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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, v. THOMAS ANTHONY ROCHA Respondent.	File No.: 134218 **ACCUSATION IN SUPPORT OF REVOKING MORTGAGE LOAN ORIGINATOR LICENSE NO. 134218 ISSUED TO THOMAS ANTHONY ROCHA PURSUANT TO CALIFORNIA FINANCIAL CODE SECTIONS 22109.1(a), 22172, 22705.1(a), 22714(a)(2), and 22714(a)(3).**

I.

INTRODUCTION

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

This Accusation is submitted pursuant to California Financial Code sections 22109.1(a), 22172, 22705.1(a), 22714(a)(2), 22714(a)(3), and in support of the Commissioner's Notice of Intent to Revoke California Finance Lenders Law of the State of California (California Financial Code §22000 *et seq.*) ("CFL") mortgage loan originator license number 134218 issued to Respondent THOMAS ANTHONY ROCHA ("Respondent").

State of California - Department of Corporations

The Commissioner has continuous authority to exercise powers pursuant to the CFL. *Cal. Fin. Code §22000 et seq*. The Commissioner, also pursuant to the CFL, may make general rules, regulations, specific rulings, demands, and findings for the enforcement of the CFL. *Id.* The functions, powers, and duties of the Commissioner include the power to revoke any license with cause as provided by the CFL. *Cal. Fin. Code §22172, §22714.*

II.
FACTUAL AND PROCEDURAL HISTORY

In or about May 2010, Respondent applied to the Commissioner for a mortgage loan originator license pursuant to the CFL, by filing a "MU4 Form" through the Nationwide Mortgage Licensing System and Registry ("NMLS") licensing unit at the Department of Corporations ("NMLS U4 Form"). On or about June 9, 2010, the Commissioner issued a mortgage loan originator license ("First License") to the Respondent. However, Respondent did not timely renew the First License. Subsequently, the First License expired on or about January 1, 2011.

Respondent then applied to the Commissioner for a second mortgage loan originator license on or about September 15, 2011. The Commissioner granted Respondent a second mortgage loan originator license number 134218 on or about September 26, 2011 ("Second License"). Respondent is sponsored by Residential Finance Corporation of Tampa, Florida ("Sponsor"). Respondent's Sponsor is a licensed financial lender pursuant to the CFL, NMLS identification number 26641, with a principle place of business of 4010 W. Boy Scout Boulevard, Suite 600, Tampa, Florida.

On or about July 7, 2010, the State of Alabama issued Respondent mortgage loan originator license number 51791 ("Alabama License"). Respondent's Alabama License was revoked by the State of Alabama Banking Department on or about January 26, 2012, by way of a duly noticed administrative proceeding and an Order to Revoke License - Case No. MLO2011-004 ("Alabama Order"). Respondent had full notice and knowledge of the Alabama Order, but did not request a hearing to contest the allegations. The Alabama Order became a duly noticed uncontested final order on or about February 27, 2012.

State of California - Department of Corporations

On or about April 17, 2012, the Commissioner issued a certified notice[1] informing Respondent that Respondent was not in compliance with requirements to maintain his Second License based upon the Alabama Order ("Warning Letter"). The Commissioner's Warning Letter notified the Respondent that if Respondent did not surrender the Second License within thirty (30) days of the Warning Letter, the Commissioner would proceed to issue a Notice to Revoke Mortgage Loan Originator License and take steps to revoke the Second License. To date, the Commissioner has not received a notice of surrender from the Respondent despite the Warning Letter.

Therefore, pursuant to California Financial Code sections 22172, 22714(a)(2), and 22714(a)(3) of the CFL, the Commissioner herein now issues a Notice of Intent to Revoke Mortgage Loan Originator License and Accusation to Respondent to revoke the Second License.

III.
ARGUMENT

A. Pursuant To California Financial Code Sections 22109.1(a), 22172(a)(2), and 22714(a)(2), The Commissioner May Revoke The Second License Because Respondent Failed To Meet The Requirements Of The CFL.

The Commissioner may revoke the Second License if Respondent fails at any time to meet the requirements of California Financial Code section 22109.1. *Cal. Fin. Code §22109.1, §22172(a)(2), §22714(a)(2).* California Financial Code section 22109.1 mandates that Respondent shall not have any mortgage loan originator license revoked in any governmental jurisdiction. *Id.*

Here, Respondent fails to meet the requirements of California Financial Code section 22109.1 because another governmental jurisdiction, Alabama, revoked Respondent's Alabama License. The Alabama License was a mortgage loan originator license. The Alabama Order became a duly noticed uncontested final order on or about February 27, 2012.

Therefore, since Respondent has failed to meet the requirements of California Financial Code section 22109.1, the Commissioner may revoke the Second License pursuant to California Financial Code sections 22172(a)(2) and 22714(a)(2).

[1] This notice sent by way of United States Priority Certified Mail Receipt No. 70073020000030412627, delivered to 4207 West Santiago Street, Tampa, FL. 33629 (the address of record for the Respondent with the Commissioner) on April 26, 2012 at 2:58 p.m, signed for by Ms. Christina Holly.

State of California - Department of Corporations

B. The Commissioner May Also Revoke The Second License Because The Alabama Order Is Substantially Related To Activity Regulated Under The CFL, Pursuant To California Financial Code Section 22705.1(a).

The Commissioner may take disciplinary action, and thus revoke the Second License, where another State takes disciplinary action against a licensee based upon actions substantially related to the activity regulated under the CFL. *Cal. Fin. Code §22705.1(a).*

On or about July 7, 2010, the State of Alabama issued the Alabama License to Respondent. The State of California issued the Second License to Respondent in September, 2011. The Alabama License and the Second License are the same types of licenses in that they are both mortgage loan originator licenses regulating the same type of activity. Both Licenses are administered in part by Nationwide Mortgage Licensing System & Registry administrators.

Also, the Alabama License allowed the Respondent to legally transact the same type of business in Alabama as the Second License did and does in California. With the Alabama License, Respondent, in Alabama, may, for compensation or in anticipation of compensation do the following: (1) take a residential mortgage loan application; (2) offer or negotiate the terms of a residential mortgage loan; (3) receive confidential information about prospective borrowers of residential real estate loans; (4) negotiate terms for loans that will be used to purchase or refinance a home; and (5) receive the residential mortgage loan application which includes the borrower's assets, liabilities and credit information as well as credit reports. The Respondent is allowed to legally transact the same in the State of California with the Second License.

Finally, the actions which prompted the Alabama Order were actions or wrongs Respondent committed in the process of transacting mortgage loans, servicing mortgage loan originator clients, and during the administrative process. This instant case involves those same acts or the same process.

Therefore, the actions which serve as the basis of the Alabama Order are substantially related to the activity regulated under the CFL. Thus, pursuant to the CFL, the Commissioner may take disciplinary action, and thus revoke the Second License, based upon the Alabama Order.

State of California - Department of Corporations

C. The Commissioner May Revoke The Second License Because Facts Exist That Would Reasonably Warrant The Commissioner To Refuse To Issue The Second License If Such Facts Existed At The Time Of The Original Application, Pursuant to California Financial Code Section 22714(a)(3).

The Commissioner may revoke the Second License if the Commissioner finds that facts exist that, if existed at the time of the original application for the Second License, such facts would have reasonably warranted the Commissioner to originally refuse to issue the Second License. *Cal. Fin. Code §22714(a)(3).* The Commissioner shall not issue a mortgage loan originator license when an applicant has had a mortgage loan originator license revoked in another governmental jurisdiction, as mandated in California Financial Code section 22109.1. *Id, Cal. Fin. Code §22109.1.*

Here, such facts here clearly exist which would have warranted the refusal of the original application for the Second License if those facts existed at the time of the original application for the Second License, as follows: (1) Another governmental jurisdiction, Alabama, revoked Respondent's Alabama License; (2) The Alabama License was a mortgage loan originator license; (3) The Alabama Order became a duly noticed uncontested final order on or about February 27, 2012; and (4) The Commissioner would not have issued the Second License if, at the time of the original application for the Second License, the Alabama Order existed because the Commissioner is not permitted to do so, pursuant to California Financial Code section 22109.1.

Also, the Commissioner's refusal to issue the Second License would have been reasonable, thus reasonably warranted, because the Commissioner is charged with the duty to enforce the requirements set forth in the CFL. Therefore, if the CFL, by way of California Financial Code section 22109.1, mandates that the Commissioner shall not issue a mortgage loan originator license when an applicant has had a mortgage loan originator license revoked in another governmental jurisdiction, then any administrative act executed by the Commissioner, in furtherance of this mandate, is deemed to be not only necessary, but reasonable. Therefore, the Commissioner may revoke the Second License pursuant to California Financial Code sections 22109.1 and 22714(a)(3).

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IV.
STATUTORY AUTHORITY

California 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:
> (1) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation.

California Financial Code section 22172 provides in pertinent part:

> (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.

California Financial Code section 22705.1 provides in pertinent part:

> (a) For any licensee, a disciplinary action taken by the State of California, another state, an agency of the federal government, or another country for an action substantially related to the activity regulated under this division may be grounds for disciplinary action by the commissioner. A certified copy of the record of the disciplinary action taken against the licensee by the State of California, other state, agency of the federal government, or other country shall be conclusive evidence of the events related therein.

California Financial Code section 22714 provides in pertinent part:

> (a) The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:
> ……
> (2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

(3) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

V.
CONCLUSION

Complainant finds that each and every above stated act by Respondent THOMAS ANTHONY ROCHA are reasonable and sufficient grounds to revoke the California mortgage loan originator license number 134218 issued to THOMAS ANTHONY ROCHA, pursuant to California Financial Code sections 22109.1(a), 22172, 22705.1(a), 22714(a)(2), and 22714(a)(3).

WHEREFORE, IT IS PRAYED that the mortgage loan originator license issued to THOMAS ANTHONY ROCHA be revoked.

DATED: June 14, 2012
Sacramento, CA

JAN LYNN OWEN
California Corporations Commissioner

By_____

Marisa I. Urteaga-Watkins

State of California - Department of Corporations