(2) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license if an applicant or licensee fails at any time to meet the requirements of Section 22109.1 or 22109.4, or withholds information or makes a material misstatement in an application for a license or license renewal.

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VI.

CONCLUSION

21. The Commissioner finds that the Nevada Order is a disciplinary action taken against Respondent by another state for an action substantially related to the residential mortgage loan originator activity regulated under the CFLL, and such action constitutes grounds under Financial Code section 22705.1, subdivision (a), for revoking Respondent’s mortgage loan originator license.

22. Further, the Commissioner finds that Respondent presently fails to meet the minimum standards for issuance of a mortgage loan originator license under Financial Code section 22109.1, subdivision (a)(3), and has withheld information in an application for license renewal, which findings support revocation of the Respondent’s mortgage loan originator license pursuant to Financial Code section 22172, subdivisions (a)(1) and (a)(2).

WHEREFORE IT IS PRAYED that the mortgage loan originator license issued to Paulette Maureen Dystant be revoked.

DATED: March 16, 2016
Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MIRANDA LEKANDER
Senior Counsel
Enforcement Division