PRESTON DuFAUCHARD
California Corporations Commissioner
ALAN S. WEINGER
Deputy Commissioner
MARISA I. URTEAGA-WATKINS (SBN 236398)
Corporations Counsel
Department of Corporations
1515 K Street, Suite 200
Sacramento, California 95814
Telephone: (916) 445-9626
Facsimile: (916) 445-6985

Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Statement of Issues of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. CHRISTOPHER DAMON CASTRO, Respondent.	NMLS No. 314287 Sponsor File No:417-0027 **STATEMENT OF ISSUES IN SUPPORT OF NON-ISSUANCE OF MORTGAGE LOAN ORIGINATOR LICENSE**

The California Corporations Commissioner ("Complainant" or "Commissioner") is informed and believes, and based upon such information and belief, alleges and charges Respondent CHRISTOPHER DAMON CASTRO as follows:

I.

INTRODUCTION

On or about December 27, 2010, Complainant determined not to issue a mortgage loan

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originator license to CHRISTOPHER DAMON CASTRO ("Respondent" or "Castro") pursuant to California Financial Code section 50141 because Respondent has not demonstrated financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, and efficiently within the purposes of the Mortgage Loan Originator Law of California.

II.

THE APPLICATION

In or about June, 2010, Respondent filed an application for a mortgage loan originator license ("License Application") with the Complainant pursuant to the California Residential Mortgage Lending Act ("CRMLA")(Financial Code sections 50000 *et. seq*.), in particular, California Financial Code section 50401. The License Application was for employment at or working on behalf of Neighbor's Financial Corporation at 3031 F Street, Sacramento, California, 95816. The License Application was submitted to the Commissioner by filing Form MU4 through the Nationwide Mortgage Licensing System ("NMLS"). Respondent signed the Form MU4 swearing that the answers were true and complete to the best of Respondent's knowledge. The Department, in considering the License Application for approval, reviewed the License Application and all supporting documentation submitted by Castro accordingly.

A. Regulatory Action

NMLS Form MU4 at Question 8 (I)(1 - 7) specifically asked "Has any State or federal regulatory agency or foreign financial regulatory authority ever: (1) found you to have made a false statement or omission or been dishonest, unfair or ethical; (2) found you to have been involved in a violation of a financial services-related business regulation or statute; (3) found you to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted; (4) entered an order against you in connection with a financial services-related activity; (5) revoked your registration or license; (6) denied or suspended your registration or license, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities; or (7) barred you from association with an entity regulated by such commissions, authority, agency, or officer, or from engaging in a

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financial services-related business?" Respondent answered "yes" to each of these interrogatories.

Respondent disclosed that Respondent was previously licensed by the California Department of Real Estate ("DRE") as a real estate broker, holding real estate broker license number 00888077 ("DRE License"). The DRE revoked the DRE License on or about August, 2009, pursuant to California Business and Professions Code section 10177. The DRE revoked the DRE License subsequent to: (1) an administrative hearing on the merits (administrative case number H-5129 SAC); (2) the making of judicial factual findings based upon evidence presented at that administrative hearing; and (3) a judicial order that was issued in or about June, 2009, adopted in or about August, 2009, based upon the foregoing. Attached hereto as "Exhibit 1" is a true and correct copy of the DRE Proposed Decision which was adopted on August 18, 2009 issued in this matter. The DRE License was revoked because Castro (1) employed an unlicensed person as a real estate salesperson or broker; (2) failed to deliver to a borrower all required loan documents; (3) failed to maintain copies of all required loan documents; (4) failed to maintain any trust accounts; (5) had demonstrated dishonest and unethical behavior; and (6) presented false and misleading information to borrowers.

B. Civil Action

NMLS Form MU4 at Question 8(H)(1) specifically asked: "Are you named in any pending financial service-related civil action that could result in a "yes" answer to any part of H(1)?". Also, NMLS Form MU4 at Question 8(L)(1) specifically asked "Have you ever been named as a respondent/defendant in a financial services-related consumer-initiated arbitration or civil litigation which is still pending?". Respondent answered "yes" to each of the aforementioned interrogatories.

Respondent Castro disclosed that on or about May 21, 2009, Castro was named as a defendant in a civil complaint for negligence, fraud, and breach of Castro's fiduciary duty as a loan broker. Specifically, Castro was named as a defendant doing business as Sierra Valley Mortgage by plaintiff Spero Pappas in Superior Court of California, County of Placer, civil case number CV24990 ("Civil Complaint"). Attached hereto as "Exhibit 2", is a true and correct copy of the Civil Complaint and statement of decision. The Civil Complaint is based upon wrongs committed by Castro while he was engaged in mortgage lending or brokering transactions. On or about June 1,

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2010, Honorable Angus Saint-Evens issued a statement of decision finding against Castro and awarding the plaintiff $50,000.00 with interest. Honorable Angus Saint-Evens specifically found that Castro's acts (1) amounted to significant fraud and intentional misrepresentations; (2) such fraudulent conduct and misrepresentations were intended to induce the plaintiff to invest in transactions; (3) Castro engaged in such conduct with the intent and knowledge that plaintiff would rely on them, thereby defrauding the plaintiff; and (4) that Castro breached his duty of care owed as a broker to the plaintiff.

C. Department Determination Not To Issue License

On or about December 27, 2010, the Department issued notice that it would not issue an approval of the License Application ("Notice") pursuant to California Financial Code section 50141. The Department based this decision upon various facts, issues and reasons, including, but not limited to, the DRE License revocation and Civil Complaint previously referenced herein. Castro received the Notice by confirmed certified mail number 70091410000216413328, on or about December 31, 2010. Pursuant to California Government Code section 11500 *et. seq.*, Castro may request an administrative hearing in writing to challenge the decision of the Department. Castro requested an administrative hearing in writing on or about January 6, 2010. Therefore, this Statement of Issues and a Notice of Hearing shall be served upon Castro, and this matter will be set for an administrative hearing, accordingly.

III.

FAILURE TO DEMONSTRATE FINANCIAL RESPONSIBILITY, CHARACTER AND GENERAL FITNESS

Pursuant to California Financial Code section 50141, the Commissioner shall not issue a California mortgage loan originator license where the applicant has not demonstrated financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, and efficiently within the purposes of the Mortgage Loan Originator Law of California.

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A. Castro's Previous Role as a Licensed Real Estate Broker.

The duties, obligations, licensing, and transactions of a mortgage loan originator are similar to the duties, obligations, licensing, and transactions of a real estate broker. Thus, Castro's previous performance and ability to act (or failure to) as a legally abiding DRE licensed real estate broker is indicative and certainly probative of Castro's ability to act as a mortgage loan originator in a legally abiding manner. The fact that the DRE revoked Castro's DRE License as recently as in June, 2009 is also extremely probative and arguably conclusive in weighing heavily against any Department finding in favor of approving Respondent's License Application and issuing any mortgage loan originator license.

As a real estate broker, Castro engaged in the business of, and acted in the capacity of, a real estate broker for compensation in the State of California. Castro's actions, while in this capacity, did include or may have included (1) the operation of a real estate brokerage; (2) the solicitation of prospective sellers or buyers of real property or real property listings; (3) the negotiation of the purchase, sale or exchange of real property or business opportunities; (4) the operation and conduct of a mortgage loan brokerage business with the public; (5) the solicitation of borrowers and/or lenders for negotiated loans and collected payments; (6) performed services for borrowers, lenders, or note owners in connection with loans secured directly or collaterally by liens on real property or business opportunities; and (7) the negotiation of private and institutional lender loans.

The foregoing duties, transactions and acts are closely nexused to, or are the same or similar to the acts, transactions and duties of a mortgage loan originator licensed by the Department. Obviously, when considering the foregoing, there is also close nexus between a real estate broker's duties, mortgage loan originator duties and financial transactions. Thus, Castro's financial responsibility, character and general fitness are paramount, essential and detrimental in both the real estate broker and mortgage loan originator roles and duties. Therefore, Castro's previous acts while a licensed real estate broker must be examined and considered in any License Application approval.

B. Castro's Financial Responsibility Pursuant to California Financial Code section 50141.

Castro has not demonstrated financial responsibility as to command the confidence of the community and to warrant a determination that he would operate honestly, fairly, and efficiently, as required by California Financial Code section 50141.

Not two (2) years have passed since the DRE revoked Castro's DRE License on the basis of financial irresponsibility. Specifically, the DRE revoked the license because Castro did not keep proper accountings of monies and Castro did not maintain trust accounts, as required by law. The failure to account as required by law does not command the confidence of the community and warrant a determination that Castro would operate honestly, fairly and efficiently, today. Therefore, based on the foregoing and when considering the recent nature of the DRE revocation, a DRE finding that Castro failed to account and maintain trust accounts does not equate to Castro being financially responsible. As such, and pursuant to California Financial Code section 50141, the Department must not issue a mortgage loan originator license.

Moreover, as recently as June 1, 2010, Honorable Angus Saint-Evens of the State of California, County of Placer, Superior Court, ruled that Castro committed fraudulent acts while engaging in financial transactions. *See "Exhibit 2", Civil Complaint and Statement of Decision, attached.* A finding that Castro committed fraudulent acts while engaging in financial transactions does not warrant or equate to a finding of financial responsibility. This finding also does not command the confidence of the community and does not warrant a determination that Castro would currently operate honestly, fairly, and efficiently. Therefore, based on the foregoing and when considering the recent nature of the Statement of Decision, the Department must not issue a mortgage loan originator license pursuant to California Financial Code section 50141.

Finally, there have been no subsequent findings of Castro's financial responsibility to mitigate the DRE or Superior Court findings noted herein by any court, administrative or otherwise. Respondent also has not submitted sufficient or persuasive evidence to establish a showing of current financial responsibility or evidence to negate the previous DRE or Superior

Court findings noted herein. Therefore, the Department must not issue a mortgage loan originator license, pursuant to California Financial Code section 50141.

C. Castro's Character and General Fitness Pursuant to California Financial Code section 50141.

Castro also has not demonstrated character and general fitness as to command the confidence of the community and to warrant a determination that he would operate honestly, fairly, and efficiently, as required by California Financial Code section 50141.

Again, not two (2) years have passed since the DRE revoked Castro's DRE License on the basis of, among other reasons, lack of character and general fitness. Specifically, the DRE also revoked the DRE License because Castro demonstrated dishonest behavior, unethical behavior, and presented false and misleading information to borrowers. Because of this poor behavior, consumer community members suffered financially detrimental consequences. This behavior is indicative of poor character and lack of general fitness. This kind of character and lack of general fitness is a far cry from what is required to approve a License Application and ultimately establish an applicant as having good character and general fitness, pursuant to California Financial Code section 50141.

Clearly, this kind of poor character and lack of general fitness does not command the confidence of the community and does not warrant a determination that Castro would currently operate honestly, fairly, and efficiently. Therefore, based on the foregoing and when considering the recent nature of the DRE revocation and pursuant to California Financial Code section 50141, the Department must not issue a mortgage loan originator license.

Moreover, when considering, once again, the recent June 1, 2010 finding made by Honorable Angus Saint-Evens of the State of California, Superior Court, County of Placer, that Castro's acts (1) amounted to significant fraud and intentional misrepresentations; (2) such fraudulent conduct and misrepresentations were intended to induce the plaintiff to invest in transactions; (3) Castro engaged in such conduct with the intent and knowledge that plaintiff would rely on them, thereby defrauding the plaintiff; and (4) that Castro breached his duty of care owed as a broker to the plaintiff, it is clear that Castro lacks the character and

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general fitness as required by California Financial Code section 50141.

Finally, there have been no subsequent findings of Castro's good character or general fitness to mitigate the DRE or Superior Court findings noted herein by any court, administrative or otherwise. Respondent also has not submitted sufficient or persuasive evidence to establish a showing of current good character and general fitness or evidence to negate the previous DRE or Superior Court findings noted herein. Therefore, the Department must not issue a mortgage loan originator license, pursuant to California Financial Code section 50141.

California Financial Code section 50141, permits the non-issuance of a mortgage loan originator license where the applicant has not demonstrated 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 the Mortgage Loan Originator Law of California. The foregoing establishes that Castro has not demonstrated financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently within the purposes of the Mortgage Loan Originator Law of California. As such, the Department must not issue a mortgage loan originator license, pursuant to section 50141.

III.

LICENSING REQUIREMENTS

California Financial Code section 50141 in effect as of the time of the Commissioner's non-issuance of the license provides in pertinent part:

> The commissioner shall not issue 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.

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IV.

CONCLUSION

Complainant finds that each and every above stated act by Respondent CHRISTOPHER DAMON CASTRO is sufficient grounds to not issue a California mortgage loan originator license to CHRISTOPHER DAMON CASTRO, pursuant to California Financial Code section 50141.

WHEREFORE IT IS PRAYED that the determination of Complainant to not issue a California mortgage loan originator license to CHRISTOPHER DAMON CASTRO in connection with Respondent's June, 2010 California Mortgage Loan Originator License Application be upheld.

Dated: April 11, 2011
Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
Marisa I. Urteaga-Watkins
Corporations Counsel