

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN ROONEY
Assistant Chief Counsel
3 ALEX M. CALERO (State Bar No. 238389)
Senior Counsel
4 DANIELLE A. STOUMBOS (State Bar No. 264784)
Counsel
5 Department of Business Oversight
6 320 West 4th Street, Suite 750
7 Los Angeles, CA 90013-2344
Telephone: (213) 576-7591
8 Attorneys for Complainant

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

<p>13 In the Matter of:</p> <p>14 THE COMMISSIONER OF BUSINESS 15 OVERSIGHT,</p> <p>16 Complainant,</p> <p>17 v.</p> <p>18 JULIO ANGEL GOMEZ, an individual,</p> <p>19 Respondent.</p>	<p>OAH Case No.: 2015120368</p> <p>NMLS NO.: 1283825</p> <p>SUPPLEMENTAL STATEMENT OF ISSUES IN SUPPORT OF NON-ISSUANCE OF MORTGAGE LOAN ORIGINATOR LICENSE</p>
--	---

21 The Commissioner of Business Oversight (“Commissioner”) is informed and believes, and
22 based upon such information and belief, alleges and charges as follows:

23 **I**

24 **Introduction**

25 The Commissioner has determined not to issue a mortgage loan originator license to Julio
26 Angel Gomez ("Gomez"), pursuant to the Finance Lenders Law (Fin. Code, § 22000 et seq.) (“CFL”)
27 section 22109.1 and the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.)
28 (“CRMLA”) section 50141, because Gomez has failed to demonstrate general fitness to operate

1 honestly and fairly as a mortgage loan originator.

2 Specifically, Gomez’s mortgage loan originator license application should be denied because
3 Gomez recently pleaded guilty to securities fraud and perjury, crimes involving fraud and dishonesty
4 and a “strike” under California law. Gomez is also the subject of two expunged felony convictions –
5 carrying a concealed firearm and carrying a loaded firearm after having been convicted of a felony.
6 The latter of the two expunged felony convictions is a crime of moral turpitude.

7 Furthermore, Gomez’s mortgage loan originator license application should be denied because
8 Gomez was the subject of a civil lawsuit brought by the Commissioner for violations of two financial
9 services-related statutes. That lawsuit resulted in a final judgment, enjoining Gomez from violating
10 sections 25110 and 25401 of the Corporations Code. The judgment also required Gomez to pay
11 disgorgement of unlawfully obtained fees and commissions. The recent guilty pleas, expunged felony
12 convictions, and civil judgment undermine Gomez’s financial responsibility, character, and general
13 fitness to operate honestly and fairly as a mortgage loan originator.

14 II

15 The Application

16 On or about March 31, 2015, Gomez filed an application for a mortgage loan originator
17 license with the Commissioner. Gomez’s application was submitted to the Commissioner by filing
18 Form MU4 through the Nationwide Mortgage Licensing System (“NMLS”).

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

24 Form MU4 at Question F also asked: “Are there pending charges against you for any felony?”
25 Gomez answered “yes.” Gomez is currently a defendant in a pending criminal case filed on
26 September 5, 2014 in California Superior Court, for the County of San Diego (case number
27 CD255741). In that case the People of the State of California charged Gomez with seventeen counts
28 of selling unqualified, nonexempt securities (in violation of Corporations Code sections 25110),

1 **IV**

2 **Expunged Criminal Convictions**

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

7 **V**

8 **Civil Judgment**

9 Gomez was named as a defendant in a 2012 civil lawsuit filed by the Commissioner. The
10 Commissioner filed a complaint for injunctive relief, appointment of a receiver, civil penalties, and
11 ancillary relief for violations of Corporations Code section 25110 (unqualified, non-exempt sale of
12 securities) and 25401 (material misrepresentations and omissions in the offer and sale of securities).
13 Without admitting or denying the allegations in the complaint, Gomez consented to the entry of a
14 final judgment against him.

15 The judgment permanently enjoined Gomez from offering or selling unqualified, non-exempt
16 securities and offering or selling securities through misrepresentations or omissions of material facts.
17 The judgment also required Gomez to pay disgorgement of unlawfully obtained fees and
18 commissions earned from selling securities. Gomez's commissions totaled \$54,482.11.

19 **VI**

20 **Applicable Law**

21 Section 22109.1 of the CFL and section 50141 of the CRMLA, contain substantially similar
22 language and provide in relevant part:

23 (a) The commissioner shall deny an application for a mortgage loan
24 originator license unless the commissioner makes, at a minimum, the
25 following findings:

26 . . .

27 (2)(A) The applicant has not been convicted of, or pled guilty or nolo
28 contendere to, a felony in a domestic, foreign, or military court during
the seven-year period preceding the date of the application for licensing
and registration, or at any time preceding the date of application, if the
felony involved an act of fraud, dishonesty, or a breach of trust, or
money laundering. Whether a particular crime is classified as a felony

1 shall be determined by the law of the jurisdiction in which an
2 individual is convicted.

3 (2)(B) For purposes of this paragraph, an expunged or pardoned felony
4 conviction shall not require denial of an application. However, the
5 commissioner may consider the underlying crime, facts, or
6 circumstances of an expunged or pardoned felony conviction when
7 determining the eligibility of an applicant for licensure under this
8 paragraph or paragraph (3).

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

14 (Fin. Code, §§ 22109.1 & 50141.)

15 Gomez is required to amend his application on or before February 10, 2016 to disclose the
16 felony guilty pleas. (See Title 10 California Code of Regulations §§ 1422.6(g) & 1950.122.5(g),
17 requiring amendment of an application within twenty days of any change to the information therein.)
18 The application, once amended, will reveal that Gomez has pled guilty to three felonies (with an
19 enhancement), constituting a “strike” under California law, during the seven-year period preceding
20 the application date. The felonies include securities fraud and perjury and involve acts of fraud and
21 dishonesty. (*People v. Chavez* (2000) 84 Cal.App.4th 25, 28.) These crimes undermine his financial
22 responsibility, character, general fitness and ability to operate honestly, fairly, and efficiently as a
23 mortgage loan originator.

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

1 responsibility, character, general fitness and ability to operate honestly, fairly, and efficiently as a
2 mortgage loan originator.

3 Lastly, Gomez was named as a defendant in a 2012 civil lawsuit filed by the Commissioner
4 involving violations of two financial services-related statutes, Corporations Code sections 25110 and
5 25401. Gomez consented to a final judgment that enjoined him from selling unqualified, non-exempt
6 securities and from offering or selling securities by misrepresenting or omitting material facts. The
7 final judgment also required Gomez to pay back unlawful fees and commissions. Gomez’s
8 involvement in the securities scheme and the resulting judgment cast doubt on his financial
9 responsibility, character, general fitness and ability to operate honestly, fairly, and efficiently as a
10 mortgage loan originator.

11 **VII**

12 **Conclusion**

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

17 THEREFORE, Financial Code sections 22109.1 and 50141 mandate that the Commissioner
18 not issue a mortgage loan originator license to Gomez.

19 WHEREFORE IT IS PRAYED that the determination of the Commissioner not to issue a
20 mortgage loan originator license to Gomez in connection with Gomez’s application be upheld.

21 Dated: February 4, 2016
22 Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

23
24 By _____
25 DANIELLE A. STOUMBOS
26 Counsel
27
28