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

12	In the Matter of:	)	OAH CASE NO. 2016120605
)	
13	THE COMMISSIONER OF BUSINESS	)	NMLS ID: 327471
14	OVERSIGHT,)	
		)	SECOND AMENDED STATEMENT OF
15	Complainant,	)	ISSUES IN SUPPORT OF:
)	
16	v.	)	1) ORDER DENYING MORTGAGE
		)	LOAN ORIGINATOR APPLICATION
17	DENNISE GURFINKIEL,	)	OF DENNISE GURFINKIEL; AND
18)	
	Respondent.	)	2) ORDER BARRING DENNISE
19		)	GURFINKIEL FROM ANY POSITION
20		)	OF EMPLOYMENT, MANAGEMENT,
		)	OR CONTROL OF ANY
21		)	RESIDENTIAL
22		)	MORTGAGE LENDER,
)	RESIDENTIAL MORTGAGE LOAN
23)	SERVICER, OR MORTGAGE LOAN
24)	ORIGINATOR
25)	

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27 The Commissioner of Business Oversight of the State of California (Commissioner), is
28 informed and believes, and based upon such information and belief, alleges and charges Respondent

1 as follows:

2 **I**
3 **Introduction**

4 The proposed orders seek to deny the issuance of a mortgage loan originator (MLO) license
5 to Dennise Gurfinkiel (Gurfinkiel) pursuant to the California Finance Lenders Law (Fin. Code, §
6 22000 et seq.) (CFL) Financial Code section 22109.1 and the California Residential Mortgage
7 Lending Act (Fin. Code, § 50000 et seq.) (CRMLA) Financial Code section 50141 and bar
8 Gurfinkiel from any position of employment, management, and control of any residential mortgage
9 lender, residential mortgage loan servicer, or mortgage loan originator pursuant to Financial Code
10 section 50318.

11 During her employment with Bay Equity LLC, Gurfinkiel misappropriated money from a
12 borrower. Through numerous material misrepresentations and omissions, Gurfinkiel induced a
13 borrower to issue checks to her. Gurfinkiel told the borrower the money would be used towards the
14 borrower’s existing mortgage loan payments and for the refinancing of her loan, when in fact,
15 Gurfinkiel deposited the funds into her personal bank account for personal gain.

16 **II**
17 **Application**

18 On or around March 29, 2016, Gurfinkiel filed an application for an MLO license with the
19 Commissioner by submitting a Form MU4 through the Nationwide Mortgage Licensing System
20 (NMLS) (hereinafter, Application) pursuant to Financial Code section 50140.

21 Form MU4 Financial Disclosure Question D specifically asked: “Do you have any
22 unsatisfied judgments or liens against you?” Gurfinkiel answered “yes.” The Application required
23 Gurfinkiel to explain in detail all “Yes” answers. Gurfinkiel did not provide any explanation in the
24 Application. Gurfinkiel omitted the details of her outstanding federal tax lien in her original MLO
25 filing.

26 Because Gurfinkiel failed to provide any information to support her “Yes” answer to the
27 disclosure question regarding any unsatisfied judgment or liens against her, the Commissioner
28 through NMLS instructed Gurfinkiel to provide an amended MU4 with the correct disclosures

1 regarding a January 2016 federal tax lien. On May 23, 2016, Gurfinkiel submitted an amended MU4
2 which included that applicable disclosure only after the Commissioner asked her to explain her
3 outstanding federal tax lien. During the review process of Gurfinkiel’s application, an October 9,
4 2014 note was discovered in the applicant’s file that her former employer, Bay Equity LLC (NMLS
5 ID 76988), had terminated Gurfinkiel and submitted a complaint regarding Gurfinkiel to the
6 Commissioner. As a result, Gurfinkiel’s record was flagged to prevent license renewal in the future.

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8 **III**
9 **Gurfinkiel Knowingly Made Material Misrepresentations**
10 **and Omissions Pertaining to a Loan**

11 Upon further investigation, it was discovered that Gurfinkiel knowingly misappropriated
12 funds from a borrower for personal use through the use of numerous misrepresentations and
13 omissions of material facts, as described in further detail below:

14 1) On or about June 2, 2014, Gurfinkiel requested that the borrower issue a check to her
15 in the amount of \$2,389.44 payable to “Peoples Escrow Mngmt” which Gurfinkiel represented to the
16 borrower would be applied towards the refinancing of her loan and her current mortgage payments
17 with Wells Fargo Bank. In fact, none of the \$2,389.44 paid by the borrower was applied to either
18 the borrower’s mortgage payments with Wells Fargo Bank or towards the refinancing of the loan;

19 2) On or about July 1, 2014, Gurfinkiel requested that the borrower issue a check to her
20 in the amount of \$2,389.44 payable to “People Escrow” which Gurfinkiel represented to the
21 borrower would be applied towards the refinancing of her loan and her current mortgage payments
22 with Wells Fargo Bank. Again, none of the \$2,389.44 paid by the borrower was applied to either the
23 borrower’s mortgage payments with Wells Fargo Bank or towards the refinancing of her loan.

24 Additionally, Gurfinkiel omitted to tell the borrower that she would add her own name as a payee to
25 the July 1, 2014 check and deposit the check into her personal bank account for personal gain;

26 3) On or about August 1, 2014, Gurfinkiel requested that the borrower issue a check to
27 her in the amount of \$1,935.05 payable to “Citi Bank NA.” Gurfinkiel represented to the borrower
28 that “Citi Bank NA” was her new mortgage lender and that the \$1,935.05 would be applied to her
new mortgage payments. In fact, the borrower’s mortgage remained with Wells Fargo Bank,

1 Gurfinkiel never obtained a loan from “Citi Bank NA” for the borrower, and none of the \$1,935.06
2 was applied to the borrower’s mortgage payments.

3 4) On or about September 2, 2014, Gurfinkiel requested that the borrower issue a check
4 to her in the amount of \$1,935.05 payable to “City Bank.” Gurfinkiel represented to the borrower
5 that “City Bank” was her new mortgage lender and that the \$1,935.05 would be applied to her new
6 mortgage payments. In fact, the borrower’s mortgage remained with Wells Fargo Bank, Gurfinkiel
7 never obtained a loan from “City Bank” for the borrower, and none of the \$1,935.05 was applied to
8 the borrower’s mortgage payments. Moreover, Gurfinkiel omitted to tell the borrower that she
9 would add her own name as a payee to the September 2, 2014 check and that she would deposit the
10 check into her personal bank account for personal gain.

11 5) On or about September 30, 2014, Gurfinkiel requested that the borrower issue a check
12 to her in the amount of \$1,935.05 to “Bank” which Gurfinkiel represented to the borrower would be
13 applied towards the refinancing of their loans and mortgage payments. In fact, none of the
14 \$1,935.05 was applied towards the borrower’s mortgage payments or towards the refinancing of her
15 loan. Additionally, Gurfinkiel omitted to disclose to the borrower that she would add her own name
16 as a payee on the check and deposit the check into her personal bank account for personal use.

17 Afterwards, the borrower was contacted by Wells Fargo Bank and discovered that none of
18 the checks that were issued to Gurfinkiel were applied to the borrower’s mortgage payments and that
19 she was at least 6 months behind on her mortgage payments, causing the borrower great harm. The
20 borrower also learned she never got her loan refinanced, despite the fact Gurfinkiel represented that
21 she had refinanced the borrower’s loan. This material misrepresentation cause the borrower great
22 financial harm.

23 **IV**
24 **Applicable Law**

25 Section 22109.1 of the CFL and section 50141 of the CRMLA, contain substantial similar
26 language and provide in relevant part:

- 27 (a) The commissioner **shall** deny an application for a mortgage loan
28 originator license unless the commissioner makes **at a minimum the following findings**: . . .

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

(Fin. Code, §§ 22109.1 & 50141.)

Financial Code section 50318 provides in pertinent part:

(a) The commissioner may, after appropriate notice and opportunity for hearing, by order censure or suspend for a period not exceeding 12 months, or bar from any position of employment, management, or control any residential mortgage lender, residential mortgage loan servicer, or mortgage loan originator, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, and (A) the violation was either known or should have been known by the person committing or causing it, or (B) the violation has caused material damage to the residential mortgage lender, residential mortgage loan servicer, mortgage loan originator, or to the public.

....
(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code). Upon receiving a request, the matter shall be set for hearing to commence within 30 days after receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of the notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a licensed residential mortgage lender, residential mortgage loan servicer, or mortgage loan originator and from engaging in any business activity on the premises where a licensed residential mortgage lender, residential mortgage loan servicer, or mortgage loan originator is conducting its business. This subdivision

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shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a licensed residential mortgage lender, residential mortgage loan servicer, or mortgage loan originator.

Financial Code section 50503 provides in pertinent part:

(a) It is a violation for any person subject to this law or any director, partner, shareholder controlling an ownership interest of 10 percent or more, trustee, officer, agent, or employee of any such person to do any of the following:

....
(2) Knowingly or recklessly make or cause to be made any misstatement or omission of a material fact, pertaining to a loan or loan servicing.

V
Conclusion

The Commissioner finds that Gurfinkiel fails to demonstrate "... such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this division," required under Financial Code sections 22109.1 and 50141 based upon Gurfinkiel’s misappropriation of funds for personal use.

Furthermore, Gurfinkiel misappropriated the funds from the borrower by knowingly making material misstatements and omissions throughout the loan process in violation of Financial Code section 50503, subdivision (a)(2), causing great public harm since the borrower had her money misappropriated by Gurfinkiel for personal use and resulted in her mortgage payments being 6 months behind.

WHEREFORE IT IS PRAYED, by reason by the foregoing, pursuant to Financial Code sections 22109.1 and 50141, that the mortgage loan originator application filed by Dennise Gurfinkiel be denied.

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WHEREFORE IT IS ALSO PRAYED, by reason by the foregoing, pursuant to Financial Code section 50318, that it is in the public interest that Dennise Gurfinkiel be barred from any position of employment, management, or control of any residential mortgage lender, residential mortgage servicer, or mortgage loan originator.

Dated: February 6, 2017
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Vanessa T. Lu
Counsel
Enforcement Division