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9  
10 **BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT**  
11 **OF THE STATE OF CALIFORNIA**  
12

13 In the Matter of:

NMLS NO.: 1093805

14 THE COMMISSIONER OF BUSINESS  
15 OVERSIGHT

STATEMENT OF ISSUES IN SUPPORT OF  
NON-ISSUANCE OF MORTGAGE LOAN  
ORIGINATOR LICENSE

16 Complainant,

17 v.

18 JOSE IGNACIO CORTEZ, an individual,

19 Respondent.  
20

21 The California Commissioner of Business Oversight (“Commissioner”) is informed and  
22 believes, and 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 Jose  
26 Ignacio Cortez, formerly known as Jose Ignacio Saucedo ("Cortez"), pursuant to California  
27 Residential Mortgage Lending Act (Fin. Code § 50000 et seq.) (“CRMLA”) section 50141, because  
28 Cortez has pled guilty or has been convicted of a felony involving fraud and breach of trust and

1 has failed to demonstrate such financial responsibility, character, and general fitness as to  
2 command the confidence of the community and warrant a determination that he will operate  
3 honestly, fairly, and efficiently as a mortgage loan originator.

4 **II.**

5 **The Application**

6 On or about October 10, 2013, Cortez filed an application for a mortgage loan originator  
7 license. The application was for employment or working on behalf of Discover Home Loans, Inc.,  
8 which has its principal place of business at 173 Technology Drive, Irvine, California 92618. The  
9 application was submitted to the Commissioner by filing Form MU4 through the Nationwide  
10 Mortgage Licensing System (“NMLS”).

11 Form MU4 at Question F specifically asked: “Have you ever been convicted of or pled  
12 guilty or nolo contendere (‘no contest’) in a domestic, foreign, or military court to any felony?”  
13 Respondent answered “yes”.

14 **III.**

15 **Criminal Conviction**

16 Cortez stated in the Form MU4 that he had been convicted of a felony. In providing details  
17 about the felony conviction, Cortez stated he was charged in a military court with “conspiracy to  
18 commit Larceny”.

19 However, documentation provided by Cortez during the application process discloses that  
20 Cortez, in the U.S. Navy-Marine Court of Criminal Appeals, was found guilty, on or about  
21 September 22, 1995, of three charges: (1) conspiracy, (2) failure to obey order or regulation, and  
22 (3) larceny and wrongful appropriation. Cortez was sentenced to six years confinement, forfeiture  
23 of all pay and allowances, and a dishonorable discharge.

24 Cortez’s larceny and wrongful appropriation conviction is a crime of moral turpitude,  
25 which involves fraud and breach of trust. Further, Cortez’s three convictions show that Cortez  
26 failed to demonstrate such financial responsibility, character, and general fitness as to command  
27 the confidence of the community and warrant a determination that he will operate honestly, fairly,  
28 and efficiently as a mortgage loan originator. These convictions preceded Cortez’s October 10,

1 2013 application for a mortgage loan originator license.

2 **IV.**

3 **Applicable Law**

4 Section 50141 of the CRMLA, provides in relevant part:

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

7 . . .

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

15 . . .

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

20 (Fin. Code § 50141.)

21 Military courts have universally agreed that larceny is a crime of moral turpitude,  
22 involving fraud and breach of trust. (See *United States v. Keleher*, (C.M.A. 1963) 14  
23 U.S.C.M.A. 125, 129.) In *Keleher*, a military court reasoned:

24 Significantly, the terms of Article 121, Uniform Code of Military Justice,  
25 supra, provide that the specific intent in . . . larceny . . . may be "to *deprive*  
26 *or defraud*" the true owner of property wrongfully taken from him.  
27 (Emphasis supplied.) Thus, in addition to the pecuniary aspects . . . fraud is  
28 expressly involved. Indeed, in *Moore* we pointed out that "fraud" -- insofar  
as moral turpitude is concerned -- may be involved even without pecuniary  
loss and in instances involving deceit rather than fraud in the narrow sense.

(*Id.* at 129, emphasis in original)

**V.**

**Conclusion**

The Commissioner finds, by reason of the foregoing, that Cortez has pled guilty or has  
been convicted of a felony involving fraud and breach of trust and has failed to demonstrate such

1 financial responsibility, character, and general fitness as to command the confidence of the  
2 community and warrant a determination that he will operate honestly, fairly, and efficiently as a  
3 mortgage loan originator.

4       THEREFORE, the CRMLA section 50141 mandates that the Commissioner not issue a  
5 mortgage loan originator license to Cortez.

6       WHEREFORE IT IS PRAYED that the determination of the Commissioner not to issue a  
7 mortgage loan originator license to Cortez in connection with Cortez’s October 10, 2013  
8 application be upheld.

9 Dated: April 29, 2015  
10       San Diego, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_

ALEX M. CALERO  
Senior Counsel  
Enforcement Division

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