

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN ROONEY
Assistant Chief Counsel
3 JOYCE TSAI
Senior Corporations Counsel (SBN 241908)
4 DEPARTMENT OF BUSINESS OVERSIGHT
1350 Front Street, Suite 2034
San Diego, CA 92101
5 Telephone: (619) 525-4043

6 Attorneys for Complainant

7
8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

10	In the Matter of)	FILE NO. CA-DBO801846
11	THE COMMISSIONER OF BUSINESS)	
12	OVERSIGHT OF THE STATE OF)	ACCUSATION
13	CALIFORNIA,)	
14	Complainant,)	
15	v.)	
16	TIMOTHY HURLBUT,)	
17	Respondent.)	

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

20 I

21 Pursuant to the California Finance Lenders Law (Fin. Code § 22000 et seq.) and California
22 Residential Mortgage Lending Act (Fin. Code § 50000 et seq.), Timothy Hurlbut (“Respondent”)
23 was issued a mortgage loan originator (“MLO”) license by the Department of Business Oversight
24 on or about May 2, 2014. His application, the Form MU4, was submitted through the Nationwide
25 Mortgage Licensing System (“NMLS”) on or about January 18, 2014. At all times since the filing
26 of his Form MU4, Respondent’s employer has been Mason McDuffie Mortgage Corporation
27 (“Mason”). Mason has several licensed locations in California.

28 II

1 On Respondent's Form MU4, he answered "yes" to Regulatory Action Disclosure
2 questions K(2), K(3), K(4), K(5), K(8), and K(9). Those questions ask whether any state or
3 federal regulatory agency has ever taken disciplinary action against the applicant for violation of
4 financial services-related laws. As required, Respondent provided an explanation on the Form
5 MU4, stating that in 2010, the California Department of Real Estate ("DRE;" now the Bureau of
6 Real Estate) had revoked his real estate license for conducting loan modification services without
7 a real estate broker's license.

8 The Commissioner instructed Respondent to upload sufficient supporting documentation
9 regarding his explanation. On March 5, 2014, Respondent filed an amended Form MU4 in which
10 he attached the pleadings relevant to the revocation of his license by the DRE. These documents
11 revealed that Respondent had solicited borrowers for loans, renegotiated new loans, and/or
12 negotiated the terms of short sales in exchange for the payment of advance fees. These activities
13 resulted in the revocation of Respondent's DRE license.

14 III

15 Financial Code section 22109.1 provides, in pertinent part:

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

18 ...

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

23 Financial Code section 50141 contains nearly identical language. It provides, in pertinent
24 part:

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

27 ...

28 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.

The Commissioner has found, based on the fact that Respondent's license was revoked by

1 the DRE and based on the conduct underlying that revocation, Respondent has not demonstrated
2 the responsibility, character, and fitness necessary to command the confidence of the community
3 and to warrant a determination that he will operate honestly, fairly, and efficiently as a mortgage
4 loan originator.

5 Financial Code section 22714 provides, in pertinent part:

6 The commissioner shall suspend or revoke any license, upon notice and reasonable
7 opportunity to be heard, if the commissioner finds any of the following:

8
9 A fact or condition exists that, if it had existed at the time of the original
10 application for the license, reasonably would have warranted the commissioner in
11 refusing to issue the license originally.

12 Similarly, Financial Code section 50327 provides, in pertinent part:

13 The commissioner may, after notice and a reasonable opportunity to be heard,
14 deny, decline to renew, suspend, or revoke any license if the commissioner finds
15 that:

16
17 Any fact or condition exists that, if it had existed at the time of the original
18 application for the license, reasonably would have warranted the commissioner in
19 refusing to issue the license originally.

20 IV

21 The Commissioner finds that, by reason of the foregoing, a fact or condition exists that
22 reasonably would have warranted the Commissioner in refusing to issue the MLO license to
23 Respondent originally. This constitutes grounds for revocation of Respondent's MLO license.

24 WHEREFORE, IT IS PRAYED that the Respondent Timothy Hurlbut's MLO license be
25 revoked pursuant to Financial Code sections 22714 and 50327.

26 Dated: October 24, 2014

JAN LYNN OWEN
Commissioner of Business Oversight

27 By: _____
Joyce Tsai
Senior Corporations Counsel