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

11 In the Matter of:	}	CFL APPLICATION NO.: 229891
12 THE COMMISSIONER OF BUSINESS OVERSIGHT,	}	ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION
13 14 Complainant,	}	
15 v.	}	
16 ALEXANDER THOMAS CARLUCCI,	}	
17 Respondent.	}	

18
19 The Complainant, the Commissioner of Business Oversight (Commissioner), of the Department
20 of Business Oversight (Department), finds that:

21 1. On or about May 16, 2018, Alexander Thomas Carlucci (Carlucci) filed an
22 application for a mortgage loan originator (MLO) license with the Commissioner by submitting a
23 Form MU4 through the Nationwide Mortgage Licensing System (NMLS) (hereinafter, Application)
24 pursuant to Financial Code section 50140.

25 2. In his Application, Carlucci answered “yes” to a Criminal Disclosure Question F (2),
26 and “yes” to a Criminal Judicial Disclosure Question J (2). Carlucci’s Application disclosed an
27 action filed by the Securities Exchange Commission (SEC) against Carlucci and the following
28 defendants: Shane Fleming; Bret Beshey; Peter Kourtis; Christopher Bonvissuto; Austin Mansur;

1 Eric Weller; and Dimitri Kandalepas (collectively Defendants), on September 29, 2017, in the case,
2 *SEC v. Fleming, et. al.*, Case No. 1:17-cv-07049 (2017 Complaint).

3 3. The 2017 Complaint alleged that Defendants unlawfully engaged in insider trading in
4 the securities of Life Time Fitness, Inc. (Life Time), a Minnesota corporation, in advance of an
5 announcement that Life Time was going to be acquired by private equity firms.

6 4. The 2017 Complaint revealed that in about February 2015, Carlucci received insider
7 information about the impending acquisition of Life Time from a co-defendant and in about March
8 2015, Carlucci purchased an option based on the information he obtained and realized illegal profits
9 of approximately \$14,492.00. Carlucci was further alleged to have paid approximately \$900.00 as a
10 kickback for the tip provided by the co-defendant. According to the 2017 Complaint, the
11 Defendants obtained total illegal trading profits of approximately \$866,629.00 because of their
12 insider dealing.

13 5. The 2017 Complaint noted that by engaging in the conduct described in the
14 complaint, Defendants:

15 Directly or indirectly, in connection with the purchase or sale of
16 securities, by the use of means or instrumentalities of interstate
17 commerce, or of the mails, with scienter: (a) employed devices,
18 schemes, or artifices to defraud; (b) made untrue statements of
19 material fact or omitted to state material facts necessary in order to
20 make the statements made, in the light of the circumstances under
21 which they were made, not misleading; and (c) engaged in acts,
22 practices, or courses of business which operated or would operate as
23 a fraud or deceit upon other persons, including purchasers and sellers
24 of securities.

25 6. Further, the 2017 Complaint disclosed that on or about September 28, 2017, the U.S.
26 Attorney's Office filed a criminal complaint against the Defendants in the U.S. District Court,
27 Northern District of Illinois in the matter of *United States v. Beshey, et. al.*, Case No. 1:17-cr-00643,
28 for engaging in insider trading and securities fraud. On or about November 8, 2017, the Northern
District Court of Illinois entered an Order releasing Carlucci from criminal prosecution after
Carlucci signed a "pretrial diversion agreement that acknowledges responsibility for criminal
conduct" relating to the charges filed against him. On April 24, 2018, the SEC entered an Order

1 permanently restraining and enjoining the Defendants, including Carlucci from among other things,
2 engaging in the sale or purchase of securities by means of fraud in violation of the Securities and
3 Exchange Act of 1934. Carlucci was ordered to pay disgorgement in the amount of \$14,491.64, with
4 prejudgment interests in the amount of \$1,307.21.

5 7. The Commissioner determined that based on the SEC’s action against Carlucci and
6 the facts upon which such action was issued, Carlucci failed to demonstrate such financial
7 responsibility, character, and general fitness as to command the confidence of the community and to
8 warrant a determination that the mortgage loan originator will operate honestly, fairly, and
9 efficiently within the purposes of the CFL, a requirement for licensure under Financial Code section
10 22109.1, subdivision (a)(3).

11 8. On November 21, 2018, the Commissioner issued a Notice of Intention to Deny
12 Application for Mortgage Loan Originator License, Statement of Issues, and accompanying
13 documents (Notice of Intention to Deny) based on the above findings.

14 9. On December 13, 2018, the Commissioner served Carlucci with the Notice of
15 Intention to Deny via certified mail, return receipt requested. Carlucci did not request a hearing and
16 the time to request a hearing has expired.

17 NOW GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the Application
18 filed by Alexander Thomas Carlucci for a mortgage loan originator license is denied. This order is
19 effective as of the date hereof.

20 Dated: February 15, 2019

JAN LYNN OWEN
Commissioner of Business Oversight

23 By _____
24 MARY ANN SMITH
25 Deputy Commissioner
26 Enforcement Division

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