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

12 In the Matter of:

13 THE COMMISSIONER OF BUSINESS  
OVERSIGHT,

14 Complainant,

15 v.

16 KEVIN PATRICK O'CONNELL;  
17 TOWN & COUNTRY LENDARE, LLC,

18 Respondent.  
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) CFL APPLICATION No.: 60DBO-49529  
)  
) ACCUSATION TO BAR FROM ANY  
) POSITION OF EMPLOYMENT,  
) MANAGEMENT OR CONTROL OF ANY  
) FINANCE LENDER

23  
24 The Complainant, the Commissioner of The Department of Business Oversight  
25 (“Commissioner”), is informed and believes and based upon such information and belief, alleges and  
26 charges as follows:  
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**I**

**Introduction**

1. Town & Country Lendare, LLC, (“Town & Country”) is, or was, a California limited liability company formed on October 30, 2015, with a principal place of business located at 180 Newport Center Dr., Suite 175, Newport Beach, California 92660.

2. Patrick O’Connell (“O’Connell”) is, or was, the president, chief executive officer, and manager of Town & Country.

3. The Commissioner is authorized to administer and enforce the provisions of the California Finance Lenders Law (“CFL”) (Financial Code § 22000, et seq.)<sup>1</sup> and the regulations thereunder at California Code of Regulations, title 10.

4. Pursuant to section 22169(a)(2), the Commissioner may bar any person from any position of employment, management, or control of a finance lender, if the Commissioner finds that the person has been held liable in any civil action by any administrative judgment by any public agency, if that administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business of finance lending.

5. This Accusation is submitted in support of the Commissioner’s Notice of Intent to Bar O’Connell from any position of employment, management or control of any finance lender pursuant to section 22169(a)(2) on the basis that O’Connell has been held liable in a civil action by administrative Order for an offense involving dishonesty, fraud or deceit.

**II**

**Statement of Facts**

6. In or about November 1997, the Real Estate Commissioner for the Bureau of Real Estate, formerly The Department of Real Estate (“BRE”) filed an administrative action against O’Connell alleging that he acted as an unlicensed real estate broker in violation of the Real Estate Law. Following an administrative hearing held at the Office of Administrative Hearings, the Court

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<sup>1</sup> All further references are to the Financial Code unless otherwise stated.

1 issued a Proposed Decision revoking “all licenses and license rights” of O’Connell under the Real  
2 Estate Law. On December 17, 1997, the Real Estate Commissioner adopted the Court’s Proposed  
3 Decision as the Decision of the Real Estate Commissioner (hereafter “the 1997 Order”).

4 7. As stated in the 1997 Order, beginning in or about June 1994, O’Connell unlawfully  
5 and fraudulently engaged in business as a real estate broker by leasing apartments to third parties for  
6 compensation without first obtaining a sales person or broker license from the BRE. The 1997  
7 Order states that O’Connell falsely represented he was a licensed real estate broker entitled to a  
8 broker or agent fee, and that his acts constituted “fraud and dishonest dealing.” The 1997 Order  
9 concluded that based on O’Connell’s violation of the law and “lack of any credible evidence of  
10 extenuation, mitigation or rehabilitation...,” there was cause to revoke “all licensees and license  
11 rights” of O’Connell under the Real Estate Law.

12 8. On or about March 13, 2001, O’Connell petitioned the BRE for reinstatement of his  
13 real estate broker license. By Order dated February 2, 2002 (“2002 Order”), the Real Estate  
14 Commissioner denied O’Connell’s petition finding that he failed to “demonstrate he had undergone  
15 sufficient rehabilitation to warrant the issuance of an unrestricted real estate broker license.” The  
16 2002 Order also noted that additional time was required to measure O’Connell’s rehabilitation based  
17 on his “... failure to readily acknowledge his wrongdoing in his conduct which led to the revocation  
18 of his license...,” and “lack of change in attitude.” O’Connell was offered a restricted broker license  
19 on certain conditions — one of which was that within nine months from the issuance of the restricted  
20 license, O’Connell would provide satisfactory evidence showing he had successfully completed the  
21 requisite continuing education prescribed for the renewal of a real estate license.

22 9. In or about May 2015, O’Connell applied for a finance lender or broker license with  
23 the Commissioner on behalf of DevCap Partners, LLC. (“DevCap application”) In his DevCap  
24 application, O’Connell listed himself as the president, chief executive officer, and manager of  
25 DevCap, stating that he alone would be in charge of the company’s business and be responsible for  
26 the conduct of the lending activity. O’Connell’s DevCap application stated that the proposed  
27 operations would be originating secured, commercial, and consumer loans, for minimum amounts of  
28 \$5,000.

1           10.     On or about September 2, 2015, the Commissioner sent a letter to O’Connell dated  
2 September 2, 2015 (“September 2015 letter”) informing O’Connell of her observations from the  
3 DevCap application, namely: (i) that an administrative action was taken against O’Connell by the  
4 BRE which resulted in the revocation of his broker license; (ii) that O’Connell was found to have  
5 engaged in a substantial misrepresentation and his conduct was considered fraudulent and dishonest;  
6 and (iii) that he applied for reinstatement of his real estate broker license and was denied  
7 reinstatement because he failed to demonstrate he had undergone sufficient rehabilitation to warrant  
8 the issuance of an unrestricted real estate broker license. The September 2015 letter informed  
9 O’Connell that his DevCap application could be denied based on the BRE’s action against him  
10 pursuant to section 22109(a)(3). Lastly, the September 2015 letter requested that O’Connell explain  
11 the events surrounding the BRE’s action against him, and provide a declaration describing the  
12 action(s) he has taken to show he is sufficiently rehabilitated to qualify for a CFL license.  
13 O’Connell did not provide a declaration as requested, and instead, on November 4, 2015, he  
14 withdrew the DevCap application.

15           11.     Thereafter, in December, 2015, O’Connell filed the Town & Country application with  
16 the Commissioner. In the Town & Country application, O’Connell listed himself as the president,  
17 chief executive officer, and manager of Town & Country stating that he alone would be in charge of  
18 the company’s business and be responsible for its lending activities. O’Connell further stated in his  
19 Town & Country application that the proposed operations would comprise originating secured and  
20 unsecured, commercial, and consumer loans, for minimum amounts of \$10,000.

21           12.     Along with his Town & Country application, O’Connell submitted a letter dated  
22 November 23, 2015, purportedly in response to the Commissioner’s September 2, 2015, in which he  
23 explained that he “elected not to pursue re-licensure” with the BRE so he “could pursue other  
24 opportunities.” O’Connell further stated in his November 23, 2015 letter that “the events in question  
25 occurred over 18 years ago, and I defer to DRE’s summary of what occurred with the exception that  
26 contrary to the allusion in March 27, 2002 Order, I was remorseful.” O’Connell did not provide the  
27 Commissioner with a declaration or other evidence demonstrating that he is sufficiently reformed to  
28 obtain a CFL license from the Commissioner.



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**IV**

**Conclusion**

Based on the foregoing, grounds exist, and it is in the public interest, to bar O’Connell from any position of employment, management or control of any California finance lender or broker under Section 22169(a)(2).

WHEREFORE, IT IS PRAYED that Kevin Patrick O’Connell be barred in the State of California from any position of employment, management or control of any California finance lender pursuant to California Financial Code sections 22169(a)(2).

Dated: August 11, 2016

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
UCHE L. ENENWALI  
Senior Counsel  
Enforcement Division