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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

| | | |
|----------------------------------------|---|--------------------------------|
| In the Matter of the Accusation of THE |) | NMLS No. 973200 |
| COMMISSIONER OF BUSINESS |) | |
| OVERSIGHT, |) | ORDER DENYING MORTGAGE LOAN |
| |) | ORIGINATOR LICENSE APPLICATION |
| Complainant, |) | |
| |) | |
| vs. |) | |
| |) | |
| GEORGE GERARD GRACHEN, |) | |
| |) | |
| Respondent. |) | |
| |) | |

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

I. INTRODUCTION

1. The Complainant has not issued a mortgage loan originator license to George Gerard Grachen (“Grachen”) pursuant to Financial Code section 50141. Grachen did not respond truthfully on his application for a mortgage loan originator license and was subject to prior regulatory and civil actions involving financial services as well as a criminal action. Financial Code section 50141 provides in relevant part:

1 ///

2 The commissioner shall not issue a mortgage loan originator license
3 unless the commissioner makes at a minimum the following findings:

4 ...

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

10 II. FALSE INFORMATION – REGULATORY ACTIONS

11 2. On or about May 9, 1997, Grachen was licensed by the Department of Real Estate (now
12 known as the Bureau of Real Estate)¹ as a real estate salesperson. On or about December 4, 2000,
13 the Bureau of Real Estate issued a decision and order revoking Grachen’s license. Grachen’s
14 license was revoked based on his unlicensed activities as a loan officer at Sea Breeze Financial
15 Services, Inc. during 1995 and 1996. In addition, on or about February 4, 2008, the Bureau of Real
16 Estate issued a desist and refrain order against Grachen based on his unlicensed activities as a loan
17 officer. Thus, Grachen was involved in financial services-related activities.

18 3. On July 19, 2013, Grachen filed an application (“Form MU4 application”) for a mortgage
19 loan originator license with the Commissioner pursuant to the California Residential Mortgage
20 Lending Act (“CRMLA”) (Financial Code section 50000 et seq.), in particular, Financial Code
21 section 50140. The Form MU4 application was for employment on behalf of Financial and Real
22 Estate Services, Inc. with a place of business at 7151 Lincoln Avenue, Suite E, Buena Park,
23 California 90620. Grachen submitted his Form MU4 application to the Commissioner by filing this
24 application through the Nationwide Mortgage Licensing System (“NLMS”). The Form MU4
25 application, at Question (K), under the heading of “Disclosure Questions,” asks the following:

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

28 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.

- 1 (2) found you to have been involved in a violation of a financial services-related
- 2 business regulation(s) or statute(s)?
- 3 (4) entered an order against you in connection with a financial services-related activity?
- 4 (5) revoked your registration or license?
- 5 (8) issued a final order against you based on violations of any law or regulations that
- 6 prohibit fraudulent, manipulative, or deceptive conduct?
- 7 (9) entered an order concerning you in connection with any license or registration?

8 4. On his Form MU4 application dated July 19, 2013 (and on the amended application dated
9 February 4, 2014), Grachen answered “Yes” to Question K(5), above. Grachen responded “No” to
10 Questions (K)(2), (4), (8) and (9). He also submitted a copy of the Bureau of Real Estate’s decision
11 and order revoking his license. Grachen signed the Form MU4 application under penalty of perjury
12 that the information and statements contained in the application are current, true, accurate, and
13 complete. The Form MU4 application provides that “if an Applicant has made a false statement of a
14 material fact in this application or in any documentation provided to support the foregoing
15 application, then the foregoing application may be denied.”

16 5. Based on the December 4, 2000 decision by the Bureau of Real Estate with an order
17 revoking Grachen’s license, Grachen should have responded “Yes” to all of the above Questions
18 (K)(2), (4), (5), (8), and (9). On his Form MU4, Grachen also failed to disclose a desist and refrain
19 order issued against him by the Bureau of Real Estate on February 4, 2008. Based on that order,
20 Grachen should have answered “Yes” to Questions (K)(2), (4), and (9), above. Grachen’s failure
21 to answer “Yes” to all the above questions, and his failure to disclose the desist and refrain order of
22 the Bureau of Real Estate, constitute false statements in the Form MU4 application.

23 III. ACTIONS BY THE BUREAU OF REAL ESTATE

24 6. On or about December 4, 2000, the Bureau of Real Estate issued a decision and order
25 revoking Grachen’s real estate salesperson’s license. The decision and order were based on two
26 legal conclusions. First, grounds existed to revoke Grachen’s real estate salesperson’s license
27 pursuant to Business and Professions Code section 10177(d) in that Grachen willfully disregarded
28 or violated Business and Professions Code section 10130 of the Real Estate Law. Second, grounds

1 existed to revoke Grachen’s real estate salesperson’s license pursuant to Business and Professions
2 Code section 10177(j) in that Grachen engaged in conduct that constituted fraud or dishonest
3 dealing. In her decision and order, the Real Estate Commissioner stated, in part, that Grachen
4 engaged in deliberate and fraudulent conduct in representing himself to have a real estate license
5 before he was licensed as a real estate salesperson, and thereafter conducted numerous activities
6 requiring a real estate license to the possible detriment of his various clients, and subjected his
7 employer’s license to possible discipline. In this case, Grachen knowingly made false or misleading
8 statements to employees of Sea Breeze Financial Services, Inc. for purposes of gaining and
9 retaining a position as a loan officer. In one instance, Grachen provided what appeared to be an
10 original real estate salesperson’s license when, in fact, it was a license issued to another person.
11 Grachen performed numerous mortgage loan broker services for Sea Breeze Financial Services, Inc.
12 while this company was unaware that Grachen was unlicensed.

13 7. On or about February 4, 2008, the Bureau of Real Estate took another action against
14 Grachen based on his unlicensed activities. The Bureau of Real Estate issued a desist and refrain
15 order against Grachen because he acted as an unlicensed real estate broker and loan officer. In
16 particular, Grachen was President of R&G Lending Inc., where he conducted mortgage loan
17 activities pursuant to Business and Professions Code section 10131(d), including soliciting
18 borrowers or lenders, and negotiating loans and performing services for borrowers. Again, Grachen
19 engaged in these activities without a license from the Bureau of Real Estate. Pursuant to this action
20 of the Bureau of Real Estate, Grachen was ordered to desist and refrain from performing any and all
21 acts requiring a real estate license in California unless and until he was licensed by the Bureau of
22 Real Estate.

23 IV. FALSE INFORMATION – CIVIL ACTIONS

24 8. The Form MU4 application, at Question (P), under the heading of “Consumer
25 Arbitration/Civil Litigation Disclosure,” asks the following:

26 (P) Have you ever been named as a respondent/defendant in a financial services-related
27 consumer-initiated arbitration or civil litigation which:

28 (1) is still pending?

1 9. On his Form MU4 application dated July 19, 2013 (and on an amended application dated
2 February 4, 2014), Grachen answered “No” to Questions J(1)(b) and J(2) and P(1), (2) and (3),
3 above. Grachen should have answered “Yes” to these questions based on six separate civil actions
4 taken against him, as described below. Grachen’s failure to answer “Yes” to these questions, and
5 his failure to disclose the six civil actions, constitute false statements on the Form MU4 application.

6 V. CIVIL ACTIONS

7 10. During the time his Form MU4 application was pending with the Commissioner, Grachen
8 was a defendant in six separate civil actions. These civil actions were based on, among other
9 things, fraudulent activities in connection with mortgage loans. These six civil actions are as
10 follows:

- 11 1. CASE NO. 30-2011-100502774 filed on or about August 24, 2011.
- 12 2. CASE NO. 30-2011-00476816 filed on or about May 20, 2011.
- 13 3. CASE NO. 30-2011-00484717 filed on or about June 13, 2011.
- 14 4. CASE NO. 30-2011-00484721 filed on or about June 13, 2011.
- 15 5. CASE NO. 30-2013-00693880 filed on or about December 18, 2013.
- 16 6. CASE NO. 30-2011-00515085 filed on or about October 18, 2011.

17 VI. FALSE INFORMATION – CRIMINAL ACTION

18 11. The Form MU4 application, at Question (F), under the heading of “Criminal Disclosure,”
19 asks the following:

20 (F)(2) Are there any pending charges against you for any felony?

21 Grachen answered “No” to Question (F)(2). Grachen is a defendant in a criminal complaint
22 filed against him on or about September 11, 2014 involving felonious misconduct. Yet, Grachen
23 has not amended his Form MU4 to answer “Yes” to this question. Grachen’s failure to update his
24 application, and his failure to disclose the criminal action, constitute false statements on the Form
25 MU4 application.

26 VII. CRIMINAL ACTION

27 12. On or about September 11, 2014, the Orange County District Attorney’s Office filed a
28 criminal complaint against Grachen. This complaint alleges, among other things, that Grachen

1 committed grand theft and false recorded documents, punishable as felonies.

2 VIII. NOTICE OF INTENTION TO ISSUE ORDER

3 13. Complainant finds, by reason of the foregoing, that Grachen, by making false statements on
4 his Form MU4 application, by being the subject of regulatory actions by the Bureau of Real Estate,
5 which found that he engaged in unlicensed activities, and engaged in acts or omissions that
6 constitute fraud or dishonest dealing, by reason of the six civil actions involving fraud and one
7 criminal action involving grand theft and false recorded documents, has failed to demonstrate such
8 financial responsibility, character, or general fitness as to command the confidence of the
9 community and to warrant a determination that he will operate honestly, fairly, and efficiently
10 within the purposes of the California Residential Mortgage Lending Act.

11 14. On January 26, 2015, the Commissioner issued a Notice of Intention to Issue Order Denying
12 Mortgage Loan Originator License Application and accompanying documents based on the above
13 findings. Respondent was served with these documents on January 27, 2015 through personal
14 service. The Commissioner has received no request for a hearing and the time to request a hearing
15 has expired.

16 IX. CONCLUSION

17 NOW GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the mortgage
18 loan originator license application of George Gerard Grachen, as described above, is denied. This
19 Order is effective as of the date hereof.

20 Dated: March 3, 2015
21 Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

22
23 By _____
24 MARY ANN SMITH
25 Deputy Commissioner
26 Enforcement Division
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