

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN ROONEY  
Assistant Chief Counsel  
3 BLAINE A. NOBLETT (State Bar No. 235612)  
4 Senior Counsel  
5 Department of Financial Protection & Innovation  
6 320 W. 4th Street, Suite 750  
7 Los Angeles, California 90013-2344  
8 Telephone: (213) 503-3747  
9 Facsimile: (213) 576-7181  
10 Email: blaine.noblett@dfpi.ca.gov  
11 Attorneys for Complainant

12 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
13 OF THE STATE OF CALIFORNIA

14 In the Matter of: ) NMLS LICENSE NO.: 332714  
15 )  
16 THE COMMISSIONER OF FINANCIAL ) ACCUSATION  
17 PROTECTION AND INNOVATION, )  
18 )  
19 Complainant, )  
20 )  
21 v. )  
22 )  
23 MICHELLE F. BASTA, aka SHELLY )  
24 BASTA )  
25 )  
26 Respondent. )  
27 )  
28 )

29 Manuel P. Alvarez, the Commissioner of Financial Protection and Innovation  
30 (Commissioner), is informed and believes, and based on such information and belief, alleges and  
31 charges Respondent Michelle F. Basta, aka Shelly Basta (Basta) as follows.

32 **I.**

33 **Jurisdiction**

34 1. The Commissioner has jurisdiction over the licensing and regulation of persons  
35 engaged in the business of making, servicing, or brokering residential mortgage loans, including  
36 mortgage loan originators (hereinafter, MLO or MLOs), under the California Financing Law (CFL)

1 (Fin. Code, § 22000 et seq.) and the California Residential Mortgage Lending Act (CRMLA) (Fin.  
2 Code, § 50000 et seq.). The Commissioner is authorized to administer the CFL, CRMLA, and the  
3 rules and regulations promulgated in title 10 of the California Code of Regulations (CCR).

4 2. Respondent Basta first received her MLO license from the Commissioner on  
5 December 12, 2018.

6 3. Since February 22, 2021, Basta has been employed and sponsored by Mutual of  
7 Omaha Mortgage, Inc., a CFL and CRMLA-licensed lender.

8 4. Basta was at one time employed and sponsored by Ocean Lending Home Loans, Inc.  
9 (Ocean Lending), a CFL and CRMLA-licensed lender. Ocean Lending terminated Basta's  
10 employment on July 10, 2020.

11 5. Under the provisions of Financial Code sections 22109.1, 22172, and 22755 of the  
12 CFL, the Commissioner brings this action to revoke Basta's MLO license because Basta submitted a  
13 falsified borrower loan qualification document to Ocean Lending's underwriter while Basta was  
14 employed by Ocean Lending as an MLO. In submitting a falsified borrower loan qualification  
15 document to the lender in order to qualify the borrower for a residential mortgage loan, Basta has not  
16 demonstrated such financial responsibility, character, and general fitness as to command the  
17 confidence of the community and to warrant a determination that she will operate honestly, fairly,  
18 and efficiently as an MLO, such that Basta's MLO license should be revoked.

## 19 II.

### 20 Statement of Facts

#### 21 *Ocean Lending Investigation – Loan File Ending in 4042*

22 6. On November 4, 2020, Nationstar Mortgage, dba Mr. Cooper (Nationstar) informed  
23 Ocean Lending, on behalf of the lender that had acquired Ocean Lending loan number 4042, that the  
24 asset documentation associated with the loan could not be verified.

25 7. Specifically, the loan file contained a TIAA-CREF Quarterly Retirement Savings  
26 Portfolio Statement purportedly relating to a retirement account held with TIAA-CREF in the  
27 borrower's spouse's name. But TIAA-CREF did not have a record of the account in the name of the  
28 individual whose name appeared on the statement. Further, Nationstar's correspondence disclosed

1 that the borrowers, husband and wife (hereinafter, collectively referred to as Borrower A), had  
2 confirmed that the TIAA-CREF account did not belong to them and that they did not know from  
3 whom the account statement had been obtained.

4 8. Ocean Lending conducted its own internal review concerning Nationstar's November  
5 4 correspondence in order to determine the origin of the unverified TIAA-CREF account statement.

6 9. Ocean Lending's internal review disclosed that Basta had originated loan number  
7 4042. Borrower A's loan closed on or about June 30, 2020. Borrower A's loan was originated under  
8 Ocean Lending's finance lender's license pursuant to the CFL.

9 10. Borrower A's name and address appear on the first page of the TIAA-CREF account  
10 statement. But the account summary is addressed to "Joan." Neither Borrower A is named Joan.

11 11. Ocean Lending's staff reviewed all of the loans originated by Basta in which the  
12 borrower had a first name of "Joan." A loan file was found for Borrower B, whose first name is Joan.  
13 Borrower B's file contained TIAA-CREF statements and one of those statements appeared to match  
14 the account statement found in Borrower A's loan file.

15 12. Ocean Lending's internal reviewer concluded that Basta had altered Borrower B's  
16 TIAA-CREF statement and submitted it with Borrower A's loan application in order to qualify  
17 Borrower A for a residential mortgage loan.

18 13. On or about December 3, 2020, Ocean Lending filed a complaint with the  
19 Commissioner concerning Basta and loan file 4042. Ocean Lending's complaint alleged that Basta  
20 had obtained a retirement account statement from another borrower's loan file, altered the document,  
21 and used the altered retirement account statement to qualify the borrower for a residential mortgage  
22 loan.

23 14. The Commissioner undertook his own investigation upon receiving Ocean Lending's  
24 complaint.

25 *The Commissioner's Investigation and Basta's Violation of the CFL*

26 15. Ocean Lending provided the Commissioner with Borrower A's loan file number 4042.  
27 Loan file 4042 contained an 18-page TIAA-CREF Quarterly Retirement Savings Portfolio Statement  
28 for the period January 1, 2020 to March 31, 2020. The account statement has Borrower A's name and

1 address in the upper left-hand corner of the document. Within the body of the statement at page one,  
2 the account summary is addressed to “Joan.” As stated above, neither Borrower A is named Joan.

3 16. Borrower A’s loan file was originated by Basta pursuant to Ocean Lending’s CFL  
4 license.

5 17. The Commissioner also obtained Borrower B’s loan file, Ocean Lending file number  
6 ending in 3573. Borrower B’s loan file also contained an 18-page TIAA-CREF Quarterly Retirement  
7 Savings Portfolio Statement for the period January 1, 2020 to March 31, 2020. The statement has  
8 Borrower B’s name and address information in the upper left-hand corner of the document. Within  
9 the body of the statement at page one, the account summary is addressed to “Joan.” As stated above,  
10 Borrower B’s first name is Joan.

11 18. Basta took Borrower B’s loan application. After submitting her loan application,  
12 Borrower B withdrew the application and the loan did not close.

13 19. A comparison between the TIAA-CREF statements found in Borrower A’s and  
14 Borrower B’s loan files discloses only one difference: the name and address information in the upper  
15 left-hand corner of the statements. The statement found in Borrower A’s loan file has Borrower A’s  
16 name and address information in the upper left-hand corner of the first page of the statement. The  
17 TIAA-CREF statement found in Borrower B’s loan file has Borrower B’s name and address  
18 information in the upper left-hand corner of the first page of the statement. Aside from the different  
19 names and addresses, the information and the account balances contained in the statements appear  
20 identical and both statements are 18 pages in length. In addition, both of the statements found in  
21 Borrower A’s and Borrower B’s loan files are addressed to “Joan.”

22 20. Ocean Lending also provided the Commissioner with a copy of an email Basta sent to  
23 Ocean Lending’s underwriter on May 28, 2020. The email reads in part, “Please use the assets from  
24 the wife and we can remove the bank statements[.]” “The wife” refers to Borrower A.

25 21. A copy of Borrower A’s purported TIAA-CREF statement labeled “TIAA ACCOUNT  
26 WIFE” was attached to the email Basta sent to Ocean Lending’s underwriter on May 28. The account  
27 statement attached to Basta’s email was added to Borrower A’s loan file.

28 22. Borrower A denies having ever seen the account statement contained in loan file 4042.

1 23. The TIAA-CREF statement found in Borrower A’s loan file was used to qualify  
2 Borrower A for a residential mortgage loan.

3 **III.**

4 **Violation of the CFL**

5 24. The Commissioner may revoke an MLO license if a licensee violates any provision of  
6 the CFL, or any rules or regulations adopted thereunder. (Fin. Code, § 22172, subd. (a)(1).)

7 25. As described in paragraphs 15 through 23, above, Basta submitted a falsified TIAA-  
8 CREF account statement to Ocean Lending’s underwriter on May 28 in order to qualify Borrower A  
9 for a residential mortgage loan. In submitting the falsified borrower qualification document to the  
10 lender, Basta violated Financial Code section 22755, subdivision (a) of the CFL, which provides in  
11 pertinent part that “It is a violation of this division for [an MLO] to . . . [d]irectly or indirectly  
12 employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any  
13 person.”

14 26. Thus, Basta violated a provision of the CFL and under Financial Code section 22172,  
15 subdivision (a)(1), Basta’s MLO license must be revoked.

16 **IV.**

17 **Financial Responsibility, Character, and General Fitness**

18 27. The Commissioner may revoke an MLO license if a licensee fails at any time to  
19 demonstrate such financial responsibility, character, and general fitness as to command the  
20 confidence of the community and to warrant a determination that the MLO will operate honestly,  
21 fairly, and efficiently. (Fin. Code, §22172, subd. (a)(2) and Fin. Code, § 22109.1, subd. (a)(3).)

22 28. As described in paragraphs 15 through 23, above, Basta submitted a falsified TIAA-  
23 CREF account statement to Ocean Lending’s underwriter on May 28 in order to qualify Borrower A  
24 for a residential mortgage loan.

25 29. Thus, Basta fails to demonstrate such financial responsibility, character, and general  
26 fitness as to command the confidence of the community and to warrant a determination that she will  
27 operate honestly, fairly, and efficiently as an MLO. Under Financial Code sections 22172,  
28 subdivision (a)(2) and 22109.1, subdivision (a)(3), Basta’s MLO license must be revoked.

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**V.**

**Applicable Statutes**

30. 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:

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

31. Financial Code section 22172 provides in pertinent parts:

(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.

32. Financial Code section 22755 provides in pertinent part:

It is a violation of this division for a mortgage loan originator to do any of the following:

(a) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.

**VI.**

**Prayer**

For the reasons set forth above and under Financial Code section 22172, subdivisions (a)(1) and (a)(2), the Commissioner finds that Basta submitted a falsified borrower loan qualification

1 document, specifically, a TIAA-CREF retirement account statement, to Ocean Lending’s underwriter  
2 on May 28, 2020, in violation of Financial Code section 22755, subdivision (a). Furthermore, Basta  
3 has not demonstrated the financial responsibility, character, and general fitness required under  
4 Financial Code section 22109.1, subdivision (a)(3) of the CFL to continue to hold an MLO license.

5 Accordingly, the Commissioner has grounds to revoke Basta’s MLO license.

6 WHEREFORE IT IS PRAYED that Basta’s MLO license be revoked.

7 Dated: May 7, 2021  
8 Los Angeles, California

MANUEL P. ALVAREZ  
Commissioner of Financial Protection &  
Innovation

10 By: \_\_\_\_\_  
11 Blaine A. Noblett  
12 Senior Counsel  
13 Enforcement Division  
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