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

12 In the Matter of the Accusation of THE ) NMLS No. 973200  
13 COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) STATEMENT OF ISSUES IN SUPPORT OF  
14 ) NON-ISSUANCE OF MORTGAGE LOAN  
Complainant, ) ORIGINATOR LICENSE  
15 )  
16 vs. )  
17 GEORGE GERARD GRACHEN, )  
18 Respondent. )  
19 \_\_\_\_\_ )

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

22 I. INTRODUCTION

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

28 ///

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

3 ...

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

9 II. FALSE INFORMATION – REGULATORY ACTIONS

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13 license was revoked based on his unlicensed activities as a loan officer at Sea Breeze Financial  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

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

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

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

<sup>1</sup> 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 (4) entered an order against you in connection with a financial services-related activity?
- 2 (5) revoked your registration or license?
- 3 (8) issued a final order against you based on violations of any law or regulations that
- 4 prohibit fraudulent, manipulative, or deceptive conduct?
- 5 (9) entered an order concerning you in connection with any license or registration?
- 6

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

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

22 III. ACTIONS BY THE BUREAU OF REAL ESTATE

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

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

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

#### 22 IV. FALSE INFORMATION – CIVIL ACTIONS

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

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

27 (1) is still pending?  
28

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. 30-2011-00476816 filed on or about May 20, 2011.
- 12 2. CASE NO. 30-2011-00484717 filed on or about June 13, 2011.
- 13 3. CASE NO. 30-2011-00484721 filed on or about June 13, 2011.
- 14 4. CASE NO. 30-2011-00502774 filed on or about August 24, 2011.
- 15 5. CASE NO. 30-2011-00515085 filed on or about October 18, 2011.
- 16 6. CASE NO. 30-2013-00693880 filed on or about December 18, 2013.

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. CONCLUSION

3 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 THEREFORE, Complainant asserts that Financial Code section 50141 mandates that the  
12 Commissioner deny Grachen’s application for a mortgage loan originator license.

13 WHEREFORE IT IS PRAYED that the determination of the Commissioner to deny  
14 Grachen’s application for a mortgage loan originator license be upheld.

15 Dated: January 26, 2015  
16 Sacramento, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

17  
18 By \_\_\_\_\_  
19 TIMOTHY L. Le BAS  
20 Senior Corporations Counsel  
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