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

12 In the Matter of:) NMLS NO.: 248548
13)
14 THE COMMISSIONER OF BUSINESS) ORDER DENYING MORTGAGE LOAN
OVERSIGHT,) ORIGINATOR LICENSE APPLICATION
15)
16 Complainant,)
17 v.)
18 KEVIN D. MCGILL,)
19 Respondent.)

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

- 21 1. On December 27, 2016, Kevin D. McGill (McGill), filed an application for a mortgage
22 loan originator license with the Commissioner pursuant to Financial Code section 50140. The
23 application was for approval of employment as a mortgage loan originator with, or working on
24 behalf of, Senior Advantage Association located at 1000 Van Ness Avenue, Suite 104, San
25 Francisco, California 94109. The application was submitted to the Commissioner by filing a
26 Form MU4 through the Nationwide Mortgage Licensing System & Registry (NMLS).
27 2. In submitting his application, McGill answered “yes” to question (A)(1) on Form MU4,
28

1 which specifically asked: “Have you filed a personal bankruptcy petition or been the subject of an
2 involuntary bankruptcy petition within the past 10 years?”

3 3. Supporting documentation provided by McGill of his bankruptcy shows that on May 3,
4 2010 he was granted a Chapter 7 discharge under Bankruptcy Code (11 U.S.C. § 727).

5 4. In addition, McGill initially answered “no” to questions (K) (1) through (8) on Form MU4,
6 which specifically asked:

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

9 . . .

10 (1) found you to have made false statement or omission or been
dishonest, unfair or ethical?

11 (2) Found you to have been involved in a violation of a financial
12 services-related business regulation(s) or statute(s)?

13 (3) found you to have been a cause of a financial-service related
14 business having its authorization to do business denied,
suspended, revoked or restricted?

15 (4) Entered an order against you in connection with a financial
services-related activity?

16 (5) revoked your registration or license?

17 (6) denied or suspended your registration or license or
18 application for licensure, disciplined you, or otherwise by
order, prevented you from associating with a financial
19 service-related business or restricted your activities?

20 (7) barred you from association with an entity regulated by such
21 commissions, authority, agency, or officer, or from engaging
in a financial services-related business?

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

24 5. The Commissioner’s review of the California Bureau of Real Estate (BRE, formerly known
25 as the Department of Real Estate) license information revealed that a BRE audit in 2009 into
26 McGill’s real estate brokerage firm, White Diamond Real Estate, resulted in disciplinary action for
27 trust fund violations. On October 7, 2010 the BRE suspended McGill’s real estate broker license
28 for 60 days and Gill was ordered to pay to the BRE the cost of the audit which totaled \$7,188.50.

1 On December 11, 2012, the BRE suspended indefinitely the real estate broker license issued to
2 McGill for the failure to pay cost of the audit.

3 6. After a review of McGill’s application, the Commissioner instructed him to amend the
4 MU4 application and provide a detailed explanation and supporting documentation regarding the
5 BRE suspension. Thereafter, on January 30, 2017, McGill amended his response to questions
6 (K)(2), (K)(3), (K5), (K)(6), (K)(9) from “no” to “yes,” but again did not disclose that the license
7 was suspended indefinitely. McGill’s response regarding why he did not comply with the order to
8 pay the cost of the audit was that since he had mailed his license back to BRE, he believed he was
9 not responsible to pay for costs of the audit. The Commissioner’s review of the BRE order does
10 not reveal that McGill could avoid paying the fine by simply mailing back his license.

11 7. In submitting the January 30, 2017 amended application, McGill was attesting to and
12 swearing that the answers were true and complete to the best of his knowledge.

13 8. Documentation and information obtained by the Commissioner during the application
14 process revealed that on December 11, 2012, the real estate broker license of McGill was
15 suspended indefinitely for failure to pay the costs of the audit.

16 9. Financial Code section 50141 provides in relevant part:

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

...

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

...

25 10. McGill’s prior bankruptcy, suspension of his real estate broker license and false responses
26 on the application for a mortgage loan originator license show the applicant’s failure to
27 demonstrate such financial responsibility, character and general fitness as to command the
28 confidence of the community and to warrant a determination that he will operate honestly, fairly,
and efficiently as a mortgage loan originator. McGill initially submitted false responses to
question (K) regarding actions by state or federal regulatory agencies against him. The August 12,

1 2010 BRE Proposed Decision which became effective October 7, 2010, shows that there was a
2 finding that McGill failed to maintain a client trust account as required by regulation in connection
3 with his real estate brokerage firm. Furthermore, the BRE violation led to an indefinite suspension
4 of McGill’s real estate broker’s license and imposition of a fine. Finally, after amending Form
5 MU4, McGill continued to omit the fact that the suspension was for an indefinite time, not merely
6 60 days and that a fine was assessed. Such incorrect responses on the initial and amended Form
7 MU4 were false and misleading.

8 11. On March 20, 2018, the Commissioner issued a Notice of Intention to Issue Order Denying
9 Mortgage Loan Originator License Application, Statement of Issues in Support of Notice of
10 Intention to Issue Order Denying Mortgage Loan Originator License and accompanying documents
11 based on the above findings. On or about March 26, 2018, McGill was served with those
12 documents at his address of record. McGill did not file a request for hearing and the time to do so
13 has expired.

14 12. Based on the foregoing findings, pursuant to Financial Code section 50141, the
15 Commissioner is, therefore, mandated to deny McGill’s application for a mortgage loan originator
16 license.

17 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the
18 application for a mortgage loan originator license of Kevin D. McGill is denied. This order is
19 effective as of the date thereof.

20 Dated: May 4, 2018
21 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

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23
24 By _____
25 MARY ANN SMITH
26 Deputy Commissioner
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