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

11	In the Matter of:	)	NMLS ID: 1195768
12	THE COMMISSIONER OF BUSINESS	)	
13	OVERSIGHT,	)	STATEMENT OF ISSUES IN SUPPORT OF
14	Complainant,	)	ORDER DENYING MORTGAGE LOAN
15	v.	)	ORIGINATOR LICENSE APPLICATION
16		)	
17	JERRY GANG CHEN,	)	
18	Respondent.	)	
19		)	
20		)	

21 The Commissioner of Business Oversight (Commissioner) alleges and charges Respondent  
22 as follows:

23 **I.**  
24 **Introduction**

25 1. The Commissioner seeks to deny the issuance of a mortgage loan originator (MLO)  
26 license to Jerry Gang Chen (Chen) under Financial Code sections 22170, subdivision (b), and  
27 22109.1, subdivision (a)(3), of the California Financing Law (Fin. Code, § 22000 et seq.) (CFL),  
28 California Code of Regulations (CCR) title 10, section 1422.6.2, subdivisions (a) and (c), and

1 Financial Code section 50141 of the California Residential Mortgage Lending Act (Fin. Code, §  
2 50000 et seq.) (CRMLA) in that Chen has: (1) knowingly made untrue statements to the  
3 Commissioner; (2) withheld information in an application for a license; and (3) has not demonstrated  
4 such financial responsibility, character, and general fitness as to command the confidence of the  
5 community and to warrant a determination that Chen will operate honestly, fairly, and efficiently  
6 within the purposes of the CFL and CRMLA.

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8 **II.**  
9 **Application**

10 2. On August 20, 2019, Chen filed an application for an MLO license with the  
11 Commissioner by submitting a Form MU4 (Application) through the Nationwide Mortgage  
12 Licensing System (NMLS) under Financial Code section 50140.

13 3. Chen answered “Yes” to Question A(1) and A(2), which ask, in pertinent part:

14 (A)(1) Have you filed a personal bankruptcy petition or been the  
15 subject of an involuntary bankruptcy petition within the past ten years?

16 (A)(2) Based on events that occurred while you exercised control over  
17 an organization, has any organization filed a bankruptcy petition or  
18 been the subject of an involuntary bankruptcy petition within the past  
19 10 years?

20 4. In his Application, Chen provided an explanation and provided records for his chapter  
21 7 bankruptcy in the matter of *In re: Jerry Chen a.k.a. Jerry Gang Chen (In re Chen)*, Case No. 2:09-  
22 bk-12037-BR, United States Bankruptcy Court, Central District of California, Los Angeles Division.

23 5. In his Application, Chen disclosed and provided records that his company,  
24 Presidential Capital Investment Inc., filed for chapter 7 bankruptcy in the matter of *In re:*  
25 *Presidential Capital Investment*, Case No. 2:09-bk-12051-SB, United States Bankruptcy Court,  
26 Central District of California, Los Angeles Division.

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1           6.       The Commissioner’s investigation showed Chen did not disclose that he filed for  
2 chapter 13 bankruptcy on March 25, 2013 in the matter of *In re: Jerry Gang Chen*, Case No. 2:13-  
3 bk-17653-SK, United States Bankruptcy Court, Central District of California, Los Angeles Division.

4           7.       The Commissioner’s review also showed that Chen did not disclose his chapter 7  
5 bankruptcy filed on July 14, 2017 in the matter of *In re: Jerry Gang Chen*, Case No. 2:17-bk-18547-  
6 BR, United States Bankruptcy Court, Central District of California, Los Angeles Division.

7           8.       In his Application, Chen answered “No” to Question D: “Do you have any unsatisfied  
8 judgments/liens?”

9           9.       In the same Application, Chen contradicts his “No” answer to Question D stating:

10                   I still have a state tax lien against me. California FTB has accepted  
11                   my amended tax filing and is currently under review. Once they  
12                   complete the review, the tax liability should be eliminated. Worse  
13                   case, I will settle with California FTB. I also have some unsatisfied  
14                   monetary judgments with some individuals. I am currently working  
15                   with them for possible settlements.

16           10.      Chen provided copies of his 2010 and 2011 Internal Revenue Service tax return  
17 transcripts, but these documents do not explain Chen’s outstanding tax liability or support his claim  
18 that his state tax lien is under review with the California Franchise Tax Board.

19           11.      The Commissioner’s investigation of Chen showed that he failed to disclose his  
20 outstanding tax liens with the State of California Franchise Tax Board:

- 21                   • 2007 – total lien amount of \$19,768.00 and
- 22                   • 2004 – total lien amount of \$19,359.62.

23           12.      Chen also did not provide any documentation or further details regarding his  
24 “unsatisfied monetary judgments with some individuals.”

25           13.      The Commissioner found Chen did not disclose an abstract of judgment in the  
26 amount of \$5,287.07 filed on December 21, 2009 in the matter of *Leasecomm Corporation v. Jerry*  
27 *Chen dba Universal Telecommunication et al. (Leasecomm Corp. v. Chen, et al.)*, Case No.  
28 08C02970, Superior Court of California, County of Los Angeles.

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1           14.     Chen also did not disclose an outstanding judgment in the amount of \$84,953.35 filed  
2 on November 6, 2013 in the matter of *Siu Yong Ko a.k.a. Jenny Ko v. Zwei-Ying Lin; Jerry Gang*  
3 *Chen; Presidential Capital Investment, Inc. (Ko v. Chen, et al.)*, Case No. GC050029, Superior  
4 Court of California, County of Los Angeles.

5           15.     In his Application, Chen answered “Yes” to Question K(5), which ask, in pertinent  
6 part:

7                   (K) Has any State or federal regulatory agency or foreign financial  
8 regulatory authority or self-regulatory organization (SRO) ever:

9                   ...

                  (5) revoked your registration or license?

10           16.     Chen attached a copy of his executed Stipulation and Agreement filed on May 10,  
11 2011 with the Department of Real Estate (DRE) to explain the revocation of his real estate broker  
12 license.

13           17.     Chen provided the following disclosure explanation for the revocation of his broker  
14 license:     ...

15                   When the California Department of Real Estate came to audit my file  
16 at the end of 2009, I was not able to provide full records for them to  
17 review. When I operated my mortgage business, I also operated in-  
18 house escrow. When DRE could not see my complete record for  
19 escrow transaction, the decided to down grade my broker license to  
20 restricted agent license for two years. I should be able to reapply for  
broker license in June 2012. But I was always in the mortgage  
business and never interested in buying or selling house. So I never  
applied the removal of the revocation or activated my agent license....

21  
22           18.     Chen signed his August 20, 2019 Application under penalty of perjury, attesting that  
23 “the information and statements contained herein, including exhibits attached hereto, and other  
24 information filed herewith, all of which are made a part of this application are current, true, accurate  
25 and complete[.]” The attestation contains the following admonition to which Chen agreed: “If an  
26 Applicant has made a false statement of material fact in this application or in any documentation  
27 provided to support the foregoing application, then the foregoing application may be denied.”

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1           19.     Chen filed two additional amended applications through NMLS on September 13,  
2 2019 and October 8, 2019. Chen removed from his First Amended and Second Amended  
3 Applications any disclosures concerning his outstanding tax liens and judgments and signed both  
4 applications under penalty of perjury.

5           20.     The Commissioner reviewed Chen’s record from DRE. On April 19, 2010, DRE filed  
6 an accusation against Chen – *In the Matter of the Accusation of Presidential Capital Investment Inc.;*  
7 *and Jerry Gang Chen, individually and as designated office of Presidential Capital Investment Inc.*  
8 (*DRE v. Chen and Presidential Capital Investment*), Case No. H-36596 LA.

9           21.     On October 25, 2010, Chen signed a Stipulation and Agreement that determined that  
10 Chen and his company, Presidential Capital Investment Inc. (Presidential Capital Investment),  
11 violated the following Business and Professions Code sections:

- 12                 • 10145 – failed to maintain trust funds in a neutral escrow depository or bank;
- 13                 • 10146 – after collecting advance fees, Chen did not place client funds in trust  
14 accounts maintained by a bank;
- 15                 • 10176(a) – making substantial representations in the capacity of a real estate  
16 licensee;
- 17                 • 10176(e) – commingling client funds or property with personal funds or property;
- 18                 • 10176(g) – taking a secret or undisclosed amount of compensation, commission,  
19 or profit; and
- 20                 • 10159.2 – Chen as the responsible officer in charge, failed to supervise and  
21 control the activities of his company to ensure compliance with the Business and  
22 Professions Code.

23           22.     The Stipulation and Agreement also determined that Chen and Presidential Capital  
24 Investment violated the following sections of Title 10, Chapter 6 of the California Code of  
25 Regulations (CCR):

- 26                 • 2731 – use of a false or fictitious name without a real estate license;
- 27                 • 2831 – failed to maintain trust fund records;
- 28                 • 2831.1 – failed to maintain separate records and accounting of each beneficiary or

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transaction;

- 2832.1 – failed to retrieve written consent of every principal who is an owner of the trust fund that is managed by licensee;
- 2832(d) – failed to place checks in the custody of a neutral escrow depository, bank, or principal;
- 2832(e) – failed to timely place checks in the custody of a neutral escrow depository, bank or principal no later than the next day following receipt of the funds by broker;
- 2840 – failed to use approved borrower disclosure statements;
- 2848 – failed to adhere to advertising criteria;
- 2950(d) – failed to maintain books and records in accordance with accepted principles of accounting and good business practices;
- 2950(f) – failed to deposit money received as an escrow agent or part of the escrow transaction in a bank, trust account, or escrow account on or before the close of the next full day after receipt thereof;
- 2950(g) – withdrawing or disbursing money from a trust account or trust account without written instructions;
- 2950(i) – upon the close of escrow, licensee failed to provide each principal in the transaction, a written statement of all receipts and disbursement made; and
- 2951 – failed to maintain record keeping and funds handling in compliance with the sections of the CCR.

23. On April 20, 2011, the Commissioner of DRE issued an Order that revoked the real estate license of Presidential Capital Investment and the broker license of Chen. The Order granted Chen the right to apply for a restricted real estate salesperson license, but Chen did not apply for a restricted license.

24. The Order, Stipulation, and Agreement against Chen and Presidential Capital Investment became effective on June 9, 2011.

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1 25. On March 8, 2016, Chen filed a Petition for Restatement with DRE to have his broker  
2 license reinstated.

3 26. DRE issued an Order Denying Chen’s Petition for Restatement of Restricted License  
4 (Order) on August 13, 2016. The Commissioner of DRE found that Chen failed to meet his burden  
5 of proving rehabilitation, honesty and integrity for licensure as a real estate broker. The Order  
6 became effective on September 5, 2016.

7 27. The Commissioner of DRE denied issuing a broker license to Chen for the following  
8 reasons: (1) Chen continued to deny responsibility for his actions that resulted in license discipline;  
9 (2) his outstanding judgments and liens; and (3) his failure to cure the \$24,457.39 trust fund shortage  
10 in his escrow account as ordered in his Stipulation and Agreement.

11 **III.**  
12 **Applicable Law**

13 28. Paragraphs 1-27 are hereby realleged and incorporated herein by reference as if set  
14 forth in their entirety.

15 29. Section 22109.1 of the CFL and section 50141 of the CRMLA provide in relevant  
16 part:

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

20 . . .

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

26 (Fin. Code, §§ 22109.1 and 50141)

27 30. CCR, title 10, section 1422.6.2, provides in relevant part:

28 (a) The Commissioner’s finding required by Section 22109.1(c) of the  
California Financing Law relates to any matter, personal or  
professional, that may impact upon an applicant’s propensity to  
operate honestly, fairly, and efficiently when engaging in the role of a  
mortgage loan originator.

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(c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:  
(1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or  
(2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

(CCR, tit. 10, § 1422.6.2, subdivisions (a) and (c))

31. Financial Code section 22170, provides in relevant part:

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner or the Nationwide Mortgage Licensing System and Registry 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.

(Fin. Code, § 22170, subdivision (b))

32. Financial Code section 50513, provides in relevant part:

(a) The commissioner may do one or more of the following:  
...  
(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 50141 or 50144, or withholds information or makes a material misstatement in an application for a license or license renewal.

(Fin. Code, § 50513, subdivision (a)(2))

**IV.**  
**False Statements**

33. Paragraphs 1-32 are hereby realleged and incorporated herein by reference as if set forth in their entirety.

34. Chen made false statements to the Commissioner and withheld information in his August 20, 2019 Application and subsequent amended applications by not disclosing that he filed for chapter 13 bankruptcy in 2013 and chapter 7 bankruptcy in 2017.



1 35. Throughout the MLO application process, Chen answered “No” to Question D: “Do  
2 you have any unsatisfied judgment/liens?” However, Chen’s outstanding judgments and liens listed  
3 above in paragraphs 11-14 contradict his response to Question D.

4 36. Chen knowingly made false statements to the Commissioner by stating that he “never  
5 applied the removal or the revocation or activated my agent license” with DRE. In fact, DRE issued  
6 an Order on August 13, 2016 that denied Chen’s Petition for Restatement of Restricted License.

7 37. Chen withheld information and knowingly made untrue statements to the  
8 Commissioner during the course of licensing with the intent to impede, obstruct, or influence the  
9 administration or enforcement of law governing mortgage loan originators, in violation of Financial  
10 Code sections 22170, subdivision (b) and 50513, subdivision (a)(2).

11 **V.**  
12 **Failure to Demonstrate Requisite Financial Responsibility, Character, and General Fitness**

13 38. Paragraphs 1- 37 are hereby realleged and incorporated herein by reference as if set  
14 forth in their entirety.

15 39. Chen signed a Stipulation and Agreement in the matter of *DRE v. Chen and*  
16 *Presidential Capital Investment*, Case No. H-36596 which found that he violated multiple sections  
17 of the Business and Professions Code and the California Code of Regulations.

18 40. Chen’s conduct that led to the revocation of his broker license include the following:  
19 making substantial representations on advertisements; failing to cure multiple trust shortages;  
20 commingling trust funds and personal funds; failing to maintain trust books and records; disbursing  
21 funds from escrow accounts without prior written consent; negligence; breach of fiduciary duty;  
22 collecting advance fees and secret profits; and failure to supervise.

23 41. Based upon Chen’s failure to disclose his outstanding judgments and liens, multiple  
24 bankruptcies, and the revocation of his real estate broker license, Chen does not meet the requisite  
25 financial responsibility, character and general fitness under Financial Code sections 50141 and  
26 22109.1, subdivision (a)(3), and CCR, title 10, section 1422.6.2, subdivisions (a) and (c).

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**VI.**  
**Conclusion**

The Commissioner finds that Chen has made untrue statements during the course of licensure with the intent to impede, obstruct, or influence the administration or enforcement of the law governing mortgage loan originators, in violation of Financial Code section 22170, subdivision (b); and he also withheld information in his MLO Application in violation of Financial Code section 50513, subdivision (a)(2).

Chen also fails to demonstrate the requisite financial responsibility, character and general fitness required under Financial Code sections 50141; 22109.1, subdivision (a)(3); and CCR, title 10, section 1422.6.2 based upon his 2011 revocation of his real estate broker license, the 2016 order denying his petition for reinstatement with DRE, multiple bankruptcies, and outstanding judgments and liens. The findings set forth above constitute grounds to deny the issuance of a MLO license to Jerry Gang Chen.

WHEREFORE IT IS PRAYED, by reason by the foregoing, under Financial Code sections 22109.1, subdivision (a)(3); 50141; 50513; 22170, subdivision (b); and CCR, title 10, section 1422.6.2, subdivisions (a) and (c); that the mortgage loan originator application filed by Jerry Gang Chen be denied.

Dated: January 10, 2020  
San Diego, California

MANUEL P. ALVAREZ  
Commissioner of Business Oversight

By \_\_\_\_\_  
Vanessa T. Lu  
Counsel  
Enforcement Division