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

10
11 In the Matter of:) NMLS ID: 343476
)
12 THE COMMISSIONER OF BUSINESS) STATEMENT OF ISSUES
13 OVERSIGHT,)
)
14 Complainant,)
)
15 v.)
)
16 ROBERT R. HURLEY, JR.,)
17)
18 Respondent.)

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20 The Commissioner of Business Oversight of the State of California (“Commissioner”),¹ is
21 informed and believes, and based upon such information and belief, alleges and charges Respondent
22 as follows:

23 **I**
24 **INTRODUCTION**

25 The proposed order seeks to deny the issuance of a mortgage loan originator license to
26 ROBERT R. HURLEY, JR. (“Hurley”) pursuant to Financial Code section 50141 in that Hurley has
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28 ¹ As of July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight.

1 been convicted of a felony involving an act of fraud, dishonesty, or a breach of trust, or money
2 laundering, by pleading guilty on or around January 4, 1996 to robbery-general, a felony, in
3 violation of Article 27, sections 486 and 487 of the Annotated Code of Maryland, currently codified
4 as Maryland Criminal Law Code sections 3-401 and 3-403, respectively.²

5 **II** 6 **APPLICATION**

7 On or around November 12, 2010, Hurley filed an application for a mortgage loan originator
8 license with the Commissioner pursuant to Financial Code section 50140 of the California
9 Residential Mortgage Lending Act (“CRMLA”) (Fin. Code § 50000 et seq.). The application was
10 submitted to the Commissioner by filing a Form MU4 through the Nationwide Mortgage Licensing
11 System (“the Application”).

12 The Application at Question (F)(1) specifically asks: “Have you ever been convicted of or
13 pled guilty or nolo contendere (‘no contest’) in a domestic, foreign, or military court to any felony?”
14 Respondent answered, “Yes.”

15 **III** 16 **CONVICTION**

17 Documents obtained by the Commissioner in connection with the Application disclosed that
18 Hurley pled guilty to Count 1, Robbery-General, of the Information filed on or around September
19 12, 1995, in *State of Maryland v. Robert Roy Hurley* (Case # 95CR3382).

20 Count 1 of the Information states that Hurley, on July 30, 1995, “feloniously did rob
21 [individual’s name omitted], and violently did steal from him \$120.00 in current money of the
22 United States, contrary to the form of the Act of Assembly in such case made and provided, and
23 against the peace, government and dignity of the State. (Robbery – Common Law and Article 27,
24 Sections 486, 487).” On or around January 4, 1996, Hurley pled guilty to Count 1.

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28 ² Pursuant to Maryland Criminal Law Code section 3-401 (formerly Article 27, section 486) robbery is not defined by
statute but by common law as “the felonious taking and carrying away of the personal property of another, from his
person or in his presence, by violence, or by putting him in fear.” *Darby v. State* (1968) 3 Md. App. 407, 413, *cert.*
denied, (1969) 393 U.S. 1105. Moreover, the intent to steal is an essential element of robbery. *Cates v. State* (1974) 21

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III
APPLICABLE LAW

Financial Code section 50141 provides in relevant part:

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

(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 . . . at any time preceding the date of application, if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. Whether a particular crime is classified as a felony shall be determined by the law of the jurisdiction in which an individual is convicted. (Emphasis added)

IV
CONCLUSION

The Commissioner finds, by reason of the foregoing, that Hurley does not meet at least one of the six minimum requirements for issuance of a mortgage loan originator license, namely, Financial Code section 50141, subdivision (a)(2) requiring that Hurley has not pled guilty to a felony at any time preceding the date of the Application if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering.³ Having found that Hurley pled guilty to a felony involving an act of dishonesty prior to the date of the Application, pursuant to Financial Code section 50141, subdivision (a) the Commissioner shall deny Hurley’s application for a mortgage loan originator license.

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Md. App. 363, 366, *cert. denied*, (1974) 272 Md. 739.

³ “Since robbery and burglary each necessarily involve a specific intention to commit a theft . . . each involves elements of dishonesty and a readiness to do evil.” *People v. Rodriguez* (1986) 177 Cal. App. 3d 174, 178.

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WHEREFORE IT IS PRAYED that the mortgage loan originator application filed by Respondent be denied.
Dated: April 24, 2015
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
SOPHIA C. KIM
Counsel