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

12 In the Matter of:
13 THE COMMISSIONER OF BUSINESS
14 OVERSIGHT,
15 Complainant,
16 v.
17 ARNOLD RANDAL HARPER,
18 Respondent.
19

NMLS NO.: 1575188
ORDER DENYING APPLICATION FOR
MORTGAGE LOAN ORIGINATOR LICENSE

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

22 1. On or about January 3, 2017, Arnold Randal Harper (Harper) filed an application for
23 an MLO license with the Department of Business Oversight (Department) by submitting a Form
24 MU4 (Application) through the Nationwide Mortgage Licensing System (NMLS) pursuant to
25 Financial Code section 50140.

26 2. Question F(1) in the Application specifically asked: “Have you ever been convicted
27 of or pled guilty or nolo contendere (‘no contest’) in a domestic, foreign, or military court to any
28 felony?” Harper answered “no.”

1 3. Question H(1) in the Application specifically asked: “Have you ever been convicted
2 of or pled guilty or non contendere (‘no contest’) in a domestic, foreign, or military court to
3 committing or conspiring to commit a misdemeanor involving: . . . (iv) theft or wrongful taking of
4 property” Harper answered “no.”

5 4. The Commissioner obtained documentation during the application process that
6 revealed Harper was charged with “felony theft by taking” on October 27, 2015, and the final
7 disposition of Harper’s felony charge was not disclosed in his criminal background check.

8 5. On or around January 19, 2017, the Commissioner instructed Harper through NMLS
9 to provide further explanation and court documentation to support his negative responses to the
10 Criminal Disclosure Questions F(1) and H(1).

11 6. On or around January 30, 2017, Harper submitted an email response to the
12 Commissioner stating “I have never been convicted of a felony in a court of law. . . . I was charged
13 with a felony but never convicted.” The Commissioner instructed Harper through email to provide
14 court documentation to support his statements that “[he] was charged for a felony, but never
15 convicted.”

16 7. On or around February 6, 2017, Harper submitted an email to the Commissioner that
17 included a copy of the criminal judgment from *State of Georgia v. Arnold Harper*. Harper pled guilty
18 to one count of theft by taking and sentenced to two years-probation for violating O.C.G.A. section
19 42-8-60.

20 8. Harper failed to disclose in his Application that he had a felony conviction. Harper
21 responded “no” to the Criminal Disclosure Questions F(1) and H(1). Harper’s Application contained
22 false statements because Harper should have stated “yes” to Questions F(1) and H(1) because he pled
23 guilty and was convicted of one felony of “theft by taking” on December 14, 2015.

24 9. Question D in the Application specifically asked: “Do you have any unsatisfied
25 judgments or liens against you?” Harper answered “yes.” But Harper failed to provide any written
26 disclosures or documentation to explain to the Commissioner what his outstanding judgments or liens
27 were. The Commissioner obtained documentation that showed Harper had outstanding judgments in
28 Georgia: a 2010 civil judgment for \$39,839.00 and a 2008 small claims judgment for \$5,395.00.

1 10. Question A(1) in the Application specifically asked: “Have you filed a personal
2 bankruptcy petition or been the subject of an involuntary bankruptcy petition within the past 10
3 years?” Harper answered “yes.” Harper failed to provide documentation for his bankruptcy and
4 stated in his Application: “[f]iled a BK due to medical reasons and the Judgment was for an
5 automobile that was not included in the bankruptcy in 2006.”

6 11. The Commissioner obtained documentation that showed Harper also filed for
7 bankruptcy in 2008 and 2011. Harper failed to disclose these two additional Chapter 13 bankruptcy
8 filings in his Application.

9 12. Harper provided false responses to Criminal Disclosure Questions F(1) and H(1) in his
10 Application. Harper’s failure to disclose his felony conviction of “theft by taking” shows Harper
11 does not meet the requirements for licensure as a MLO under Financial Code sections 50140 and
12 22109, wherein the applicant must demonstrate “financial responsibility, character, and general
13 fitness as to command the confidence of the community and to warrant a determination that the
14 mortgage loan originator will operate honestly, fairly, and efficiently within purposes of this
15 division.”

16 13. Based upon Harper’s failure to properly disclose and provide documentation for all of
17 his bankruptcy filings in 2006, 2008, and 2011, it also shows Harper does not meet the requirements
18 for licensure as a MLO under Financial Code sections 50141 and 22109.1, wherein the applicant
19 must demonstrate “financial responsibility, character, and general fitness as to command the
20 confidence of the community and to warrant a determination that the mortgage loan originator will
21 operate honestly, fairly, and efficiently within purposes of this division.”

22 14. Section 22109.1 of the CFL and section 50141 of the CRMLA, contain substantial
23 similar language and provide in relevant part:

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

27 . . .
28 (2)(A) The applicant has not been convicted of, or pled guilty or nolo
 contendere to, a felony in a domestic, foreign, or military court during
 the seven-year period preceding the date of the application for licensing
 and registration, or at any time preceding the date of application, if the

1 felony involved an act of fraud, dishonesty, or a breach of trust, or
2 money laundering. Whether a particular crime is classified as a felony
3 shall be determined by the law of the jurisdiction in which an
4 individual is convicted.

5 . . .
6 (3) The applicant has demonstrated such financial responsibility,
7 character, and general fitness as to command the confidence of the
8 community and to warrant a determination that the mortgage loan
9 originator will operate honestly, fairly, and efficiently within the
10 purposes of this division.

11 (Fin. Code, §§ 22109.1 & 50141.)

12 15. Financial Code section 50327 provides in relevant part:

13 (a) The commissioner may, after notice and a reasonable opportunity
14 to be heard, deny, decline to renew, suspend, or revoke any license if
15 the commissioner finds that:

16 (1) The licensee has violated any provision of this division or any rule
17 or order of the commissioner thereunder.

18 (2) Any fact or condition exists that, if it had existed at the time of the
19 original application for the license, reasonably would have
20 warranted the commissioner in refusing to issue the license
21 originally

22 16. Financial Code section 50512 provides in relevant part:

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

28 17. The Commissioner finds that Harper has made untrue statements during the course of
licensure with the intent to impede, obstruct, or influence the administration or enforcement of the
law governing mortgage loan originators, in violation of Financial Code section 50512, by providing
false statements in his original Application and supplemental responses.

18. The Commissioner also finds that Harper fails to demonstrate “. . . such financial
responsibility, character, and general fitness as to command the confidence of the community and to

1 warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently
2 within the purposes of this division,” as required under Financial Code sections 50141 and 22109.1,
3 subdivision (a)(3), based upon his felony conviction of “theft by taking” and his failure to answer his
4 Application truthfully.

5 19. On June 22, 2017, the Commissioner issued a Notice of Intention to Deny Mortgage
6 Loan Originator Application, Statement of Issues, and accompanying documents (Notice of Intention
7 to Deny) based on the above findings. On or around June 22, 2017, the Commissioner served Harper
8 with the Notice of Intention to Deny at the latest address on file. On or around July 24, 2017, the
9 Notice of Intention to Deny was returned to the Commissioner, “unable to forward” to Harper. On
10 July 11, 2017, the Commissioner sub-served Harper at the latest address on file. The time to request
11 a hearing has expired.

12 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the Application
13 filed by Arnold Randal Harper for a mortgage loan originator license is denied. This order is
14 effective as of the date hereof.

15 Dated: August 18, 2017
16 Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

17 By _____
18 MARY ANN SMITH
19 Deputy Commissioner
20 Enforcement Division
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