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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

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|------------------------------|---|-----------------------------|
| In the Matter of |) | MLO File No. 694065 |
| |) | |
| THE COMMISSIONER OF BUSINESS |) | |
| OVERSIGHT, |) | ORDER DENYING MORTGAGE LOAN |
| |) | ORIGINATOR LICENSE |
| Complainant, |) | |
| v. |) | |
| HOWARD MARK GERBER, |) | |
| |) | |
| Respondent. |) | |

The Commissioner of Business Oversight (“Commissioner”) finds that:

1. On or about June 20, 2014, Howard Mark Gerber (“Gerber”) filed an application for a mortgage loan originator (“MLO”) license with the Commissioner (file number 694065; hereinafter “application”) pursuant to the California Residential Mortgage Lending Act (“CRMLA,” Fin. Code § 50000 et seq.); in particular, Financial Code section 50140. The application was submitted through the National Mortgage Licensing System (“NMLS”) on the Form MU4.

2. At all relevant times since the filing of his application, Gerber has been employed and sponsored by JAC Financial Inc., which is licensed under the CRMLA, license number 4150064.

1 3. On his original license application, Gerber answered “no” to Question (K)(5), “Has
2 any State or federal regulatory agency or foreign financial authority or self-regulatory organization
3 (SRO) ever...revoked your registration or license?” However, a subsequent review of public
4 records available from the California Bureau of Real Estate (“BRE,” formerly the Department of
5 Real Estate or “DRE”) revealed that the BRE had previously taken regulatory action against
6 Gerber that resulted in the revocation of his license and licensing rights.

7 4. The Commissioner instructed Gerber to amend his response to Question (K)(5) and
8 provide an explanation and supporting documentation.

9 5. On August 25, 2014, Gerber provided documentation which revealed that on March
10 4, 1997, the BRE had revoked his license and licensing rights for employing and compensating
11 unlicensed individuals to perform acts that required a real estate broker or salesperson license, for
12 not adequately managing his company’s trust fund activities, for collecting advanced fees without
13 using approved materials, and for failing to provide borrowers with required mortgage loan
14 disclosure statements.

15 6. California Financial Code section 50512(b) provides:

16 It is unlawful for any person to knowingly make an untrue statement to the
17 commissioner during the course of licensing, investigation, or examination, with
18 the intent to impede, obstruct, or influence the administration or enforcement of
19 any provision of this division.

20 7. California Financial Code section 50327(a) provides, in pertinent part:

21 The commissioner may, after notice and a reasonable opportunity to be heard,
22 deny, decline to renew, suspend, or revoke any license if the commissioner finds
23 that...the licensee has violated any provision of this division or any rule or order of
24 the commissioner thereunder.

25 8. California Financial Code section 50141(a) provides, in pertinent part:

26 The commissioner shall deny an application for a mortgage loan originator license
27 unless the commissioner makes at a minimum the following findings:

28 ...

(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.

1 9. On December 4, 2014, the Commissioner issued a Notice of Intention to Issue
2 Order Denying Mortgage Loan Originator License; Statement of Issues; Statement to Respondent;
3 Notice of Defense; and Government Code Sections 11507.5, 11507.6 and 11507.7 to Gerber.
4 Gerber was served with these documents via certified mail on or about February 2, 2015.

5 8. Gerber has not requested a hearing and the time to request a hearing has expired.
6 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the mortgage
7 loan originator license application filed by Howard Mark Gerber on June 20, 2014, is denied. This
8 order is effective as of the date hereof.

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10 Dated: April 29, 2015

JAN LYNN OWEN
Commissioner of Business Oversight

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12 By: _____
13 Mary Ann Smith
14 Deputy Commissioner
15 Enforcement Division
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