

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 AFSANEH EGHBALDARI (State Bar No. 250107)
Counsel
4 Department of Business Oversight
5 1350 Front Street, Room 2034
San Diego, CA 92101
6 Telephone: (619) 645-3166
7 Facsimile: (619) 525-4045
8 Attorneys for Complainant

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

12 In the Matter of:) NMLS NO. 177599
13)
14 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) ORDER DENYING MORTGAGE LOAN
15) ORIGINATOR LICENSE APPLICATION
16 Complainant,)
17)
18 v.)
19 KEVIN DANIEL CASPER,)
Respondent.)
20)

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

- 22 1. On September 6, 2011, Kevin Daniel Casper (“Casper”) filed an application for a
23 MLO license with the Commissioner (file number 177599; hereinafter “application”) pursuant to
24 the California Residential Mortgage Lending Act (“CRMLA,” Fin. Code § 50000 et seq.).
25 2. The application was submitted through the National Mortgage Licensing System
26 (“NMLS”) on the MU4 form. Based on representations and documents provided by Casper, the
27 Department of Business Oversight (“DBO”) approved his MLO license, on December 22, 2011.
28 3. Casper also submitted MU4 forms to the DBO to renew his MLO license, on

1 September 25, 2013 and October 8, 2014.

2 4. Casper provided untrue statements on his original and renewal MU4 forms.

3 5. Casper denied having been convicted of any felony involving acts of dishonesty.

4 6. The “Criminal Disclosure” section of MU4 filings includes the following question:
5 “Have you ever been convicted or pled guilty . . . in a domestic, foreign, or military court to any
6 felony?” Casper answered “No” to this question on the MU4 filings.

7 7. The DBO conducted a criminal background check and discovered that Casper had
8 been convicted of three felony offenses involving acts of dishonesty, in Georgia and Tennessee.

9 8. Casper pled guilty to two felony counts of “Forgery in the First Degree” in Catoosa
10 County, Georgia in March 2000. The Georgia court later discharged the convictions “without
11 adjudication of guilt” and a “complete exoneration of Defendant of any criminal purpose relating
12 to this matter” because of Casper’s “First Offender Status.”

13 9. Casper was also convicted of a felony offense of “Theft of Property” in Hamilton
14 County, Tennessee, in November 2002.

15 10. On September 9, 2011, the DBO requested Casper to provide certified copies of the
16 final dispositions of the criminal cases, submit an amended MU4 correcting his response to the
17 “Criminal Disclosure” question, and explain the reason the question was answered incorrectly.

18 11. In his response to the DBO’s request and referring to the Georgia forgery
19 conviction, Casper stated that he had “only been in trouble one time in my entire life, wrong place
20 – wrong time,” and that his criminal conviction had been expunged.

21 12. Casper also provided the DBO with a copy of court documents showing that he had
22 pled guilty to “misdemeanor” offenses of Forgery. Copies of court documents provided by Casper
23 were altered and included the word “misdemeanor” handwritten on Casper’s copy. Certified
24 copies of Casper’s criminal records from the State of Georgia, Catoosa County Clerk’s Office,
25 show that Casper pled guilty to felony offenses of Forgery, in March 2000.

26 13. Referring to the Tennessee felony Theft of Property conviction, Casper stated that
27 “another guy by the name of Kevin Casper (NOT ME)” was arrested and convicted in Tennessee.

28 14. Casper provided the DBO with an altered copy of the Judgment from Tennessee

1 showing that his conviction was a “class A misdemeanor” – “Theft under \$500.” A certified copy
2 of the Judgement from the Criminal Court of Hamilton County, Tennessee shows that Casper was
3 convicted of a “class D felony” – “Theft over \$1000.”

4 15. Casper also denied that he had any license revoked in other governmental
5 jurisdictions.

6 16. The “Regulatory Action” section of MU4 filings includes the following questions:
7 “Has any State or federal regulatory agency . . . found you have made a false statement or
8 omission or been dishonest, unfair or unethical?” “Has any State or federal regulatory agency . . .
9 revoked your registration or license?” Casper answered “No” to these questions on the October
10 2014 MU4 filing.

11 17. The DBO also discovered that Casper’s MLO licenses in Florida, Washington and
12 Oregon had been revoked.

13 18. The State of Florida, Office of Financial Regulation, found that Casper made a
14 material misrepresentation, and made or used a false writing or document in his initial license
15 application relating to his criminal felony convictions. On June 9, 2014, the State of Florida Office
16 of Financial Regulation issued a final order revoking Casper’s MLO license in Florida and
17 imposing a fine of \$1,000.00.

18 19. On July 15, 2014, the Washington State Department of Financial Institutions issued
19 a consent order against Casper revoking his MLO license in Washington, denying his application
20 to renew his MLO license, banning him from participating in and conducting the affairs of any
21 mortgage broker or consumer loan company licensed by the Washington State Department of
22 Financial Institutions, and imposing an investigation fee of \$1,140.00.

23 20. The Oregon Department of Consumer and Business Services found that Casper
24 knowingly made false representations on his MLO application regarding his criminal history in
25 Georgia and Tennessee. Casper’s criminal felony convictions are a material part of the MLO
26 license application in Oregon. Dishonesty is an essential element of theft of property. The Oregon
27 Department of Consumer and Business Services issued an order revoking Casper’s MLO license,
28 on July 25, 2014.

1 21. California Financial Code section 50141(a) provides, in pertinent part:

2 (a) The commissioner shall deny an application for a mortgage loan
3 originator license unless the commissioner makes at a minimum the
4 following findings:

5 (1) The applicant has never had a mortgage loan originator license
6 revoked in any governmental jurisdiction, except that a subsequent
7 formal vacation or set aside of such revocation shall not be deemed
8 a revocation.

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

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

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

19 22. California Financial Code section 50512 provides:

20 (a) It is unlawful for any person to knowingly alter, destroy,
21 mutilate, conceal, cover up, falsify, or make a false entry in any
22 record, document, or tangible object with the intent to impede,
23 obstruct, or influence the administration or enforcement of any
24 provision of this division.

25 (b) It is unlawful for any person to knowingly make an untrue
26 statement to the commissioner during the course of licensing,
27 investigation, or examination, with the intent to impede, obstruct, or
28 influence the administration or enforcement of any provision of this
29 division.

27 23. The Commissioner further finds, by reason of the foregoing, that Casper: (1) has
28 been convicted of a felony involving an act of fraud, dishonesty, a breach of trust, or money

1 laundering; (2) has had MLO licenses revoked in other governmental jurisdictions; (3) has altered
2 court records and made untrue statements during the course of licensure with the intent to impede,
3 obstruct, or influence the administration or enforcement of the law governing mortgage loan
4 originators in California; and (4) has not demonstrated such financial responsibility, character, and
5 general fitness as to command the confidence of the community and to warrant a determination
6 that he will operate honestly, fairly, and efficiently. These findings require that the Commissioner
7 deny the application pursuant to Financial Code sections 50141, 50512 and 50327.

8 24. On April 30, 2015, the Commissioner issued and served a Notice of Intention to
9 Issue Order Denying Mortgage Loan Originator License; Statement of Issues; Statement to
10 Respondent; Notice of Defense; and Government Code Sections 11507.5, 11507.6 and 11507.7 to
11 Casper. Casper has not requested a hearing and the time to request a hearing has expired.

12 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the mortgage
13 loan originator license application filed by Kevin Daniel Casper, described above, is denied. This
14 order is effective as of the date hereof.

15 Dated: May 28, 2015
16 Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

17
18 By: _____
19 Mary Ann Smith
20 Deputy Commissioner
21 Enforcement Division
22
23
24
25
26
27
28