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10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
11 OF THE STATE OF CALIFORNIA
12

13 In the Matter of:) NMLS ID NO. 2358518
14)
15 THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,) CONSENT ORDER
16)
17 Complainant,)
18 v.)
19 MARK ROGERS,)
20 Respondent.)
21)
22)

23
24 The Commissioner of Financial Protection and Innovation (Commissioner) and Mark Rogers
25 (Rogers), enter into this Consent Order with respect to the following facts.

26 **I.**

27 **Recitals**

28 A. The Commissioner has jurisdiction over the licensing and regulation of persons

1 engaged in the business of making, servicing, or brokering residential mortgage loans, including
2 mortgage loan originators (MLO or MLOs), under the California Financing Law (CFL) (Fin. Code, §
3 22000 et seq.) and California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et
4 seq.).

5 B. To become licensed by the Commissioner as an MLO, an individual must submit a
6 uniform application form (Form MU4) through the Nationwide Mortgage Licensing System &
7 Registry (NMLS) to the Department of Financial Protection and Innovation (Department). The
8 NMLS contains a detailed set of instructions for filing license applications, including answering the
9 Disclosure Questions, and a checklist of items to be completed and uploaded by the applicant, who is
10 fully responsible for meeting all the requirements of the license.

11 C. The Disclosure Questions in the Form MU4 must be answered truthfully and correctly.
12 Further clarification in the Disclosure Explanations section is required for any “Yes” responses and
13 certain “No” responses.

14 D. On July 5, 2022, Rogers applied for an MLO license by submitting a Form MU4 to the
15 Department of Financial Protection and Innovation (Department).

16 E. Rogers answered “Yes” to Regulatory Action disclosure question (K)(4), which states
17 “Has any State or federal regulatory agency or foreign financial regulatory authority or self-
18 regulatory organization (SRO) ever entered an order against you in connection with a financial
19 services-related activity?”

20 F. Rogers further explained that on June 15, 2012, the U.S. Securities and Exchange
21 Commission (SEC) issued an order pursuant to Sections 15(b) and 21C of the Securities and
22 Exchange Act of 1934 (the Exchange Act), and without admitting or denying the findings, he agreed
23 to cease and desist from violating the Exchange Act.

24 G. However, Rogers did not upload the cease-and-desist order, and answered “No” to
25 Regulatory Action disclosure questions (K)(2), K(8), K(9) and M, which, in summary, inquire about
26 whether the order against Rogers and any organization that he exercised control over violated any
27 laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct, and whether the
28 order concerned any license or registration.

1 H. A review of the SEC order shows that, in 2012, the SEC issued an administrative order
2 against Rogers, Alchemy Ventures, Inc. (Alchemy), and other respondents, for willfully violating
3 Section 15(a) of the Exchange Act, which prohibits certain persons and entities, while acting as
4 brokers, from effecting transactions in securities when such person or entity is not registered with the
5 SEC as a broker. Rogers was the President of Alchemy.

6 I. On June 15, 2012, without admitting or denying the findings, Rogers agreed to cease
7 and desist from committing or causing any violations and any future violations of Section 15(a) of the
8 Exchange Act. Rogers was ordered to pay a penalty, which was paid on June 20, 2012.

9 J. On August 25, 2022, Rogers amended his MU4 and changed his answers to questions
10 (K)(2), K(8), K(9) and M to “Yes,” after the Department instructed him to do so.

11 K. The CFL and CRMLA provide that the Commissioner may deny or condition a
12 mortgage loan originator license if an applicant fails at any time to meet the requirements for
13 licensure. (Fin. Code, §§ 22109.1, subd. (a)(3), 22172, subd. (a)(2), 50141, subd. (a)(3), and 50513,
14 subd. (a)(2).)

15 L. Based on the above, the Commissioner has grounds to deny or condition Rogers’
16 MLO license application under the provisions of the CFL and CRMLA, specifically, Financial Code
17 sections 22109.1, subdivision (a)(3), and 50141, subdivision (a)(3), for creating doubt as to Rogers’
18 financial responsibility, character, and general fitness as to command the confidence of the
19 community and to warrant a determination that Rogers will operate honestly, fairly, and efficiently
20 within the purposes of the CFL or CRMLA.

21 M. The Commissioner finds that entering into this Consent Order is in the public interest
22 and consistent with the purposes fairly intended by the policy and provisions of the CFL and
23 CRMLA.

24 NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth
25 herein, the parties agree as follows.

26 **II.**

27 **Terms and Conditions**

28 1. **Purpose.** The Consent Order resolves the issues before the Commissioner described

1 above in the Recitals in a manner that avoids the expense of a hearing and other possible court
2 proceedings, protects consumers, is in the public interest, and is consistent with the purposes and
3 provisions of the CFL and CRMLA.

4 2. Probationary Period. Mark Rogers agrees that for the 12-month period from the
5 effective date of the Consent Order, as defined in paragraph 24 (Effective Date), should the
6 Commissioner make a finding that Rogers has violated or is violating any provision of the CFL or
7 CRMLA, or any rule, regulation, or law under the jurisdiction of the Commissioner, the state of
8 California, the United States of America, and every state and foreign government (and political
9 subdivision thereof), the Commissioner may, in her discretion, automatically revoke any license held
10 by or deny any pending application(s) of Rogers. Mark Rogers hereby waives any notice and hearing
11 rights to contest such revocation or denial(s) which may be afforded to Rogers under the CFL,
12 CRMLA, Administrative Procedures Act, Code of Civil Procedure, or any other provision of law in
13 connection with this matter. Rogers further expressly waives any requirement for the filing of a
14 statement of issues under Government Code section 11415.60, subdivision (b), in connection with the
15 Commissioner's revocation of Rogers's license under this paragraph.

16 3. Reporting Requirement. During the 12-month period from the Effective Date of this
17 Consent Order, Mark Rogers shall report to the Commissioner within 30 days any disciplinary
18 investigations or actions against Rogers by any licensing agencies, any criminal investigations,
19 prosecutions, or convictions against Rogers, or any civil judgments against Rogers. Traffic citations
20 shall be excluded.

21 4. Approval of MLO Application. The Commissioner hereby acknowledges that
22 Rogers's MLO application will be conditionally approved, and the Commissioner hereby agrees to
23 maintain its approval concurrently with the execution of the Consent Order.

24 5. Waiver of Hearing Rights. Rogers acknowledges that the Commissioner is ready,
25 willing, and able to proceed with the filing of an administrative enforcement action on the findings
26 described in the Recitals above. Rogers hereby waives the right to any hearings, and to any
27 reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the
28 CRMLA, the Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other

1 provision of law. By waiving such rights, Rogers effectively consents to the Consent Order becoming
2 final.

3 6. Full and Final Settlement. The parties hereby acknowledge and agree that this Consent
4 Order is intended to constitute a full, final, and complete resolution of the violations described herein,
5 and that no further proceedings or actions will be brought by the Commissioner in connection with
6 these matters, excepting therefrom any proceeding to enforce compliance with the terms of this
7 Consent Order.

8 7. Failure to Comply with Reporting Requirement. Rogers acknowledges and agrees that
9 Rogers's failure to satisfy the reporting requirement under paragraph 3, above, shall be deemed a
10 breach and cause for the Commissioner to immediately revoke any license held by or deny any
11 pending application(s) of Rogers. Rogers hereby waives any notice and hearing rights to contest such
12 revocation or denial(s) which may be afforded to Rogers under the CFL, CRMLA, APA, CCP, or any
13 other provision of law in connection with this matter. Rogers further expressly waives any
14 requirement for the filing of an accusation under Government Code section 11415.60, subdivision
15 (b), in connection with the Commissioner's revocation of Rogers's license under this paragraph.

16 8. Failure to Comply with Consent Order. Rogers agrees that if he fails to comply with
17 the terms of this Consent Order, the Commissioner may, in addition to all other available remedies
18 she may invoke under the CFL and CRMLA, summarily suspend or revoke Rogers' MLO license
19 until Rogers is in compliance. Rogers waives any notice and hearing rights to contest such summary
20 suspensions which may be afforded under the CFL, CRMLA, APA, CCP, or any other provision of
21 law in connection therewith.

22 9. Information Willfully Withheld or Misrepresented. The Consent Order may be
23 revoked, and the Commissioner may pursue any and all remedies under the CFL, CRMLA or any
24 other provision of law against Rogers if the Commissioner discovers Rogers knowingly or willfully
25 withheld information or misrepresented information used for and relied upon in this Consent Order.

26 10. Future Actions by Commissioner. If Rogers fails to comply with any terms of this
27 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
28 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions

1 against Rogers for any and all unknown violations of the CFL or CRMLA.

2 11. Assisting Other Agencies. Nothing in the Consent Order shall limit the
3 Commissioner’s ability to assist any other agency (city, county, state, federal, or self-regulatory
4 organization) with any prosecution, administrative, civil, or criminal, brought by any such agency
5 against Rogers or any other person based upon any of the activities alleged in this matter or
6 otherwise.

7 12. Headings. The headings to the paragraphs of this Consent Order are inserted for
8 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
9 the provisions hereof.

10 13. Binding. The Consent Order is binding on all heirs, assigns, or successors in interest.

11 14. Reliance. Each of the parties represents, warrants, and agrees that in executing this
12 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel.
13 Each of the parties further represents, warrants, and agrees that in executing this Agreement it has
14 placed no reliance on any statement, representation, or promise of any other party, or any other
15 person or entity not expressly set forth herein, or upon the failure of any party or any other person or
16 entity to make any statement, representation, or disclosure of anything whatsoever. The parties have
17 included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to
18 execute this Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret,
19 supplement, or contradict the terms of this Agreement.

20 15. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
21 this Consent Order will be valid or binding unless it is in writing and signed by each of the parties.
22 The waiver of any provision of this Consent Order will not be deemed a waiver of any other
23 provision. No waiver by either party of any breach of, or of compliance with, any condition or
24 provision of this Consent Order by the other party will be considered a waiver of any other condition
25 or provision or of the same condition or provision at another time.

26 16. Full Integration. This Consent Order is the final written expression and the complete
27 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
28 between the parties with respect to the subject matter hereof, and supersedes all prior or

1 contemporaneous agreements, negotiations, representations, understandings, and discussions between
2 and among the parties, their respective representatives, and any other person or entity, with respect to
3 the subject matter covered hereby.

4 17. Governing Law. This Consent Order will be governed by and construed in accordance
5 with California law. Each of the parties hereto consents to the jurisdiction of the Superior Court of
6 California, and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an
7 inconvenient forum to the maintenance of such action or proceeding in such court.

8 18. Counterparts. This Consent Order/ Settlement Agreement may be executed in one or
9 more separate counterparts, each of which when, so executed, shall be deemed an original. Such
10 counterparts shall together constitute a single document.

11 19. Effect Upon Future Proceedings. If Rogers applies for any license, permit or
12 qualification under the Commissioner's current or future jurisdiction, or is the subject of any future
13 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be
14 admitted for the purpose of such application(s) or enforcement proceeding(s).

15 20. Voluntary Agreement. Rogers enters into the Consent Order voluntarily and without
16 coercion and acknowledges that no promises, threats, or assurances have been made by the
17 Commissioner, or any officer or agent thereof, about the Consent Order.

18 21. Notice. Any notice required under the Consent Order shall be provided to each party at
19 the following addresses:

20 Respondent: Mark Rogers
21 330 Hosmer Ct
22 San Carlos, California 94070
23 markrogers@rocketpro.com or
24 rogers@barastone.com

25 Commissioner: Afsaneh Eghbaldari, Senior Counsel
26 Department of Financial Protection and Innovation
27 1455 Frazee Road, Suite 315
28 San Diego, California 92108
affi.eghbaldari@dfpi.ca.gov

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1 22. Signatures. A fax or electronic mail signature shall be deemed the same as an original
2 signature.

3 23. Public Record. Rogers hereby acknowledges that the Consent Order is and will be a
4 matter of public record.

5 24. Effective Date. This Consent Order shall become final and effective when signed by
6 all parties and delivered by the Commissioner’s agent via e-mail to Rogers at the following email
7 address: markrogers@rocketpro.com or rogers@barastone.com.

8 25. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary
9 capacity and authority to sign and enter into the Consent Order and undertake the obligations set forth
10 herein.

11 IN WITNESS WHEREOF, the parties hereto have approved and executed the Consent Order
12 on the dates set forth opposite their respective signatures.

13
14 Dated: July 19, 2023
15 Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



16
17
18 By _____
19 MARY ANN SMITH
20 Deputy Commissioner
21 Enforcement Division

22
23 Dated: July 17, 2023

By _____
MARK ROGERS