

1 MARY ANN SMITH
Deputy Commissioner
2 DOUGLAS M. GOODING
Assistant Chief Counsel
3 MIRANDA LEKANDER (State Bar No. 210082)
4 Senior Counsel
5 Department of Business Oversight
1515 K Street, Suite 200
6 Sacramento, California 95814
Telephone: (916) 322-8730
7 Facsimile: (916) 455-6985

8 Attorneys for Complainant

9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) NMLS No.: 962447
13)
14 THE COMMISSIONER)
OF BUSINESS OVERSIGHT,)
15)
Complainant,) STATEMENT OF ISSUES IN SUPPORT
16) OF NON-ISSUANCE OF MORTGAGE
v.) LOAN ORIGINATOR LICENSE
17)
18 TIRSO ARTURO GAXIOLA,)
Respondent.)
19)
20)

21 The Complainant, the Commissioner of Business Oversight (“Commissioner”), is informed
22 and believes and, based upon that information and belief, alleges and charges Tirso Arturo Gaxiola
23 (“Respondent”) as follows:

24 I.

25 INTRODUCTION

26 1. The proposed order seeks to deny the mortgage loan originator license application of the
27 Respondent pursuant to Financial Code section 50141 in that Respondent has been subject to
28 regulatory actions by the California Bureau of Real Estate (“BRE”) (formerly known as the

1 Department of Real Estate). As a result thereof, Respondent does not have the character or general
2 fitness to warrant a determination that he will operate with honesty as required by Financial Code
3 section 50141.

4 II.

5 THE APPLICATION

6 2. On January 28, 2013, the Respondent filed an application for a mortgage loan originator
7 license with the Commissioner pursuant to section 50140 of the California Residential Mortgage
8 Lending Act (“CRMLA”) (Fin. Code, § 50000 et seq.). The Respondent submitted his non-
9 sponsored application to the Commissioner by filing Form MU4 through the Nationwide Mortgage
10 Licensing System & Registry (“NMLS”).

11 3. On the Form MU4, the Respondent answered “Yes” to the following three questions:

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

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

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

18 . . .

19 (5) revoked your registration or license.

20 4. In the “Event Explanation Detail” section of the application, the Respondent disclosed that he
21 had made a false statement in a real estate short sale transaction and, as a result, lost his real estate
22 salesperson license in 2000. However, the Respondent failed to provide any supporting
23 documentation.

24 5. On March 7, 2013, a license item was created in the NMLS, instructing the Respondent to
25 upload documentation supporting his answers to the Form MU4 disclosure questions.

26 6. On March 12, 2013, the Respondent filed an amended Form MU4 with supporting
27 documentation consisting of a one-page letter dated October 15, 1997, which was purportedly issued
28 from a private company to a client represented by the Respondent. The Commissioner deemed this
documentation to be unresponsive, incomplete, and insufficient.

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III.

REAL ESTATE SALESPERSON LICENSE REVOCATION

7. The Commissioner’s independent investigation of the Respondent’s application disclosed that the Respondent’s real estate salesperson license was revoked by the BRE on April 18, 2000 for the following violations of the Business and Professions Code: (1) conducting real estate activities under the employ and/or in expectation from a person other than a broker under whom the Respondent was at the time licensed; (2) making a substantial misrepresentation of truth; and, (3) demonstrating negligence or incompetence in performing acts for which a real estate license is required.

8. The Commissioner’s investigation further disclosed that the Respondent unsuccessfully petitioned the BRE for reinstatement of his license on July 25, 2001, August 9, 2010, and April 26, 2011. On each occasion, the BRE denied the petition on grounds that the Respondent failed to demonstrate that he had undergone sufficient rehabilitation.

IV.

CHARACTER OF THE RESPONDENT

9. Financial Code section 50141, subdivision (a)(3), provides in relevant 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. [Emphasis added.]

10. The Respondent’s conduct leading to the revocation of his real estate salesperson license shows his failure to demonstrate such 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 as a mortgage loan originator.

11. Additionally, on three separate occasions, with the most recent being in 2011, the Respondent failed to demonstrate to the BRE’s satisfaction that he had undergone sufficient rehabilitation to

1 warrant the reinstatement of his real estate salesperson license.

2 12. Moreover, as indicated in section II above, the Respondent was not forthcoming in providing
3 the Commissioner with documentation supporting the affirmative answers he provided to the Form
4 MU4 disclosure questions. Instead, the Commissioner had to conduct an independent investigation
5 of BRE records to verify the violations upon which the revocation of the Respondent's real estate
6 salesperson license were based as well as the subsequent multiple unsuccessful attempts by the
7 Respondent to petition for license reinstatement. This lack of prompt and accurate disclosure by the
8 Respondent demonstrates a lack of honesty that is inconsistent with the CRMLA which mandates that
9 truthful statements be made to customers of residential mortgage loans.

10 V.

11 CONCLUSION

12 13. The Commissioner finds, by reason of the foregoing, that the Respondent does not have the
13 character or general fitness to warrant a determination that he will act honestly under the CRMLA.

14 THEREFORE, Financial Code section 50141 mandates that the Commissioner deny the
15 mortgage loan originator license application of the Respondent under the CRMLA.

16 WHEREFORE IT IS PRAYED that the determination of the Commissioner to deny a
17 mortgage loan originator license to the Respondent, in connection with the Respondent's application
18 dated January 28, 2013 and all subsequent amendments, be upheld.

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20 DATED: April 23, 2015
21 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

22
23 By _____
24 MIRANDA LEKANDER
25 Senior Counsel
26 Enforcement Division
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