

1 MARY ANN SMITH  
Deputy Commissioner  
2 DOUGLAS M. GOODING  
Assistant Chief Counsel  
3 LINDSAY B. HERRICK (State Bar No. 224986)  
Counsel  
4 Department of Business Oversight  
1515 K Street, Suite 200  
5 Sacramento, CA 95814  
Telephone: (916) 445-3682  
6 Facsimile: (916) 445-6985  
7 Attorneys for Complainant

11 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
12 OF THE STATE OF CALIFORNIA

14 In the Matter of: ) NMLS ID 202137  
15 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) STATEMENT OF ISSUES  
16 Complainant, )  
17 v. )  
18 NICHOLAS STEPHEN CARABBA, )  
19 Respondent. )

21 The Commissioner of Business Oversight (“Commissioner” or “Complainant”) is informed  
22 and believes, and based upon such information and belief, alleges and charges the Respondent  
23 Nicholas Stephen Carabba (“Respondent”) as follows:

24 I  
25 INTRODUCTION

26 The proposed order seeks to deny the issuance of a mortgage loan originator license to  
27 Respondent pursuant to Financial Code section 50141 in that Respondent fails to demonstrate the  
28 requisite financial responsibility, character, and general fitness due to a prior bankruptcy and

1 previously having had his real estate broker license revoked for failure to exercise reasonable  
2 supervision and control as a designated officer, including in the supervision of salespersons, in the  
3 solicitation of borrowers and lenders and in negotiating loans on real property.

4 II

5 THE APPLICATION

6 1. On March 9, 2015, Respondent filed an application for a mortgage loan originator license  
7 with Complainant pursuant to the California Residential Mortgage Lending Act (“CRMLA”)  
8 (Fin. Code § 50000 et. seq.), in particular, Financial Code section 50140. The application was  
9 for employment as a mortgage loan originator with or working on behalf of St. Fin Corp located  
10 at 23330 Mill Creek Drive, Suite 250, Laguna Hills, California. The application was submitted  
11 to the Commissioner by filing a Form MU4 through the Nationwide Mortgage Licensing System  
12 (“NMLS”)

13 2. In submitting his application, Respondent answered “yes” to question (A)(1) on the Form  
14 MU4, which specifically asked: “Have you filed a personal bankruptcy petition or been the subject  
15 of an involuntary bankruptcy petition within the past 10 years?”

16 3. Supporting documentation provided by Respondent of his bankruptcy shows that on April  
17 29, 2008, he was granted a chapter 7 discharge under the Bankruptcy Code (11 U.S.C. § 727).

18 4. In addition, Respondent initially falsely answered no and failed to provide a detailed  
19 explanation and supporting documentation to question (K)(5) on the Form MU4 which specifically  
20 asked:

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

23 ...

(5) revoked your registration or license?

24 5. A review of the California Bureau of Real Estate (“BRE” formerly known as the Department  
25 of Real Estate) public license information on its website revealed that on April 3, 2012, the BRE had  
26 revoked a license issued to Respondent. Consequently, Respondent was instructed to amend his  
27 response and provide a detailed explanation and supporting documentation. Thereafter, on May 13,  
28 2015, Respondent amended his response to question (K)(5) from “no” to “yes”, but again did not

1 submit supporting documentation. Respondent was again instructed to contact the BRE or visit its  
2 website to obtain and submit the requested information. On May 14, 2015, Respondent submitted  
3 supporting documentation regarding his license revocation.

4 6. In submitting his application, Respondent signed the Form MU4 swearing that the answers  
5 were true and complete to the best of Respondent’s knowledge.

6 III

7 REAL ESTATE BROKER LICENSE REVOCATION

8 7. Documentation and information obtained by the Commissioner during the application  
9 process revealed that on March 18, 2011 a default order was filed against Serenity Enterprises, Inc.,  
10 doing business as New Harvest Mortgage (“Serenity Enterprises”), and Respondent, individually and  
11 as designated officer thereof, and that a decision was filed on June 10, 2011 revoking the real estate  
12 broker licenses of each, effective June 30, 2011. Thereafter, on June 13, 2011 Respondent and  
13 Serenity Enterprises requested a hearing and on June 30, 2011, the default order and decision were  
14 set aside allowing the Accusation filed on October 21, 2008 to proceed to hearing which was then set  
15 for February 1, 2012. Again, Respondent and Serenity Enterprises failed to appear after being duly  
16 notified and another default was ordered against them on February 22, 2012.

17 8. The BRE’s action against Respondent revealed that Serenity Enterprises and Respondent, as  
18 its designated officer, brokered multiple loans on different properties for borrowers all as their  
19 primary residences, while employing an unlicensed sales agent. The respondents there acted as the  
20 mortgage and real estate broker, including soliciting borrowers and lenders and negotiating loans on  
21 real property for which they received a commission at closing for the loans. The decision found that  
22 Respondent knew these borrowers closed on their loans under the false premise that each property  
23 would be their primary residence. Further, due to the higher risk related to investment properties,  
24 the BRE found that lenders would not have likely approved the loans for the terms granted had the  
25 respondents disclosed that the properties were actually investments.

26 9. As Serenity Enterprise’s designated officer, Respondent was responsible for the supervision  
27 and control of the activities conducted on behalf of the corporation by its officers and employees to  
28 ensure full compliance with the real estate laws, including the supervision of salespersons licensed to

1 the corporation in the performance of acts for which a real estate license is required. By clear and  
2 convincing proof to a reasonable certainty, the BRE determined that Respondent willfully  
3 disregarded the law and made substantial misrepresentations in violating Business and Professions  
4 Code sections 10137 and 10159.2 by employing an unlicensed agent and failing to adequately  
5 supervise and control the activities of Serenity Enterprises. The BRE therefore revoked all licenses  
6 and license rights of Respondent and Serenity Enterprises.

7 IV

8 CHARACTER OF THE RESPONDENT

9 9. Financial Code section 50141 provides in relevant part:

10 (a) The commissioner shall deny an application for a mortgage loan  
11 originator license unless the commissioner makes at a minimum the  
12 following findings:

12 . . .

13 (3) The applicant has demonstrated such financial responsibility,  
14 character, and general fitness as to command the confidence of the  
15 community and to warrant a determination that the mortgage loan  
16 originator will operate honestly, fairly, and efficiently within the  
17 purposes of this division.

15 . . .

16 Respondent’s personal bankruptcy and conduct leading to the revocation of his real estate  
17 license shows Respondent’s failure to demonstrate such financial responsibility, character and  
18 general fitness as to command the confidence of the community and to warrant a determination that  
19 he will operate honestly, fairly, and efficiently as a mortgage loan originator. He failed to exercise  
20 reasonable supervision and control as the designated officer, including in the supervision of  
21 salespersons, in the solicitation of borrowers and lenders and in negotiating loans on real property.  
22 As designated officer, he brokered multiple loans on different properties for borrowers all as their  
23 primary residences, while employing an unlicensed sales agent for which he received commissions  
24 at closing for the loans. Respondent knew these borrowers closed on their loans under the false  
25 premise that each property would be their primary residence. He willfully disregarded the law and  
26 made substantial misrepresentations while employing an unlicensed agent and failing to adequately  
27 supervise and control the activities of Serenity Enterprises, a financial-services related business  
28 responsible for the proper treatment of funds pertaining to mortgage loans.

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CONCLUSION

Complainant finds, by reason of the foregoing, that Respondent’s prior bankruptcy and conduct leading to the revocation of his real estate license fails 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.

THEREFORE, Complainant is mandated under Financial Code section 50141 to deny Respondent’s mortgage loan originator license application under the California Residential Mortgage Lending Act.

WHEREFORE IT IS PRAYED that the mortgage loan originator application filed by Respondent on March 9, 2015 be denied.

Dated: January 15, 2016  
Sacramento, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

By LINDSAY B. HERRICK  
Counsel