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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA
10

11 In the Matter of:) NMLS NO.: 292068
12)
13 THE COMMISSIONER OF BUSINESS) STATEMENT OF ISSUES IN SUPPORT OF
OVERSIGHT,) DENIAL OF MORTGAGE LOAN
14) ORIGINATOR APPLICATION
Complainant,)
15)
16 v.)
17)
ROBERT L. TURNER)
18)
Respondent.)
19)

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

22 **I.**
23 **Introduction**

24 1. The proposed order seeks to deny the issuance of a mortgage loan originator (MLO)
25 license to Robert L. Turner (Turner) pursuant to Financial Code sections 50141 and 50327 of the
26 California Residential Mortgage Lending Act (Fin. Code § 50000 et seq.) (CRMLA) in that Turner
27 (1) has made untrue statements during the course of licensure with the intent to impede, obstruct, or
28 influence the administration or enforcement of the law governing mortgage loan originators in

1 California; and (2) has not demonstrated such financial responsibility, character, and general fitness
2 as to command the confidence of the community and to warrant a determination that the mortgage
3 loan originator will operate honestly, fairly, and efficiently within the purposes of this division.

4 **II.**
5 **False Statements**

6 2. On or about September 15, 2016, Turner filed an application for an MLO license
7 with the Department of Business Oversight (DBO) by submitting a Form MU4 (Application)
8 through the Nationwide Mortgage Licensing System (NMLS) pursuant to Financial Code section
9 50140.

10 3. Turner answered “Yes” to the following questions on the Application regarding his
11 history: (1) whether there are any unsatisfied judgments or liens against Turner (Question D), and
12 (2) whether a regulatory agency has entered an order concerning Turner in connection with any
13 license or registration (Question K9).

14 4. Turner’s explanation to Question D indicated that he has been paying off an Internal
15 Revenue Service (IRS) lien in Contra Costa County and Alameda County and that the balance of
16 the lien is under \$10,000.00.

17 5. Turner indicated the following in an updated Application dated October 21, 2016:
18 “There is a IRS lien filed in Contra Costa County and Alameda County. The balance is under
19 10,000 and I am making payment to pay it off by next year. There are no other lien filed.” Turner
20 further claimed that he had been “paying on my tax lien with the IRS. The amount was \$25,000.
21 Currently, the amount is down to \$9,200.”

22 6. The DBO discovered two tax liens against Turner: a State of California tax lien
23 dated September 9, 2009 that shows a total balance due of \$32,661.39, and a Federal tax lien dated
24 December 15, 2011 that shows a total balance due of \$32,395.24. Turner failed to disclose his State
25 of California tax lien in his original and updated Applications.

26 7. Turner’s explanation to Question K9 indicated that the California Bureau of Real
27 Estate (BRE) moved to suspend his real estate license, but an injunction was filed in the Superior
28 Court of California to stop the suspension.

1 8. Turner also indicated a “No” answer to a question asking whether a regulatory
2 agency has revoked a registration or license (Question K5).

3 9. The DBO discovered that Turner’s real estate license with the BRE was revoked as
4 of February 2010.

5 10. Turner was required to submit an updated Application correcting his response to
6 Question K5. Turner submitted an updated Application, on or about October 21, 2016, indicating a
7 “Yes” answer to Question K5 and providing an explanation.

8 11. Turner’s explanation to Question K5 in the updated Application indicated that he
9 was not notified by the BRE that his real estate license was being revoked. Turner indicated that he
10 became aware of the revocation one month after it was final, at which point he had no legal right to
11 reverse the revocation.

12 **III.**
13 **Failure to Demonstrate Requisite Financial Responsibility, Character, and General Fitness**

14 12. On or about January 13, 2009, the BRE filed and served an Accusation against
15 Turner, alleging that Turner had failed to exercise reasonable supervision and control of the real
16 estate activities of CFS Realty & Mortgage (CFS), where he was the designated broker.
17 Specifically, the BRE Accusation alleged that Turner failed to maintain a new address for CFS on
18 file with the BRE; failed to maintain the active corporate status of CFS; failed to file tax returns
19 with the State of California Franchise Tax Board on behalf of CFS; and failed to implement
20 policies, rules, procedures, and systems to ensure the compliance of CFS with the Real Estate Law.

21 13. Turner failed to respond and request a hearing within a year after the filing of the
22 Accusation. On or about January 26, 2010, the BRE revoked Turner’s real estate broker license,
23 effective February 15, 2010.

24 14. On or about April 30, 2010, Turner filed a Motion to Vacate Default Judgment,
25 claiming that he never received notice of the Accusation. The BRE denied Turner’s motion, and
26 declined to set aside the order revoking his real estate license.

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1 15. Turner filed a Writ of Mandate in Superior Court appealing the revocation of his real
2 estate license, and requested a stay of the revocation while the writ was pending. The Superior
3 Court granted the stay, which resulted in a temporary reinstatement of his real estate license.

4 16. On or about June 23, 2011, the Writ of Mandate was denied and the temporary stay
5 order was dissolved, thus finalizing the revocation of Turner’s real estate license.

6 17. The BRE failed to update Turner’s status on its website once the revocation was
7 final. The BRE inadvertently issued an MLO to Turner on January 2, 2014. In February 2014, the
8 BRE discovered its error and updated Turner’s status to “Revoked,” thus invalidating the previously
9 granted MLO.

10 18. In or about 2015, Turner attempted to renew his MLO with the BRE, but was
11 prohibited, as his real estate license had been revoked.

12 19. On or about September 15, 2016, Turner submitted an Application to the DBO for an
13 MLO license through the NMLS.

14 20. In his Application, Turner provided a “No” answer to Question K5, asking if he had
15 ever had a registration or license revoked. Turner updated his Application answering “Yes” to
16 Question K5 only after he was instructed by the DBO to do so.

17 21. The DBO discovered two tax liens against Turner: a California tax lien dated
18 September 9, 2009 that shows a total balance due of \$32,661.39, and a Federal tax lien dated
19 December 15, 2011 that shows a total balance due of \$32,395.24.

20 **IV.**
21 **Applicable Law**

22 22. Financial Code section 50141 provides in relevant part:

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

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

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23. Financial Code section 50327 provides in relevant part:

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

(1) The licensee has violated any provision of this division or any rule or order of the commissioner thereunder.

(2) Any 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. . . .

24. Financial Code section 50512 provides in relevant part:

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

25. While serving as the designated broker and officer of CFS, Turner’s BRE license was revoked by the BRE for failing to maintain a new address for CFS on file with the BRE; failing to maintain the active corporate status of CFS; failing to file tax returns with the Franchise Tax Board on behalf of CFS; and failing to implement policies, rules, procedures, and systems to ensure the compliance of CFS with the Real Estate Law.

26. Turner has two tax liens filed against him: one state tax lien in California, and one federal tax lien. In his original and updated Applications with the DBO, Turner failed to disclose his State of California tax lien. His explanation to Question D regarding unsatisfied liens acknowledged only the federal tax lien.

27. Turner also provided a false response in his Application by failing to disclose the revocation of his real estate license.

28. Turner failed to provide a “Yes” answer to Question K5 regarding the revocation of a license or registration until he was prompted to do so by the DBO. In his updated Application, Turner claimed that the BRE never notified him of the Accusation. The BRE had properly served Turner.

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1 29. Turner also provided a false response to Question K9, whereby Turner indicated that
2 an injunction was filed in Superior Court to stop the revocation of his real estate license. Although
3 the Superior Court had initially granted a stay of the BRE revocation while Turner’s Writ of
4 Mandate was pending, the Superior Court later denied the writ and the stay was also dissolved, thus
5 reinstating the revocation of Turner’s real estate license.

6
7 **V.**
Conclusion

8 The Commissioner finds that Turner has made untrue statements during the course of
9 licensure with the intent to impede, obstruct, or influence the administration or enforcement of the
10 law governing mortgage loan originators, in violation of Financial Code section 50512, by providing
11 false information in his original and updated Applications.

12 Turner also fails to demonstrate “... such financial responsibility, character, and general
13 fitness as to command the confidence of the community and to warrant a determination that the
14 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this
15 division,” required under Financial Code section 50141 based upon the revocation of his real estate
16 license for failure to exercise reasonable supervision and control of the real estate activity of CFS,
17 his two tax liens, and his failure to answer his Application truthfully.

18 The findings set forth above constitute grounds under Financial Code sections 50141 and
19 50327 to deny the issuance of a MLO license Robert L. Turner.

20 WHEREFORE IT IS PRAYED, by reason by the foregoing, pursuant to Financial Code
21 sections 50141 and 50327, that the mortgage loan originator application filed by Robert L. Turner be
22 denied.

23 Dated: April 7, 2017
24 San Diego, CA

JAN LYNN OWEN
Commissioner of Business Oversight

25
26
27 By _____
Afsaneh Eghbaldari
Counsel
28 Enforcement Division