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9
10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) NMLS ID: 1937138
13)
14 THE COMMISSIONER OF FINANCIAL) ACCUSATION IN SUPPORT OF ORDER
PROTECTION AND INNOVATION,) REVOKING MORTGAGE LOAN
15) ORIGINATOR LICENSE OF JOSHUA DAVID
Complainant,) BARATTA
16 v.)
17) (California Financial Code Section 50513)
JOSHUA DAVID BARATTA,)
18)
Respondent.)
_____)

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20 The Commissioner of Financial Protection and Innovation (Commissioner or Department)
21 alleges and charges the Respondent, Joshua David Baratta (Baratta), as follows:

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

25 1. The Commissioner licenses and regulates mortgage loan originators, finance lenders,
26 and brokers under the California Financing Law (Fin. Code, § 22000 et seq.) (CFL) ¹, and licenses
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28 ¹ All further references are to the Financial Code unless otherwise stated.

1 and regulates mortgage loan originators, residential mortgage lenders, and residential mortgage
2 servicers under the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.)
3 (CRMLA).

4 2. To become licensed by the Commissioner as a mortgage loan originator (MLO), an
5 individual must submit a uniform application form (known as the MU2 or MU4 form) through the
6 Nationwide Mortgage Licensing System & Registry (NMLS). The NMLS contains a detailed set of
7 instructions for filing license applications, including a checklist of items to be completed by the
8 applicant, who is fully responsible for all the requirements of the license.

9 3. Pursuant to California Code of Regulations, title 10, section 1409.1, MLO licensees are
10 required to promptly report any change in the information contained in the licensee’s MU2 or MU4
11 (other than financial information contained therein) by filing an amendment to their application
12 setting forth the changed information.

13 4. Further, in submitting their application, MLO licensees are required to sign an oath
14 and attestation agreeing “to keep the information contained in this [MU4] form current and to file
15 accurate supplementary information on a timely basis....”

16 5. On February 18, 2020, Baratta applied for a MLO license with the Commissioner
17 (Application) by submitting a Form MU4 through the NLMS. Based on the information provided in
18 his Application and his agreement to keep the information current and to timely supplement the
19 information, Baratta was issued an MLO license on April 29, 2020.

20 6. The Commissioner seeks to revoke Baratta’s license pursuant to sections 50513
21 subdivision (a)(1)(2) and 50141, subdivision (a)(3), on the basis that Baratta violated provisions of the
22 CRMLA by failing to promptly report a change in his Application and withholding information in his
23 Application and as such, cannot demonstrate that he has such financial responsibility, character, and
24 general fitness as to command the confidence of the community or that he will operate honestly,
25 fairly, and efficiently within the purpose of this division.

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I.

Statement of Facts

A. State of Nebraska Denied Baratta’s Application for a MLO License

7. On March 9, 2021, the Commissioner received notification through NMLS that the State of Nebraska, Department of Banking and Finance (Nebraska) had issued an order dated November 25, 2020, denying Baratta’s application for a MLO license with Nebraska (Nebraska Order).

8. The Nebraska Order states that on February 18, 2020, Baratta submitted an application for a MLO license with Nebraska via the NMLS. On April 30, 2020, Nebraska posted license items on Baratta’s NMLS account requesting additional information regarding Baratta’s employment.

9. The Nebraska Order further showed that on May 13, 2020, Nebraska sent a secure electronic message to Joshua.Baratta@mrcooper.com, asking Baratta to update his contact information in the NMLS and provide information regarding “the reason he left employment with Wells Fargo Bank, National Association (“Wells Fargo”) in December 2019.”

10. According to the Nebraska Order, on May 13, 2020, Nebraska received documentary evidence from Wells Fargo Bank (Wells Fargo) in response to a subpoena, which revealed that Baratta reversed three personal account fees on his own account, which was against Wells Fargo’s standards of conduct and constituted possible theft and that Wells Fargo suffered a loss because of Baratta’s actions.

11. On May 13, 2020 and June 17, 2020, Nebraska placed a deficiency license item on NMLS and sent messages via email to Baratta directing him to provide information about his employment with Wells Fargo. Baratta did not respond to Nebraska’s requests as of the date of the Nebraska Order.

12. Nebraska determined that, based on Baratta’s failure to respond to its requests for information, it could not make the finding that Baratta had “demonstrated character and general fitness such 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 the Residential Mortgage Licensing Act.

1 **B. Baratta’s Failure to Disclose the Nebraska Order or Report Change to his Application**

2 13. Pursuant to California Code of Regulations, title10, section 1409.1, Baratta is required
3 to promptly report any change in the information contained in his MU4 (other than financial
4 information contained therein) by filing an amendment to his application setting forth the changed
5 information.

6 14. The MU4 form contains a section entitled “Regulatory Action,” including Question
7 “K” which states:

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

10 (1) found you to have made a false statement or omission or been
11 dishonest, unfair or unethical?

12 (2) found you to have been involved in a violation of a financial
13 services-related business regulation(s) or statute(s)?

14 (3) found you to have been a cause of a financial services-related
15 business having its authorization to do business denied, suspended,
16 revoked or restricted?

17 (4) entered an order against you in connection with a financial
18 services-related activity?

19 (5) ...

20 (6) denied or suspended your registration or license or application
21 for licensure, disciplined you, or otherwise by order, prevented you
22 from associating with a financial services-related business or
23 restricted your activities?

24 (7) ...

25 (8) issued a final order against you based on violations of any law
26 or regulations that prohibit fraudulent, manipulative, or deceptive
27 conduct?

28 (9) entered an order concerning you in connection with any license
or registration?

15. The MU4 form further contains a section entitled “Termination Disclosure,” which
includes Question “Q” that states:

1 Have you ever voluntarily resigned, been discharged, or permitted to
2 resign after allegations were made that accused you of:

3 (1) violating statute(s), regulation(s), rule(s), or industry standards
4 of conduct?

5 (2) fraud, dishonesty, theft, or the wrongful taking of property?

6 16. After the Commissioner discovered the Nebraska Order through NMLS, on March 11,
7 2021, the Commissioner created deficiency license items in NMLS requiring Baratta to disclose the
8 Nebraska Order on his Application by answering “Yes” to the Regulatory Action (K) (1-9) if
9 applicable, provide a detail explanation, and upload any supporting documents. Baratta was required
10 to respond to the deficiency license items within two weeks from the date the deficiency items were
11 created in NMLS.

12 17. On March 12, 2021, Baratta contacted the Commissioner via email stating that he does
13 not have to change his response to any of the Regulatory Action questions as he is not obtaining a
14 license from the state of Nebraska. As of the date of this Accusation, Baratta has not updated his
15 MU4 Form to disclose the Nebraska Order or uploaded records concerning Wells Fargo’s termination
16 of his employment on NMLS.

17 **II.**

18 **Applicable Law**

19 18. Paragraphs 1-17 are hereby realleged and incorporated herein by reference as if set
20 forth in their entirety.

21 19. California Code of Regulations, title 10, section 1409.1, provides in pertinent part:

22 (a) Each licensee on NMLS, including a mortgage loan originator
23 licensee, shall, upon any change in the information contained in its
24 license application (other than financial information contained therein)
promptly file an amendment to such application setting forth the
changed information.

25 (b) A licensee on NMLS shall file changed information contained in its
26 Forms MU1, MU2, and MU3, and any exhibits thereto, through NMLS
27 in accordance with its procedures for transmission to the
28 Commissioner. Any change that cannot be submitted through NMLS
shall be filed directly with the Commissioner.

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20. Section 50513, subdivision (a), provides, in pertinent part:

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 50141 or 50144, or withholds information or makes a material misstatement in an application for a license or license renewal.

21. Section 50141, subdivision (a), provides, in pertinent part:

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.

III.

Grounds to Revoke Baratta’s MLO License

22. Paragraphs 1-21 are hereby realleged and incorporated herein by reference as if set forth in their entirety.

23. Based on the foregoing findings of fact, the Commissioner has determined that there are grounds to revoke Baratta’s MLO license under sections 50141 and 50513, on the basis that Baratta has failed to promptly report a change in his Application, in violation of California Code of Regulations, title 10, section 1049, and has withheld information in his Application in violation of section 50513, subsection (a)(1)(2).

24. Baratta failed to report changes to his Application or upload documents concerning the termination of his employment with Wells Fargo in NMLS despite attesting under oath in his

1 Application that he will keep the information contained in this Application current and that he will
2 file accurate supplementary information on a timely basis.

3 25. Based on Baratta’s failure to disclose the Nebraska Order or provide information
4 concerning the termination of his employment with Wells Fargo, in violation of section 50513
5 subsection (a)(1)(2) and Cal. Code Regs., tit. 10, § 1049, and given the facts upon which the
6 termination of Baratta’s employment with Wells Fargo was based, the Commissioner cannot make a
7 determination under section 50141 subdivision (a)(3) that Baratta has demonstrated such financial
8 responsibility, character, and general fitness as to command the confidence of the community and to
9 warrant a determination that he will operate honestly, fairly, and efficiently within the purposes of
10 CRMLA.

11 **IV.**

12 **Conclusion**

13 26. The Commissioner finds, by reason of the foregoing, that Baratta fails to meet the
14 requirement of Financial Code section 50141 and that he withheld material information in a MLO
15 Application. WHEREFORE, notice is hereby given of the Commissioner’s intention to issue an Order
16 under Financial Code section 50513 to revoke mortgage loan originator license number 1937138
17 issued to Joshua David Baratta.

18 Dated: January 27, 2022

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

20 By _____
21 UCHE L. ENENWALI
22 Senior Counsel
23 Enforcement Division

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