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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Accusation of THE)
11 CALIFORNIA CORPORATIONS)
12 COMMISSIONER,)

13 Complainant,)

14 v.)

15 THOMAS ANTHONY ROCHA)

16 Respondent.)
17)
18)

File No.: 134218

**ACCUSATION IN SUPPORT OF
REVOKING MORTGAGE LOAN
ORIGINATOR LICENSE NO. 134218
ISSUED TO THOMAS ANTHONY
ROCHA PURSUANT TO CALIFORNIA
FINANCIAL CODE SECTIONS
22109.1(a), 22172, 22705.1(a), 22714(a)(2),
and 22714(a)(3).**

19 **I.**

20 **INTRODUCTION**

21 The Complainant, California Corporations Commissioner ("Commissioner"), is informed and
22 believes, and based upon such information and belief, alleges and charges as follows:

23 This Accusation is submitted pursuant to California Financial Code sections 22109.1(a),
24 22172, 22705.1(a), 22714(a)(2), 22714(a)(3), and in support of the Commissioner's Notice of Intent
25 to Revoke California Finance Lenders Law of the State of California (California Financial Code
26 §22000 *et seq.*) ("CFL") mortgage loan originator license number 134218 issued to Respondent
27 THOMAS ANTHONY ROCHA ("Respondent").
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1 The Commissioner has continuous authority to exercise powers pursuant to the CFL. *Cal. Fin.*
2 *Code §22000 et seq.* The Commissioner, also pursuant to the CFL, may make general rules,
3 regulations, specific rulings, demands, and findings for the enforcement of the CFL. *Id.* The
4 functions, powers, and duties of the Commissioner include the power to revoke any license with
5 cause as provided by the CFL. *Cal. Fin. Code §22172, §22714.*

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7 **II.**
8 **FACTUAL AND PROCEDURAL HISTORY**

9 In or about May 2010, Respondent applied to the Commissioner for a mortgage loan
10 originator license pursuant to the CFL, by filing a “MU4 Form” through the Nationwide Mortgage
11 Licensing System and Registry (“NMLS”) licensing unit at the Department of Corporations (“NMLS
12 U4 Form”). On or about June 9, 2010, the Commissioner issued a mortgage loan originator license
13 (“First License”) to the Respondent. However, Respondent did not timely renew the First License.
14 Subsequently, the First License expired on or about January 1, 2011.

15 Respondent then applied to the Commissioner for a second mortgage loan originator license
16 on or about September 15, 2011. The Commissioner granted Respondent a second mortgage loan
17 originator license number 134218 on or about September 26, 2011 (“Second License”). Respondent
18 is sponsored by Residential Finance Corporation of Tampa, Florida (“Sponsor”). Respondent’s
19 Sponsor is a licensed financial lender pursuant to the CFL, NMLS identification number 26641, with
20 a principle place of business of 4010 W. Boy Scout Boulevard, Suite 600, Tampa, Florida.

21 On or about July 7, 2010, the State of Alabama issued Respondent mortgage loan originator
22 license number 51791 (“Alabama License”). Respondent’s Alabama License was revoked by the
23 State of Alabama Banking Department on or about January 26, 2012, by way of a duly noticed
24 administrative proceeding and an Order to Revoke License - Case No. MLO2011-004 (“Alabama
25 Order”). Respondent had full notice and knowledge of the Alabama Order, but did not request a
26 hearing to contest the allegations. The Alabama Order became a duly noticed uncontested final order
27 on or about February 27, 2012.

1 On or about April 17, 2012, the Commissioner issued a certified notice¹ informing
 2 Respondent that Respondent was not in compliance with requirements to maintain his Second
 3 License based upon the Alabama Order (“Warning Letter”). The Commissioner’s Warning Letter
 4 notified the Respondent that if Respondent did not surrender the Second License within thirty (30)
 5 days of the Warning Letter, the Commissioner would proceed to issue a Notice to Revoke Mortgage
 6 Loan Originator License and take steps to revoke the Second License. To date, the Commissioner
 7 has not received a notice of surrender from the Respondent despite the Warning Letter.

8 Therefore, pursuant to California Financial Code sections 22172, 22714(a)(2), and
 9 22714(a)(3) of the CFL, the Commissioner herein now issues a Notice of Intent to Revoke Mortgage
 10 Loan Originator License and Accusation to Respondent to revoke the Second License.

11 III. 12 ARGUMENT

13 A. Pursuant To California Financial Code Sections 22109.1(a), 22172(a)(2), and 14 22714(a)(2), The Commissioner May Revoke The Second License Because Respondent 15 Failed To Meet The Requirements Of The CFL.

16 The Commissioner may revoke the Second License if Respondent fails at any time to meet the
 17 requirements of California Financial Code section 22109.1. *Cal. Fin. Code §22109.1, §22172(a)(2),*
 18 *§22714(a)(2)*. California Financial Code section 22109.1 mandates that Respondent shall not have
 19 any mortgage loan originator license revoked in any governmental jurisdiction. *Id.*

20 Here, Respondent fails to meet the requirements of California Financial Code section 22109.1
 21 because another governmental jurisdiction, Alabama, revoked Respondent’s Alabama License. The
 22 Alabama License was a mortgage loan originator license. The Alabama Order became a duly noticed
 23 uncontested final order on or about February 27, 2012.

24 Therefore, since Respondent has failed to meet the requirements of California Financial Code
 25 section 22109.1, the Commissioner may revoke the Second License pursuant to California Financial
 26 Code sections 22172(a)(2) and 22714(a)(2).

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 28 ¹ This notice sent by way of United States Priority Certified Mail Receipt No. 70073020000030412627, delivered to 4207 West Santiago Street, Tampa, FL. 33629 (the address of record for the Respondent with the Commissioner) on April 26, 2012 at 2:58 p.m., signed for by Ms. Christina Holly.

1 **B. The Commissioner May Also Revoke The Second License Because The Alabama Order**
2 **Is Substantially Related To Activity Regulated Under The CFL, Pursuant To California**
3 **Financial Code Section 22705.1(a).**

4 The Commissioner may take disciplinary action, and thus revoke the Second License, where
5 another State takes disciplinary action against a licensee based upon actions substantially related to
6 the activity regulated under the CFL. *Cal. Fin. Code §22705.1(a)*.

7 On or about July 7, 2010, the State of Alabama issued the Alabama License to Respondent.
8 The State of California issued the Second License to Respondent in September, 2011. The Alabama
9 License and the Second License are the same types of licenses in that they are both mortgage loan
10 originator licenses regulating the same type of activity. Both Licenses are administered in part by
11 Nationwide Mortgage Licensing System & Registry administrators.

12 Also, the Alabama License allowed the Respondent to legally transact the same type of
13 business in Alabama as the Second License did and does in California. With the Alabama License,
14 Respondent, in Alabama, may, for compensation or in anticipation of compensation do the following:
15 (1) take a residential mortgage loan application; (2) offer or negotiate the terms of a residential
16 mortgage loan; (3) receive confidential information about prospective borrowers of residential real
17 estate loans; (4) negotiate terms for loans that will be used to purchase or refinance a home; and (5)
18 receive the residential mortgage loan application which includes the borrower's assets, liabilities and
19 credit information as well as credit reports. The Respondent is allowed to legally transact the same in
20 the State of California with the Second License.

21 Finally, the actions which prompted the Alabama Order were actions or wrongs Respondent
22 committed in the process of transacting mortgage loans, servicing mortgage loan originator clients,
23 and during the administrative process. This instant case involves those same acts or the same process.

24 Therefore, the actions which serve as the basis of the Alabama Order are substantially related
25 to the activity regulated under the CFL. Thus, pursuant to the CFL, the Commissioner may take
26 disciplinary action, and thus revoke the Second License, based upon the Alabama Order.

1 **C. The Commissioner May Revoke The Second License Because Facts Exist That Would**
2 **Reasonably Warrant The Commissioner To Refuse To Issue The Second License If Such**
3 **Facts Existed At The Time Of The Original Application, Pursuant to California**
4 **Financial Code Section 22714(a)(3).**

5 The Commissioner may revoke the Second License if the Commissioner finds that facts exist
6 that, if existed at the time of the original application for the Second License, such facts would have
7 reasonably warranted the Commissioner to originally refuse to issue the Second License. *Cal. Fin.*
8 *Code §22714(a)(3)*. The Commissioner shall not issue a mortgage loan originator license when an
9 applicant has had a mortgage loan originator license revoked in another governmental jurisdiction, as
10 mandated in California Financial Code section 22109.1. *Id, Cal. Fin. Code §22109.1*.

11 Here, such facts here clearly exist which would have warranted the refusal of the original
12 application for the Second License if those facts existed at the time of the original application for the
13 Second License, as follows: (1) Another governmental jurisdiction, Alabama, revoked Respondent’s
14 Alabama License; (2) The Alabama License was a mortgage loan originator license; (3) The Alabama
15 Order became a duly noticed uncontested final order on or about February 27, 2012; and (4) The
16 Commissioner would not have issued the Second License if, at the time of the original application for
17 the Second License, the Alabama Order existed because the Commissioner is not permitted to do so,
18 pursuant to California Financial Code section 22109.1.

19 Also, the Commissioner’s refusal to issue the Second License would have been reasonable,
20 thus reasonably warranted, because the Commissioner is charged with the duty to enforce the
21 requirements set forth in the CFL. Therefore, if the CFL, by way of California Financial Code section
22 22109.1, mandates that the Commissioner shall not issue a mortgage loan originator license when an
23 applicant has had a mortgage loan originator license revoked in another governmental jurisdiction,
24 then any administrative act executed by the Commissioner, in furtherance of this mandate, is deemed
25 to be not only necessary, but reasonable. Therefore, the Commissioner may revoke the Second
26 License pursuant to California Financial Code sections 22109.1 and 22714(a)(3).

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IV.
STATUTORY AUTHORITY

California Financial Code section 22109.1 provides in pertinent part:

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

(1) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation.

California Financial Code section 22172 provides in pertinent part:

(a) The commissioner may do one or more of the following:

(1) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license for a violation of this division, or any rules or regulations adopted thereunder.

(2) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license if an applicant or licensee fails at any time to meet the requirements of Section 22109.1 or 22109.4, or withholds information or makes a material misstatement in an application for a license or license renewal.

California Financial Code section 22705.1 provides in pertinent part:

(a) For any licensee, a disciplinary action taken by the State of California, another state, an agency of the federal government, or another country for an action substantially related to the activity regulated under this division may be grounds for disciplinary action by the commissioner. A certified copy of the record of the disciplinary action taken against the licensee by the State of California, other state, agency of the federal government, or other country shall be conclusive evidence of the events related therein.

California Financial Code section 22714 provides in pertinent part:

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

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(2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

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

**V.
CONCLUSION**

Complainant finds that each and every above stated act by Respondent THOMAS ANTHONY ROCHA are reasonable and sufficient grounds to revoke the California mortgage loan originator license number 134218 issued to THOMAS ANTHONY ROCHA, pursuant to California Financial Code sections 22109.1(a), 22172, 22705.1(a), 22714(a)(2), and 22714(a)(3).

WHEREFORE, IT IS PRAYED that the mortgage loan originator license issued to THOMAS ANTHONY ROCHA be revoked.

DATED: June 14, 2012
Sacramento, CA

JAN LYNN OWEN
California Corporations Commissioner

By _____

Marisa I. Urteaga-Watkins

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2 MARISA I. URTEAGA-WATKINS (SBN236398)
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File No.: 134218

**ORDER REVOKING MORTGAGE LOAN
ORIGINATOR LICENSE NO. 134218
ISSUED TO THOMAS ANTHONY
ROCHA**

19 The California Corporations Commissioner (“Commissioner”) finds that:

20 1. On or about June 14, 2012, the Commissioner issued an Accusation in Support of
21 Revoking Mortgage Loan Originator License No. 134218 Issued to THOMAS ANTHONY ROCHA
22 Pursuant to California Financial Code Sections 22109.1(a), 22172, 22705.1(a), 22714(a)(2), and
23 22714(a)(3), and all accompanying documents thereof, including, but not limited to the
24 Commissioner’s Notice of Intent to Revoke California Mortgage Loan Originator License No.
25 134218 (collectively, “Accusation”) to Respondent, licensee THOMAS ANTHONY ROCHA,
26 attached and incorporated herein as “Exhibit A”.

27 2. On or about June 20, 2012, the Accusation was duly served to the Respondent by way
28 of certified, return-receipt mail at Respondent’s address of record on file with the California

1 Department of Corporations. The Department has received no request for a hearing from Respondent
2 and the time to request a hearing has expired.

3 NOW GOOD CAUSE APPEARING THEREFORE and pursuant to the Accusation in
4 Support of Revoking Mortgage Loan Originator License No. 134218 Issued to THOMAS
5 ANTHONY ROCHA Pursuant to California Financial Code Sections 22109.1(a), 22172, 22705.1(a),
6 22714(a)(2), and 22714(a)(3), it is hereby ordered that the California Mortgage Loan Originator
7 License No. 134218 issued pursuant to the California Finance Lenders Law of the State of California
8 to Respondent THOMAS ANTHONY ROCHA is hereby revoked. This Order shall take immediate
9 effect.

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DATED: July 25, 2012 JAN LYNN OWEN
Sacramento, CA California Corporations Commissioner

By _____
Alan S. Weinger
Deputy Commissioner