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

<p>12 In the Matter of:</p> <p>13 THE COMMISSIONER OF BUSINESS</p> <p>14 OVERSIGHT,</p> <p>15 Complainant,</p> <p>16 v.</p> <p>17 KEVIN RAY DILLARD,</p> <p>18 Respondent.</p>	<p>NMLS NO.: 1493246</p> <p>STATEMENT OF ISSUES IN SUPPORT OF</p> <p>ORDER DENYING MORTGAGE LOAN</p> <p>ORIGINATOR LICENSE APPLICATION</p>
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21 The Commissioner of Business Oversight (Commissioner) alleges and charges Respondent as
22 follows:

23 **I.**
Introduction

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25 1. The Commissioner seeks to deny the issuance of a mortgage loan originator (MLO)
26 license to Kevin Ray Dillard (Dillard) under Financial Code sections 22170, subdivision (b), and
27 22109.1, subdivision (a)(3), of the California Financing Law (Fin. Code, § 22000 et seq.) (CFL),
28 California Code of Regulations (CCR) title 10, section 1422.6.2, subdivisions (a) and (c), and

1 Financial Code section 50141 of the California Residential Mortgage Lending Act (Fin. Code, §
2 50000 et seq.) (CRMLA) in that Dillard has: (1) knowingly made untrue statements to the
3 Commissioner; and (2) has not demonstrated such financial responsibility, character, and general
4 fitness as to command the confidence of the community and to warrant a determination that Dillard
5 will operate honestly, fairly, and efficiently within the purposes of the CFL and CRMLA.

6
7 **II.**
Application

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

11 3. Dillard answered “Yes” to Questions A(1) and D, which ask, in pertinent part:
12 (A)(1) Have you filed a personal bankruptcy petition or been the
13 subject of an involuntary bankruptcy petition within the past ten years?
14 . . .
(D) Do you have any unsatisfied judgments or liens against you?

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

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

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

23 7. In his Application, Dillard answered “No” to the following questions under K, which
24 ask, in pertinent part:

25 (K) Has any State or federal regulatory agency or foreign financial
26 regulatory authority or self-regulatory organization (SRO) ever:
27 . . .
(5) revoked your registration or license?
28 . . .

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

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

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

9 9. The Commissioner’s review also showed that Dillard did not disclose that his
10 California Bureau of Real Estate (BRE) Salesperson License was revoked on February 2, 2002 (2002
11 BRE license revocation). The BRE revoked Dillard’s Salesperson License after finding Dillard’s
12 2000 forgery conviction was “a crime inherently involving moral turpitude and substantially related
13 to the functions[,] duties and qualifications of a Department licensee.”

14 10. The Commissioner’s review also showed that Dillard did not disclose that he pled “no
15 contest” on August 21, 2012 to the crime of grand theft of personal property, in violation of Penal
16 Code section 487, subdivision (a), a felony for unlawfully taking money and personal property
17 exceeding a value of four hundred dollars (2012 grand theft conviction). Dillard did not disclose his
18 2012 grand theft conviction in the state of California from *People v. Kevin Ray Dillard*, Case Number
19 MA050595.

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

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

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

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

4 15. Dillard should have responded “Yes” to Question H(1) in his First Amended
5 Application based on his 2000 forgery conviction. Dillard did not disclose or provide documents to
6 explain his 2000 forgery conviction.

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

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

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

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

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

27 21. In his Second Amended Application, Dillard also answered “No” to Question H(1):
28 “Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) . . . to committing

1 or conspiring to commit a misdemeanor involving . . . (vii) forgery?”

2 22. Dillard should have responded “Yes” to Question H(1) in his Second Amended
3 Application based on his 2000 forgery conviction. Dillard did not disclose or provide documents to
4 explain his 2000 forgery conviction.

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

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

9 . . .

10 (5) revoked your registration or license?

11 . . .

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

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

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

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

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

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

29 28. Dillard should have responded “Yes” to Question H(1) in his Third Amended
30 Application based on his 2000 forgery conviction. Dillard did not disclose or provide documents to
31 explain his 2000 forgery conviction.

32 29. In his Third Amended Application, Dillard answered “Yes” to Question I: “Based

1 upon activities that occurred while you exercised control over an organization: (1) Has any
2 organization ever been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic,
3 foreign, or military court to any misdemeanor specified in (H)(1)?”

4 30. Dillard provided documents and the following event explanation detail:

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

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

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

15
16 **III.**
17 **Applicable Law**

18 33. Paragraphs 1-32 are hereby realleged and incorporated herein by reference as if set forth
19 in their entirety.

20 34. Section 22109.1 of the CFL and section 50141 of the CRMLA provide in relevant part:

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

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

(Fin. Code, §§ 22109.1 and 50141)

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

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

...

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

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

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

36. Financial Code section 22170, provides in relevant part:

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

(Fin. Code, § 22170, subdivision (b))

IV.
False Statements

37. Paragraphs 1-36 are hereby realleged and incorporated herein by reference as if set forth in their entirety.

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

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

40. Throughout the MLO application process, Dillard knowingly made untrue statements to the Commissioner during the course of licensing with the intent to impede, obstruct, or influence

1 the administration or enforcement of law governing mortgage loan originators, in violation of
2 Financial Code section 22170, subdivision (b).

3 **V.**

4 **Failure to Demonstrate Requisite Financial Responsibility, Character, and General Fitness**

5 41. Paragraphs 1- 40 are hereby realleged and incorporated herein by reference as if set
6 forth in their entirety.

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

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

12 44. Throughout the application process, Dillard did not disclose his 2012 grand theft
13 conviction or his 2000 forgery conviction.

14 46. Based upon Dillard’s failure to disclose his 2000 forgery conviction, 2012 grand theft
15 conviction, and 2002 BRE license revocation, Dillard does not meet the requisite financial
16 responsibility, character and general fitness under Financial Code sections 50141 and 22109.1,
17 subdivision (a)(3), and CCR, title 10, section 1422.6.2, subdivisions (a) and (c).

18 **V.**

19 **Conclusion**

20
21 The Commissioner finds that Dillard has made untrue statements to the Commissioner during
22 the course of licensure with the intent to impede, obstruct, or influence the administration or
23 enforcement of the law governing mortgage loan originators, in violation of Financial Code section
24 22170, subdivision (b).

25 Dillard also fails to demonstrate the requisite financial responsibility, character and general
26 fitness required under Financial Code sections 50141; 22109.1, subdivision (a)(3); and CCR, title 10,
27 section 1422.6.2 based upon his 2000 forgery conviction, 2012 grand theft conviction, the 2002
28 revocation of his BRE Salesperson License, bankruptcy filing, and outstanding judgments and liens.

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

WHEREFORE IT IS PRAYED, by reason by the foregoing, under Financial Code sections 22109.1, subdivision (a)(3); 50141; 22170, subdivision (b); and CCR, title 10, section 1422.6.2, subdivisions (a) and (c); that the mortgage loan originator application filed by Kevin Ray Dillard be denied.

Dated: April 13, 2018
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Vanessa T. Lu
Counsel
Enforcement Division