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11 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
12 OF THE STATE OF CALIFORNIA
13

14 In the Matter of THE CALIFORNIA)
COMMISSIONER OF BUSINESS)
15 OVERSIGHT,) STATEMENT OF ISSUES
16 Complainant,)
17 vs.)
18 PATRICK M. FARION,)
19 Respondent.)
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 Respondent
23 Patrick M. Fairon (“Respondent”) as follows:

24 I
25 INTRODUCTION

26 The proposed order seeks to deny the issuance of a mortgage loan originator license to
27 Respondent pursuant to Financial Code section 50141 in that Respondent fails to demonstrate the
28 requisite financial responsibility, character, and general fitness due to previously having had his real

1 estate broker license suspended and ultimately revoked for failure to exercise reasonable supervision
2 and control as a designated officer and broker and for failure to comply with orders.

3 II

4 THE APPLICATION

5 1. On July 15, 2013, Respondent filed an application for a mortgage loan originator license
6 with Complainant pursuant to the California Residential Mortgage Lending Act (“CRMLA”)
7 (Fin. Code § 50000 et. seq.), in particular, Financial Code section 50140. The application was
8 for employment with or working on behalf of Simonich Corporation as a mortgage loan
9 originator, which employer has its principal place of business located at 3130 Crow Canyon
10 Place, Suite 300, San Ramon, California. The application was submitted to the Commissioner by
11 filing a Form MU4 through the Nationwide Mortgage Licensing System (“NMLS”)

12 2. The Respondent answered “Yes” to the following questions in (K), (L) and (M) of the Form
13 MU4 which specifically asked:

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

16 ...

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

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

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

24 (5) revoked your registration or license?

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

(7) barred you from association with an entity regulated by such
commissions, authority, agency, or officer, or from engaging in a
financial services-related business?

...

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

(L) Have you ever had an authorization to act as an attorney,
accountant, or State or federal contractor that was revoked or
suspended?

(M) Based upon activities that occurred while you exercised
control over an organization, has any State or federal regulatory

1 agency or foreign financial regulatory authority or self-regulatory
2 organization (SRO) ever taken any of the actions listed in (K)
3 through (L) above against any organization?

...

4 3. Documents received by Complainant during the application process disclosed that
5 Respondent had his real estate broker license suspended for his failure as a designated officer and
6 broker to exercise reasonable supervision and control, and ultimately revoked for failure to comply
7 with terms, conditions, and restrictions of a suspension order. Respondent signed the Form MU4
8 swearing that the answers were true and complete to the best of Respondent's knowledge.

9 III

10 REAL ESTATE BROKER LICENSE SUSPENSION AND REVOCATION

11 4. The documentation and information obtained by the Commissioner during the application
12 process revealed that on or about September 20, 2006, the California Bureau of Real Estate (BRE),
13 formerly known as the Department of Real Estate, pursuant to a stipulation and agreement by
14 Respondent, ordered the suspension of the Respondent's real estate broker license for 120 days for
15 his failure as designated officer and broker of LoanNow Financial Corp. (also known as LoanNow
16 Financial Corporation and formerly as Fairon & Associates or Fairon & Associates, Inc.) to keep
17 LoanNow Financial Corp. in compliance with the law and to exercise reasonable supervision and
18 control over its licensed activities. The violations were discovered after BRE performed an audit of
19 LoanNow Financial Corp.'s books and records pertaining to its mortgage loan and escrow activities,
20 and involved the mishandling of funds, including failing to properly maintain minimum amounts,
21 failing to maintain records and agreements, and failing to perform monthly reconciliation. The
22 violations were found to constitute negligence or incompetence and to serve as cause for the
23 suspension or revocation of licensure.

24 5. The initial 30 days of the suspension were stayed upon conditions that Respondent pay a
25 monetary penalty and no further cause for disciplinary action occurred within two (2) years. The
26 remaining 90 days were stayed upon conditions that Respondent obey all laws, rules and regulations
27 relating to a real estate licensee and that there were no final subsequent determinations that any
28 cause for disciplinary action occurred within the same two (2) years. Respondent was also ordered

1 to pay regulatory audit costs not to exceed \$19,674.66.

2 6. BRE also ordered Respondent to take and pass a Professional Responsibility Examination
3 and pay related fees within six (6) months, and ordered all licensing rights of Respondent
4 indefinitely suspended until Respondent successfully completed a continuing education course on
5 trust fund accounting and handling within 120 days.

6 7. On or about September 18, 2007, BRE determined that Respondent subsequently violated the
7 order by failing to take and pass the Professional Responsibility Examination as ordered and
8 therefore revoked its stay and suspended Respondent’s license until he came into compliance.

9 8. On June 9, 2008, BRE ultimately revoked Respondent’s license for failure to take and pass
10 the Professional Responsibility Examination as ordered.

11 IV

12 CHARACTER OF THE RESPONDENT

13 9. Financial Code section 50141 provides in relevant part:

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

16 . . .

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

21 . . .

22 Respondent’s conduct leading first to the suspension and finally to the revocation of his real
23 estate license shows Respondent’s failure to demonstrate such character and general fitness as to
24 command the confidence of the community and to warrant a determination that he will operate
25 honestly, fairly, and efficiently as a mortgage loan originator. Respondent failed to exercise
26 reasonable supervision and control while acting as the designated officer and broker of LoanNow
27 Financial Corp., a financial-services related business responsible for the proper handling of funds
28 pertaining to mortgage loans, escrows. Respondent failed to keep LoanNow Financial Corp. in
compliance with the law and failed to comply with BRE’s regulatory order.

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V

CONCLUSION

Complainant finds, by reason of the foregoing, that Respondent’s prior conduct leading to the suspension and ultimately to the revocation of his real estate license fails to demonstrate such character and general fitness as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently as a mortgage loan originator.

THEREFORE, Complainant is mandated under Financial Code section 50141 to deny Respondent’s mortgage loan originator license application under the California Residential Mortgage Lending Act.

WHEREFORE IT IS PRAYED that the mortgage loan originator application filed by Respondent on July 15, 2013 be denied.

Dated: December 10, 2014
Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
LINDSAY B. HERRICK
Corporations Counsel