

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 ALEX M. CALERO (State Bar No. 238389)
Senior Counsel
4 DANIELLE A. STOUMBOS (State Bar No. 264784)
Counsel
5
6 Department of Business Oversight
1350 Front Street, Room 2034
7 San Diego, California 92101
Telephone: (619) 525-4044
8 Facsimile: (619) 525-4045

9 Attorneys for Complainant

10
11 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
12 OF THE STATE OF CALIFORNIA
13

14 In the Matter of:
15 THE COMMISSIONER OF BUSINESS
16 OVERSIGHT,
17 Complainant,
18 v.
19 JULIO ANGEL GOMEZ, an individual,
20 Respondent.
21

OAH Case No.: 2015120368
NMLS NO.: 1283825
ORDER DENYING MORTGAGE LOAN
ORIGINATOR LICENSE APPLICATION

22 The Commissioner of Business Oversight, formerly the Commissioner of Corporations
23 (“Commissioner”), finds that:

24 **I.**

25 **The Application**

26 1. On or about March 31, 2015, Respondent Julio Angel Gomez, (“Gomez”) filed an
27 application for a mortgage loan originator license with the Commissioner pursuant to the
28 California Finance Lenders Law (Fin. Code, § 22000 et seq.) (“CFL”), in particular, Financial

1 Code section 22109.1, and the California Residential Mortgage Lending Act (Fin. Code, § 50000
2 et seq.) (“CRMLA”), in particular, Financial Code section 50141. The application was submitted
3 to the Commissioner by filing Form MU4 through the Nationwide Mortgage Licensing System
4 (“NMLS”) (“the Application”).

5 2. Form MU4 at Question F specifically asked: “Have you ever been convicted of or
6 pled guilty or nolo contendere (‘no contest’) in a domestic, foreign, or military court to any
7 felony?” Gomez answered “no.” At a later date, Gomez uploaded documents to NMLS showing
8 that Gomez was the subject of two expunged felony convictions – carrying a concealed firearm
9 and carrying a loaded firearm after having been convicted of a felony.

10 3. Form MU4 at Question F also asked: “Are there pending charges against you for
11 any felony?” Gomez answered “yes.” At the time Gomez filed the Application, Gomez was a
12 defendant in a criminal case filed on September 5, 2014, in California Superior Court, for the
13 County of San Diego (case number CD255741). In that case the People of the State of California
14 charged Gomez with seventeen counts of selling unqualified, nonexempt securities (in violation
15 of Corporations Code sections 25110), sixteen counts of making material misrepresentations or
16 omissions in connection with the sale of securities (in violation of Corporations Code section
17 25401), four counts of theft from an elder or dependent adult (in violation of Penal Code section
18 368, subdivision (d)), two counts of first degree burglary (in violation of Penal Code section 459),
19 one count of conspiracy (in violation of Penal Code section 182, subdivision (a)(1)), one count of
20 grand theft of personal property (in violation of Penal Code section 487, subdivision (a)), one
21 count of willfully and unlawfully employing a scheme to defraud in connection with the offer,
22 purchase, or sale of securities (in violation of Corporations Code section 25541), and one count of
23 perjury (in violation of Penal Code section 118, subdivision (a)). These charges stemmed from
24 Gomez’s involvement in a securities scheme, civilly prosecuted by the Commissioner. As
25 discussed below, Gomez pleaded guilty to three of these charges on January 21, 2016, after the
26 date Gomez filed his application for a mortgage loan originator license.

27 4. Form MU4 at Question J specifically asked: “Has any domestic or foreign court
28 ever found that you were involved in a violation of any financial services-related statute(s) or

1 regulation(s)?" Gomez answered "yes." Gomez was named as a defendant in a civil lawsuit filed
2 by the Commissioner on December 19, 2012, in California Superior Court, County of San Diego
3 (case number 37-2012-00088160-CU-MC-CTL).

4 II.

5 Felony Guilty Pleas

6 5. On January 21, 2016, Gomez pleaded guilty to two counts of making material
7 misrepresentations or omissions in connection with the sale of securities in violation of
8 Corporations Code section 25401 (including the "aggravated white collar crime enhancement"
9 under Penal Code section 186.11, subdivision (a)(2)), and one count of perjury under Penal Code
10 section 118, subdivision (a). Gomez's guilty plea involves a serious felony and a "strike" under
11 California law. Gomez's sentencing is scheduled for March 18, 2016.

12 III.

13 Expunged Criminal Convictions

14 6. Gomez, in the mortgage loan originator license application process, produced
15 documentation showing that he had been convicted of two felonies that were later expunged. The
16 felonies are: (1) carrying a concealed firearm; and (2) carrying a loaded firearm after having been
17 convicted of a felony.

18 IV.

19 Civil Judgment

20 7. Gomez was also named as a defendant in a 2012 civil lawsuit filed by the
21 Commissioner. The Commissioner filed a complaint for injunctive relief, appointment of a
22 receiver, civil penalties, and ancillary relief for violations of Corporations Code section 25110
23 (unqualified, non-exempt sale of securities) and 25401 (material misrepresentations and omissions
24 in the offer and sale of securities). Without admitting or denying the allegations in the complaint,
25 Gomez consented to the entry of a final judgment against him. The judgment permanently
26 enjoined Gomez from offering or selling unqualified, non-exempt securities and offering or selling
27 securities through misrepresentations or omissions of material facts. The judgment also required
28 Gomez to pay disgorgement of unlawfully obtained fees and commissions earned from selling

1 securities. Gomez’s commissions totaled \$54,482.11.

2 **V.**

3 **Applicable Law**

4 8. Section 22109.1 of the CFL and section 50141 of the CRMLA, contain substantially
5 similar language and provide in relevant part:

6 (a) The commissioner shall deny an application for a mortgage loan
7 originator license unless the commissioner makes, at a minimum, the
8 following findings:

9 . . .
10 (2)(A) The applicant has not been convicted of, or pled guilty or nolo
11 contendere to, a felony in a domestic, foreign, or military court during
12 the seven-year period preceding the date of the application for licensing
13 and registration, or at any time preceding the date of application, if the
14 felony involved an act of fraud, dishonesty, or a breach of trust, or
15 money laundering. Whether a particular crime is classified as a felony
16 shall be determined by the law of the jurisdiction in which an individual
17 is convicted.

18 . . .
19 (2)(B) For purposes of this paragraph, an expunged or pardoned felony
20 conviction shall not require denial of an application. However, the
21 commissioner may consider the underlying crime, facts, or
22 circumstances of an expunged or pardoned felony conviction when
23 determining the eligibility of an applicant for licensure under this
24 paragraph or paragraph (3).

25 . . .
26 (3) The applicant has demonstrated such financial responsibility,
27 character, and general fitness as to command the confidence of the
28 community and to warrant a determination that the mortgage loan
originator will operate honestly, fairly, and efficiently within the
purposes of this division.

(Fin. Code, §§ 22109.1 & 50141.)

9. Gomez was required to amend his Application on or before February 10, 2016, to disclose the felony guilty pleas. (See Cal. Code Regs., tit. 10 §§ 1422.6, subd. (g) & 1950.122.5, subd, (g), requiring amendment of an application within twenty days of any change to the information therein.) The Application, once amended, would have revealed that Gomez pleaded guilty to three felonies (with an enhancement), constituting a “strike” under California law, during the seven-year period preceding the application date, constituting grounds for the Commissioner to

1 deny his Application. Additionally, the felonies include securities fraud and perjury and involve
2 acts of fraud and dishonesty. (*People v. Chavez* (2000) 84 Cal.App.4th 25, 28.) These crimes
3 undermine his financial responsibility, character, general fitness and ability to operate honestly,
4 fairly, and efficiently as a mortgage loan originator.

5 10. Furthermore, courts have held that possession of a firearm, when committed by a
6 felon, is a crime that involves moral turpitude and indicates dishonesty, among other traits. (See
7 *People v. Littrel* (1986) 185 Cal.App.3d 699, 703; *People v. Maestas* (2005) 132 Cal.App.4th 1552,
8 1556.) The Commissioner may consider the underlying crime, facts, or circumstances of an
9 expunged felony conviction when determining an applicant's financial responsibility, character,
10 general fitness and ability to operate honestly, fairly, and efficiently as a mortgage loan originator.
11 (Fin Code, §§ 22109.1 & 50141.) Thus, Gomez's expunged felony conviction casts further doubt
12 on his financial responsibility, character, general fitness and ability to operate honestly, fairly, and
13 efficiently as a mortgage loan originator.

14 11. Lastly, Gomez was named as a defendant in a 2012 civil lawsuit filed by the
15 Commissioner involving violations of two financial services-related statutes, Corporations Code
16 sections 25110 and 25401. Gomez consented to a final judgment that enjoined him from selling
17 unqualified, non-exempt securities and from offering or selling securities by misrepresenting or
18 omitting material facts. The final judgment also required Gomez to pay back unlawful fees and
19 commissions. Gomez's involvement in the securities scheme and the resulting judgment cast doubt
20 on his financial responsibility, character, general fitness and ability to operate honestly, fairly, and
21 efficiently as a mortgage loan originator.

22 VI.

23 **Notice of Intention to Deny Application for Mortgage Loan Originator License**

24 12. On October 19, 2015, the Commissioner issued a Notice of Intention to Deny
25 Application for Mortgage Loan Originator License, Statement of Issues in Support of Non-
26 Issuance of Mortgage Loan Originator License and accompanying documents based on the above
27 findings. On or around October 20, 2015, Gomez was served with those documents and timely
28 requested a hearing. On or around February 4, 2016, the Commissioner filed a Supplemental

1 Statement of Issues In Support of Non-Issuance of Mortgage Loan Originator License. Gomez
2 withdrew his request for a hearing on or around February 8, 2016.

3 13. The Commissioner finds, by reason of the foregoing, that Gomez’s recent guilty
4 pleas to crimes involving fraud and dishonesty, previously expunged felony convictions, and
5 involvement in the civil lawsuit, and resulting judgment, call into question Gomez’s general
6 fitness to operate honestly and fairly as a mortgage loan originator.

7 14. Financial Code sections 22109.1 and 50141 mandate that the Commissioner not
8 issue a mortgage loan originator license to Gomez, in that Gomez has pleaded guilty to a felony
9 within the previous seven years, and has not demonstrated such financial responsibility,
10 character, and general fitness as to command the confidence of the community and warrant a
11 determination that he will operate honestly, fairly, and efficiently within the purposes of this
12 division.

13 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the
14 Application for a mortgage loan originator license of Julio Angel Gomez is denied. This order is
15 effective as of the date thereof.

16 Dated: March 9, 2016
17 San Diego, CA

JAN LYNN OWEN
Commissioner of Business Oversight

19 By _____
20 MARY ANN SMITH
21 Deputy Commissioner

22
23
24
25
26
27
28