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

12 In the Matter of:

NMLS NO.: 1493246

13 THE COMMISSIONER OF BUSINESS
14 OVERSIGHT,

ORDER DENYING MORTGAGE LOAN
ORIGINATOR LICENSE APPLICATION

15 Complainant,

16 v.

17 KEVIN RAY DILLARD,

18 Respondent.
19

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

22 1. On April 5, 2017, Dillard filed an application for a MLO license with the
23 Commissioner by submitting a Form MU4 (Application) through the Nationwide Mortgage
24 Licensing System (NMLS) under Financial Code section 50140.

25 2. Dillard answered “Yes” to Questions A(1) and D, which ask, in pertinent part:

26 (A)(1) Have you filed a personal bankruptcy petition or been the
27 subject of an involuntary bankruptcy petition within the past ten years?
...

28 (D) Do you have any unsatisfied judgments or liens against you?

1 3. In his Application, Dillard provided explanations for his unsatisfied judgment/liens
2 and past bankruptcy. However, Dillard failed to provide supporting documentation to the financial
3 disclosure Questions A(1) and (D).

4 4. Dillard answered “No” to Question F(1): “Have you ever been convicted of or pled
5 guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony?”

6 5. Dillard answered “No” to Question H(1): “Have you ever been convicted of or pled
7 guilty or nolo contendere (“no contest”) . . . to committing or conspiring to commit a misdemeanor
8 involving . . . (vii) forgery?”

9 6. In his Application, Dillard answered “No” to the following questions under K, which
10 ask, in pertinent part:

11 (K) Has any State or federal regulatory agency or foreign financial
12 regulatory authority or self-regulatory organization (SRO) ever:

13 . . .

14 (5) revoked your registration or license?

15 . . .

16 (8) issued a final order against you based on violations of any law or
17 regulations that prohibit fraudulent, manipulative, or deceptive
18 conduct?

19 (9) entered an order concerning you in connection with any license or
20 registration?

21 7. The Commissioner’s review of Dillard’s Application revealed Dillard did not disclose
22 his 2000 criminal conviction in the state of California from *People v. Kevin Dillard*, Case Number
23 MA020734. Dillard pled nolo contendere to violating Penal Code section 475, subdivision (c),
24 possession of a completed check, forgery, with intent to defraud (2000 forgery conviction).

25 8. The Commissioner’s review also showed that Dillard did not disclose that his
26 California Bureau of Real Estate (BRE) Salesperson License was revoked on February 2, 2002 (2002
27 BRE license revocation). The BRE revoked Dillard’s Salesperson License after finding Dillard’s
28 2000 forgery conviction was “a crime inherently involving moral turpitude and substantially related
to the functions[,] duties and qualifications of a Department licensee.”

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1 9. The Commissioner’s review also showed that Dillard did not disclose that he pled “no
2 contest” on August 21, 2012 to the crime of grand theft of personal property, in violation of Penal
3 Code section 487, subdivision (a), a felony for unlawfully taking money and personal property
4 exceeding a value of four hundred dollars (2012 grand theft conviction). Dillard did not disclose his
5 2012 grand theft conviction in the state of California from *People v. Kevin Ray Dillard*, Case Number
6 MA050595.

7 10. On or around May 4, 2017, the Commissioner created a license item in NMLS
8 instructing Dillard to explain his 2000 forgery conviction; provide documents; and to disclose a
9 “Yes” response to any applicable disclosure question.

10 11. On May 8, 2017, Dillard filed an amended MU4 (First Amended Application). Dillard
11 answered “No” to Question F(1): “Have you ever been convicted of or pled guilty or nolo contendere
12 (“no contest”) in a domestic, foreign, or military court to any felony?”

13 12. Dillard should have responded “Yes” to Question F(1) in his First Amended
14 Application based on his 2012 grand theft conviction. Dillard did not disclose or provide documents
15 to explain his 2012 grand theft conviction.

16 13. In his First Amended Application, Dillard also answered “No” to Question H(1):
17 “Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) . . . to committing
18 or conspiring to commit a misdemeanor involving . . . (vii) forgery?”

19 14. Dillard should have responded “Yes” to Question H(1) in his First Amended
20 Application based on his 2000 forgery conviction. Dillard did not disclose or provide documents to
21 explain his 2000 forgery conviction.

22 15. In his First Amended Application, Dillard answered “No” to Question K(5): “Has any
23 State or federal regulatory agency . . . ever revoked your registration or license.” Dillard answered
24 “No” to Question K(8): “Has any State or federal regulatory agency . . . issued a final order against
25 you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive
26 conduct?” Dillard answered “No” to Question K(9): “Has any State or federal regulatory agency . . .
27 entered an order concerning you in connection with any license or registration?”

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1 16. Dillard should have responded “Yes” to Questions K(5), K(8), and K(9) because the
2 BRE issued a final order revoking Dillard’s BRE License in 2002. The BRE’s final order was based
3 on Dillard’s 2000 forgery conviction – prohibiting licensees from engaging in fraudulent,
4 manipulative, and deceptive conduct.

5 17. On or around May 18, 2018, the Commissioner created a license item in NMLS
6 instructing Dillard to file an amended Application disclosing the 2002 BRE license revocation and to
7 explain why Dillard failed to disclose it in his Application; and to disclose a “Yes” response to any
8 applicable disclosure question.

9 18. On October 12, 2017, Dillard filed an amended MU4 (Second Amended Application).
10 Dillard answered “No” to Question F(1): “Have you ever been convicted of or pled guilty or nolo
11 contendere (“no contest”) in a domestic, foreign, or military court to any felony?”

12 19. In his Second Amended Application, Dillard should have answered “Yes” to Question
13 F(1) based on his 2012 grand theft conviction. Dillard did not disclose or provide documents to
14 explain his 2012 grand theft conviction.

15 20. In his Second Amended Application, Dillard also answered “No” to Question H(1):
16 “Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) . . . to committing
17 or conspiring to commit a misdemeanor involving . . . (vii) forgery?”

18 21. Dillard should have responded “Yes” to Question H(1) in his Second Amended
19 Application based on his 2000 forgery conviction. Dillard did not disclose or provide documents to
20 explain his 2000 forgery conviction.

21 22. In his Second Amended Application, Dillard responded “No” to the questions under K
22 which ask, in pertinent part:

- (K) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:
 - 23 . . .
 - 24 (5) revoked your registration or license?
 - 25 . . .
 - 26 (8) issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive
 - 27 conduct?
 - 28 (9) entered an order concerning you in connection with any license or registration?

1 23. Dillard should have responded “Yes” to Questions K(5), K(8), and K(9) in his Second
2 Amended Application based on the 2002 BRE license revocation. Dillard did not disclose or provide
3 documents to explain the 2002 BRE license revocation.

4 24. On October 12, 2017, Dillard filed an amended MU4 (Third Amended Application).
5 Dillard answered “No” to Question F(1): “Have you ever been convicted of or pled guilty or nolo
6 contendere (“no contest”) in a domestic, foreign, or military court to any felony?”

7 25. In his Third Amended Application, Dillard should have answered “Yes” to Question
8 F(1) based on his 2012 grand theft conviction. Dillard did not disclose or provide documents to
9 explain his 2012 grand theft conviction.

10 26. In his Third Amended Application, Dillard also answered “No” to Question H(1):
11 “Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) . . . to committing
12 or conspiring to commit a misdemeanor involving . . . (vii) forgery?”

13 27. Dillard should have responded “Yes” to Question H(1) in his Third Amended
14 Application based on his 2000 forgery conviction. Dillard did not disclose or provide documents to
15 explain his 2000 forgery conviction.

16 28. In his Third Amended Application, Dillard answered “Yes” to Question I: “Based
17 upon activities that occurred while you exercised control over an organization: (1) Has any
18 organization ever been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic,
19 foreign, or military court to any misdemeanor specified in (H)(1)?”

20 29. Dillard provided documents and the following event explanation detail:

21 BRE License was revoked 15 years ago in 2002 because I chose not to
22 dispute the allegations since my employment at the time did not require
23 a license. I had allowed the water to be turned off on a apartment
24 building that I had owned. I paid the bills and fees, however the courts
25 had gotten involved. I have not had any related issues since that date
26 and would never allow anything like that occur in the future. Attached
27 is the court document regarding this offense.

28 30. In his Third Amended Application, Dillard answered “Yes” to Question K(5): “Has an
State or federal regulatory agency . . . revoked your registration or license?”

1 31. However, Dillard answered “No” to Questions K(8) and K(9) which asked whether
2 any state or federal regulatory agency has issued an order against him. Dillard should have
3 responded “Yes” to Questions K(8) and K(9) based on the 2002 final order revoking his BRE license.

4 32. Section 22109.1 of the CFL and section 50141 of the CRMLA provide in relevant part:

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

8 ...

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 and 50141)

15 33. CCR, title 10, section 1422.6.2, provides in relevant part:

16 (a) The Commissioner’s finding required by Section 22109.1(c) of the
17 California Financing Law relates to any matter, personal or
18 professional, that may impact upon an applicant’s propensity to operate
19 honestly, fairly, and efficiently when engaging in the role of a mortgage
20 loan originator.

21 ...

22 (c) An applicant may be precluded from obtaining a mortgage loan
23 originator license where his or her personal history includes:

- 24 (1) Any liens or judgments for fraud, misrepresentation,
25 dishonest dealing, and/or mishandling of trust funds, or
26 (2) Other liens, judgments, or financial or professional
27 conditions that indicate a pattern of dishonesty on the part of the
28 applicant.

(CCR, tit. 10, § 1422.6.2, subdivisions (a) and (c))

29 34. Financial Code section 22170, provides in relevant part:

30 (b) It is unlawful for any person to knowingly make an untrue
31 statement to the commissioner or the Nationwide Mortgage Licensing
32 System and Registry during the course of licensing, investigation, or
33 examination, with the intent to impede, obstruct, or influence the
34 administration or enforcement of any provision of this division.

(Fin. Code, § 22170, subdivision (b))

1 35. Dillard made false statements to the Commissioner when he answered “No” to
2 Question H(1) and did not disclose his 2000 forgery conviction in his Application or in any
3 subsequent Amended Application.

4 36. Dillard made false statements to the Commissioner when he answered “No” to
5 Question F(1) and did not disclose his 2012 grand theft conviction in his Application or in any
6 subsequent Amended Application.

7 37. Throughout the MLO application process, Dillard knowingly made untrue statements
8 to the Commissioner during the course of licensing with the intent to impede, obstruct, or influence
9 the administration or enforcement of law governing mortgage loan originators, in violation of
10 Financial Code section 22170, subdivision (b).

11 38. Dillard failed to disclose his 2002 BRE license revocation under Questions: K(5),
12 K(8), and K(9) in his Application, First Amended Application, and Second Amended Application.

13 39. Dillard disclosed his 2002 BRE license revocation in his Third Amended Application
14 only after the Commissioner created a license item in NMLS on or around May 18, 2017, instructing
15 Dillard to disclose and provide documentation regarding this regulatory action.

16 40. Throughout the application process, Dillard did not disclose his 2012 grand theft
17 conviction or his 2000 forgery conviction.

18 41. Based upon Dillard’s failure to disclose his 2000 forgery conviction, 2012 grand theft
19 conviction, and 2002 BRE license revocation, Commissioner finds that Dillard does not meet the
20 requisite financial responsibility, character and general fitness under Financial Code sections 50141
21 and 22109.1, subdivision (a)(3), and CCR, title 10, section 1422.6.2, subdivisions (a) and (c).

22 42. The Commissioner also finds that Dillard has made untrue statements to the
23 Commissioner during the course of licensure with the intent to impede, obstruct, or influence the
24 administration or enforcement of the law governing mortgage loan originators, in violation of
25 Financial Code section 22170, subdivision (b).

26 43. The Commissioner’s findings set forth above constitute grounds under Financial Code
27 sections 22109.1; 50141; 22170, subdivision (b); and CCR, title 10, section 14.22.6.2, subdivisions
28 (a) and (c); to deny the issuance of a MLO license to Kevin Ray Dillard.

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44. On April 13, 2018, the Commissioner issued a Notice of Intention to Deny Mortgage Loan Originator Application, Statement of Issues, and accompanying documents (Notice of Intention to Deny) based on the above findings. On April 16, 2018, the Commissioner served Dillard with the Notice of Intention to Deny at the latest address on file. On or around April 24, 2018, the Commissioner received the signed certified mail return receipt card. The time to request a hearing has expired.

NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the Application filed by Kevin Ray Dillard for a mortgage loan originator license is denied. This order is effective as of the date hereof.

Dated: May 17, 2018

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division