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

11 In the Matter of:) OAH NO. 2017120269
12 THE COMMISSIONER OF BUSINESS) NMLS FILE NO. 694065
13 OVERSIGHT,)
14 Complainant,) FIRST SUPPLEMENTAL STATEMENT OF
15 v.) ISSUES IN SUPPORT OF NOTICE OF
16 HOWARD MARK GERBER,) INTENTION TO ISSUE ORDER DENYING
17 Respondent.) MORTGAGE LOAN ORIGINATOR
18) LICENSE APPLICATION
19)
20) Date: Feb. 15, 2018
21) Time: 9:00 a.m.
22) Place: 1515 Clay Street, Suite 206,
23) Oakland, California 94612
24)

20 Pursuant to Government Code section 11507, the Complainant, the Commissioner of
21 Business Oversight (Commissioner), files her first supplemental statement of issues and alleges and
22 charges Respondent, Howard Mark Gerber (Gerber), as follows:

23 **I.**

24 **INTRODUCTION**

25 1. The Commissioner licenses and regulates mortgage loan originators, finance lenders, and
26 brokers under the California Financing Law (Fin. Code, § 22000 et seq.) (CFL).¹ The Commissioner
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28 ¹ Effective October 4, 2017, the name of the “California Finance Lenders Law” changed to the “California Financing Law.” (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the California

1 also licenses and regulates mortgage loan originators, residential mortgage lenders, and residential
2 mortgage loan servicers under the California Residential Mortgage Lending Act (Fin. Code, § 50000
3 et seq.) (CRMLA).

4 2. In addition to her reasons stated in her statement of issues dated November 1, 2017, the
5 Commissioner intends to issue an order denying Gerber’s July 7, 2017 application for a mortgage
6 loan originator (MLO) license pursuant to Financial Code sections 22109.1 and 50141 because, as of
7 November 6, 2017, (1) Gerber is not employed by, nor subject to the supervision of, a finance lender
8 or broker that has obtained a license from the commissioner pursuant to the CFL, a requirement for
9 licensure under Financial Code section 22109.1, subdivision (a)(6), and (2) Gerber is not employed
10 by, nor subject to the supervision of, a residential mortgage lender or servicer that has obtained a
11 license from the Commissioner pursuant to the CRMLA, a requirement for licensure under Financial
12 Code section 50141, subdivision (a)(6).

13 **II.**

14 **GERBER IS NOT EMPLOYED BY A CFL OR CRMLA LICENSEE**

15 3. To become licensed by the Commissioner as a mortgage loan originator (MLO), an
16 individual must be employed by and subject to the supervision of a CFL or CRMLA licensee.

17 4. From July 10, 2016 to November 6, 2017, Gerber was employed by and subject to the
18 supervision of Reverse Mortgage Funding LLC, which is licensed under both the CFL and CRMLA.

19 5. On or about November 6, 2017, Gerber’s employment and supervision from Reverse
20 Mortgage Funding LLC ended. Gerber has not been employed or supervised by any CFL or CRMLA
21 licensee since.

22 6. The Commissioner finds that Gerber is neither employed by, nor subject to the supervision
23 of, a finance lender or broker that has obtained a license from the Commissioner pursuant to the
24 CFL, a requirement for licensure under Financial Code section 22109.1, subdivision (a)(6).

25 7. The Commissioner finds that Gerber is neither employed by, nor subject to the supervision
26 of, a residential mortgage lender or servicer that has obtained a license from the Commissioner
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28 Financing Law means the California Finance Lenders Law before October 4, 2017 and the California Financing Law on
and after that date. (Cal. Fin. Code, § 22000.)

1 pursuant to the CRMLA, a requirement for licensure under Financial Code section 50141,
2 subdivision (a)(6).

3 **III.**

4 **SUPPLEMENTAL GROUNDS TO DENY GERBER’S APPLICATION**

5 8. Both the CFL and CRMLA require the Commissioner to deny a mortgage loan originator
6 license unless the applicant is employed by, and subject to the supervision of, a licensee of the
7 applicable division. (Fin. Code, §§ 22109.1, subd. (a)(6) and 50141, subd. (a)(6).)

8 **IV.**

9 **CONCLUSION**

10 Based on Gerber’s lack of employment by a licensee as of November 6, 2017, the
11 Commissioner additionally asserts by this first supplemental statement of issues that she is justified
12 under Financial Code sections 22109.1 and 50141 to deny the issuance of a MLO license to Gerber.

13 WHEREFORE, the Commissioner prays that the application for a mortgage loan originator
14 license filed by Howard Mark Gerber on July 7, 2017 be denied.

15
16 Dated: January 9, 2018
17 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

18
19 By _____
20 JEREMY F. KOO
21 Counsel
22 Enforcement Division
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