

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
4 Department of Corporations
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-7604 Fax: (213) 576-7181
6 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of the Statement of Issues of THE) OAH No. 2010120530
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) NMLS No. 245991
13)
Complainant,) Sponsor File No.: 413-0360
14)
15 vs.) ORDER DISMISSING STATEMENT OF
ISSUES IN SUPPORT OF NON-ISSUANCE
16) OF MORTGAGE LOAN ORIGINATOR
LICENSE
17 KENNETH DALE BELDING,)
18 Respondent.) TRIAL DATE: August 11, 2011
19) ASSIGNED TO: Judge Richard J. Lopez
20)
21)

22 Pursuant to the Settlement Agreement entered into between Kenneth Dale Belding and the
23 California Corporations Commissioner on December 14, 2011, the Statement of Issues in Support of
24 Non-Issuance of Mortgage Loan Originator License issued by the Commissioner on December 15,
25 2010 is hereby dismissed.

26 Dated: December 14, 2011
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

27 By _____
28 Alan S. Weinger
Deputy Commissioner

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CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) NMLS NO. 245991
13)
Complainant,) Sponsor File No.: 413-0360
14)
15 vs.) SETTLEMENT AGREEMENT
16 KENNETH DALE BELDING,)
17 Respondent.)
18)

19 This Settlement Agreement is entered into between Kenneth Dale Belding (“Belding”) and
20 the California Corporations Commissioner ("Commissioner") and is made with respect to the
21 following facts:

22 **RECITALS**

23 A. On May 5, 2010, Belding filed an application for a mortgage loan originator license
24 with the Commissioner pursuant to the California Residential Mortgage Lending Act
25 (“CRMLA”)(Financial Code sections 50000 et. seq.), in particular, Financial Code section 50401.
26 The application was for employment or working on behalf of Golden Empire Mortgage, Inc. as a
27 mortgage loan originator, which has its principal place of business located at 16790 E. Pacific Coast
28 Highway, Suite 200, Huntington Beach, California 92647. The application was submitted to the

1 Commissioner by filing Form MU4 through the Nationwide Mortgage Licensing System (“NMLS”).

2 B. The application process disclosed that Belding had been convicted of felony second
3 degree burglary on June 21, 1979.

4 C. Financial Code section 50141 provided in relevant part at the time of application:

5 The commissioner shall not issue a mortgage loan originator license
6 unless the commissioner makes at a minimum the following findings:

7 . . .

8 (b) The applicant has not been convicted of, or pled guilty or nolo
9 contendere to, a felony in a domestic, foreign, or military court
10 during the seven-year period preceding the date of the application
11 for licensing and registration, or at any time preceding the date of
12 application, if such felony involved an act of fraud, dishonesty, a
13 breach of trust, or money laundering. . . .

14 D. Based on the above, the Commissioner determined not to issue a mortgage loan
15 originator license to Belding.

16 E. On December 15, 2010, the Commissioner issued a Statement of Issues in Support of
17 Non-Issuance of Mortgage Loan Originator License (“Statement of Issues”).

18 F. Belding requested a hearing on the Statement of Issues. A hearing was held on
19 August 11, 2011. The Commissioner has not yet adopted the proposed decision.

20 F. It is the intention and desire of the parties to resolve this matter before the
21 Commissioner issues a decision.

22 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
23 forth herein, the parties agree as follows:

24 **TERMS AND CONDITIONS**

25 1. Belding hereby agrees to withdraw his application for a mortgage loan originator
26 license on or before December 16, 2011, by filing with the Commissioner a signed letter stating that
27 he hereby withdraws his mortgage loan originator license application and thereafter, filing a
28 withdrawal request through NMLS.

2. Upon receipt of Belding’s request to withdraw his application for a mortgage loan
originator license, the Commissioner agrees to immediately withdraw his decision to not issue a
mortgage loan originator license to Belding and to dismiss the instant litigation without adopting a

1 decision on the hearing.

2 3. Nothing in this Agreement shall affect the right of Belding to apply for another
3 mortgage loan originator license.

4 4. Nothing in this Agreement shall affect the right of the Commissioner, in the future, to
5 deny Belding a mortgage loan originator license on any grounds permitted by law.

6 5. Each of the parties represents, warrants, and agrees that it has received independent
7 advice from its attorney(s) and/or representatives with respect to the advisability of executing this
8 Settlement Agreement.

9 6. Each of the parties represents, warrants, and agrees that in executing this Settlement
10 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel
11 and/or representative. Each of the parties further represents, warrants, and agrees that in executing
12 this Settlement Agreement it has placed no reliance on any statement, representation, or promise of
13 any other party, or any other person or entity not expressly set forth herein, or upon the failure of any
14 party or any other person or entity to make any statement, representation or disclosure of anything
15 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in
16 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
17 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
18 Settlement Agreement.

19 7. This Settlement Agreement is the final written expression and the complete and
20 exclusive statement of all the agreements, conditions, promises, representations, and covenants
21 between the parties with respect to the subject matter hereof, and supercedes all prior or
22 contemporaneous agreements, negotiations, representations, understandings, and discussions
23 between and among the parties, their respective representatives, and any other person or entity, with
24 respect to the subject matter covered hereby.

25 8. In that the parties have had the opportunity to draft, review and edit the language of
26 this Settlement Agreement, no presumption for or against any party arising out of drafting all or any
27 part of this Settlement Agreement will be applied in any action relating to, connected, to, or
28 involving this Settlement Agreement. Accordingly, the parties waive the benefit of California Civil

1 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
2 language of a contract should be interpreted most strongly against the party who caused the
3 uncertainty to exist.

4 9. This Settlement Agreement shall not become effective until signed by all parties and
5 delivered by all parties.

6 10. This Settlement Agreement may be executed in one or more counterparts, each of
7 which shall be an original but all of which, together, shall be deemed to constitute a single
8 document. This Settlement Agreement may be executed by facsimile signature, and any such
9 facsimile signature by any party hereto shall be deemed to be an original signature and shall be
10 binding on such party to the same extent as if such facsimile signature were an original signature.

11 11. Each signator hereto covenants that he/she possesses all necessary capacity and
12 authority to sign and enter into this Settlement Agreement.

13 Dated: 12/14/2011 PRESTON DuFAUCHARD
14 California Corporations Commissioner

15 By _____
16 ALAN S. WEINGER
17 Deputy Commissioner

18 Dated: 12/13/2011
19 By _____
20 KENNETH DALE BELDING, an individual
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26
27
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California Corporations Commissioner
2 ALAN S. WEINGER
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9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues of THE) NMLS No. 245991
11 CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) Sponsor File No.: 413-0360
13 Complainant,) STATEMENT OF ISSUES IN SUPPORT OF
14 vs.) NON-ISSUANCE OF MORTGAGE LOAN
15) ORIGINATOR LICENSE
16 KENNETH DALE BELDING,)
17 Respondent.)

18
19 The Complainant is informed and believes, and based upon such information and belief,
20 alleges and charges Respondent as follows:

21 I
22 INTRODUCTION

23 On or about November 4, 2010, Complainant determined not to issue a mortgage loan
24 originator license to Kenneth Dale Belding ("Respondent") pursuant to Financial Code section
25 50141 in that Respondent has been convicted in a domestic court of a felony involving an act of
26 fraud, dishonesty, or a breach of trust, or money laundering.
27
28

II

THE APPLICATION

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3 On or about May 5, 2010, Respondent filed an application for a mortgage loan originator
4 license with the California Corporations Commissioner (“Complainant” or “Commissioner”)
5 pursuant to the California Residential Mortgage Lending Act (“CRMLA”)(Financial Code sections
6 50000 *et. seq.*), in particular, Financial Code section 50401. The application was for employment or
7 working on behalf of Golden Empire Mortgage, Inc. at 16790 E. Pacific Coast Highway, Suite 200,
8 Huntington Beach, California 92647. The application was submitted to the Commissioner by filing
9 Form MU4 through the Nationwide Mortgage Licensing System (“NMLS”). Respondent signed the
10 Form MU4 swearing that the answers were true and complete to the best of Respondent’s
11 knowledge.

12 Form MU4 at Question 8. (D)(1) specifically asked: “Have you ever been convicted of or
13 pled *nolo contendere* (“no contest”) in a domestic, foreign, or military court to any felony?
14 Respondent answered no. However, documentation obtained by the Commissioner during the
15 application process disclosed that Respondent had been convicted of felony second degree burglary
16 on or about June 21, 1979. It is a violation of Financial Code section 50502 to make an untrue
17 statement in any document filed with the commissioner.

III

CRIMINAL CONVICTION

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19
20 As stated above, documentation obtained by the Commissioner during the application
21 process revealed that Respondent, on or about June 21, 1979 in Orange County Superior Court, had
22 been convicted of California Penal Code section 459 (second degree burglary), a felony.

23 On or about July 13, 2010, Respondent was sent a letter asking him to explain his criminal
24 background, which he had failed to disclose in his application, and to also send in certified copies of
25 the final disposition. In reply thereto, Respondent stated in part that “In filling out my mu4 I
26 answered no instead of yes to a question that asks ‘have you *ever* been convicted ect (sic) ect (sic)
27 ect (sic)’. I was in no way making an effort to deceive anyone with this answer. In one of the
28 previous question (sic) it had asked ‘in the last 10 years ect (sic) ect (sic) ect (sic)’. I mistakenly

1 thought that the 10 year window applied to all the questions pertaining to legal issues. It was simply
2 an oversight. . . .” (emphasis added) Documentation submitted by Respondent concerning the
3 conviction further disclosed that the burglary was with the intent to commit larceny.

4 III

5 LICENSING REQUIREMENTS

6 Financial Code section 50141 provides in relevant part:

7 The commissioner shall not issue a mortgage loan originator license
8 unless the commissioner makes at a minimum the following findings:

9 . . .

10 (b) The applicant has not been convicted of, or pled guilty or nolo
11 contendere to, a felony in a domestic, foreign, or military court
12 during the seven-year period preceding the date of the application
13 for licensing and registration, or at any time preceding the date of
14 application, if such felony involved an act of fraud, dishonesty, a
15 breach of trust, or money laundering. . . .

13 IV

14 CONCLUSION

15 Complainant finds, by reason of the foregoing, that Respondent has been convicted of
16 California Penal Code section 459, second degree burglary, which constitutes a felony involving an
17 act of dishonesty or breach of trust.

18 THEREFORE, Complainant asserts that Financial Code section 50141 mandated that
19 Complainant not issue a mortgage loan originator license to Respondent under the California
20 Residential Mortgage Lending Act.

21 WHEREFORE IT IS PRAYED that the determination of Complainant to not issue a
22 mortgage loan originator license to Respondent in connection with Respondent’s May 5, 2010
23 application be upheld.

24 Dated: December 15, 2010
25 Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

26 By _____
27 Judy L. Hartley
28 Senior Corporations Counsel