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

13 In the Matter of THE COMMISSIONER OF )  
14 BUSINESS OVERSIGHT, )

NMLS No: 243377

15 Complainant,

16 v.

) ACCUSATION IN SUPPORT OF NOTICE OF  
) INTENTION TO ISSUE ORDER REVOKING  
) MORTGAGE LOAN ORIGINATOR LICENSE  
) OF ANDRES EUGENIO MONSALVE

17 ANDRES EUGENIO MONSALVE,

18 Respondent.  
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1 Jan Lynn Owen, the Commissioner of Business Oversight (“Commissioner”), alleges and  
2 charges as follows:

3 **I**

4 **Jurisdiction and Venue**

5 1. The Commissioner brings this action to revoke the mortgage loan originator (“MLO”)   
6 license previously issued to Andres Eugenio Monsalve (“Monsalve” or “Respondent”), NMLS   
7 243377,<sup>1</sup> pursuant to Financial Code sections 22172 and 50327, and the rules and regulations   
8 promulgated thereunder.

9 2. The Commissioner, as head of the Department of Business Oversight (“Department”),   
10 is authorized to administer and enforce the provisions of the California Finance Lenders Law   
11 (“CFLL”) (“Fin. Code, § 22000 et seq.) and the California Residential Mortgage Lending Act   
12 (“CRMLA”) (Fin. Code, § 50000 et seq.), and the regulations promulgated under title 10 of the   
13 California Code of Regulations (Cal. Code Regs., tit. 10, § 1404 et seq. and Cal. Code Regs., tit 10, §   
14 1950.003 et seq.).

15 **II**

16 **Statement of Facts**

17 3. On or about June 7, 2010, the Commissioner issued an MLO license to Monsalve   
18 under the CFLL and the CRMLA. An MLO license is renewed annually between November 1 and   
19 December 31.

20 4. On or about June 6, 2016, the Commissioner received information from Axia Home   
21 Loans (“Axia”) concerning Monsalve’s possible fraudulent activities during the course of his   
22 employment as an MLO at Axia. According to Axia, the Federal Housing Administration (“FHA”)   
23 notified Axia that the loan payments on a loan processed by Monsalve were in arrears. Consequently,   
24 Axia conducted a review of the file at issue and discovered altered bank statement entries. Axia   
25 reported its findings to FHA and thereafter widened its investigation into Monsalve’s loan files and   
26 company-issued computer. During the course of its investigation of Monsalve’s company-issued

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28 <sup>1</sup> NMLS refers to the Nationwide Mortgage Licensing System and Registry. (Cal. Code Regs., tit 10, § 1404, subd. (k).)   
The NMLS identification number is the unique identifier assigned to registered mortgage loan officers.

1 computer, Axia found the software installed on Monsalve’s computer had the ability to alter any  
 2 document and several forms of loan documentation that were found on the computer were in editable  
 3 format, including bank statements, divorce decrees, passports, and other forms of government  
 4 identification, including two passports with Monsalve’s photo in two different names. Axia also  
 5 found that in several loans processed by Monsalve, there was evidence indicating a significant  
 6 amount of borrower information was submitted by individuals not related to the transactions in any  
 7 way, violating laws regulating loan origination activities. In light of these discoveries, Axia  
 8 terminated Monsalve on March 23, 2016.

9           5.       On or about May 17, 2016, Paramount Residential Mortgage Group (“Paramount,”  
 10 NMLS ID 75243) submitted a Form MU4<sup>2</sup> through NMLS attested by Monsalve. The Form MU4  
 11 indicated that Monsalve was an employee of the company as of May 2, 2016. But Monsalve failed to  
 12 disclose or provide any explanation concerning his termination from Axia to the question under  
 13 “Termination Disclosure,” question (Q) (1) and (2), which asked:

14                   (Q) Have you ever voluntarily resigned, been discharged, or permitted to resign after  
 15 allegations were made that accused you of:

- 16                               (1) violating statute(s), regulations(s), rules(s), or industry standards of conduct?
- 17                               (2) fraud, dishonesty, theft, or the wrongful taking of property?

18 Records show that Monsalve voluntarily resigned from Paramount on June 14, 2016.

19           6.       On or about June 15, 2016, Broker Solutions, Inc. (“Broker Solutions,” NMLS ID  
 20 6606) submitted a Form MU4 through NMLS attested by Monsalve. The Form MU4 showed  
 21 Monsalve was employed by Broker Solutions as of June 15, 2016. Again Monsalve failed to disclose  
 22 or provide any explanation concerning his termination from Axia to the question under “Termination  
 23 Disclosure,” question (Q) (1) and (2). Likewise, Monsalve failed to provide any explanation about  
 24 his resignation from Paramount.

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 26 <sup>2</sup> Form MU4 refers to the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry  
 27 for an individual mortgage loan originator license or registration, entitled “Uniform Individual Mortgage  
 28 License/registration & Consent Form. (Cal. Code Regs., tit 10, § 1404, subd. (j).) This form enables the NMLS system to  
 capture and store criminal background-check information, enables the credit report to be authorized, and stores education  
 and testing requirement compliance information.

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III

**The Mortgage Loan Originator License of Monsalve Should be Revoked in light of his Duplicitous Conduct as a Mortgage Loan Originator**

- 7. Financial Code section 22161 in relevant part provides:  
  - No person subject to this division shall do any of the following:  
    - ...
    - (f) Commit an act that constitutes fraud or dishonest dealings.
- 8. Financial Code section 22172 in relevant part provides:  
  - (a) The commissioner may do one or more of the following:  
    - (1) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license for a violation of this division, or any rules or regulations adopted thereunder.
- 9. Financial Code section 50204, subdivision k, provides:  
  - A licensee may not do any of the following:  
    - (k) Do an act, whether of the same or a different character than specified in this section that constitutes fraud or dishonest dealings.
- 10. Financial Code section 50327 provides:  
  - (a) The commissioner may, after notice and a reasonable opportunity to be heard, deny, decline to renew, suspend, or revoke any license if the commissioner finds that:  
    - (1) The licensee has violated any provision of this division or any rule or order of the commissioner thereunder.
    - (2) Any fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.
  - (b) The power of investigation and examination by the commissioner is not terminated by the denial, nonrenewal, surrender, suspension, or revocation of any license issued by him or her.

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11. California Code of Regulations, title 10, section 1409.1, in relevant part provides:

(c) A mortgage loan originator shall file changed information contained in its Form MU4, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty (20) days of changes to the information as provided in Section 1422.6 of Subchapter 6 of these rules. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. A mortgage loan originator may not renew his or her license under Section 1422.6.3 of Subchapter 6 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.

12. California Code of Regulations, title 10, section 1950.122.9, in relevant part provides:

(c) A mortgage loan originator shall file changed information contained in its Form MU4, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty (20) days of changes to the information. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. A mortgage loan originator may not renew his or her license under Section 1950.122.5.3 of Subchapter 11.5 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.

13. As described in paragraph 4. above, Axia’s discovery of Monsalve’s business dealings during the course of his employment at Axia which included altering bank statement entries and loan documentation, and evidence of falsified loan documents, constitutes fraud or dishonest dealings in violation of Financial Code sections 22161, subdivision (f) and 50204, subdivision (k).

14. In addition, Monsalve’s termination by Axia after allegations were made that he had violated California laws regulating loan origination activities as described in paragraph 4., above, and his voluntary resignation from Paramount constitute changed information that Respondent failed to amend in his Form MU4 in violation of California Code of Regulations, title 10, sections 1409.1, subdivision (c) and 1950.122.9, subdivision (c).

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**IV**

**Conclusion**

Monsalve’s violations of Financial Code sections 22161, subdivision (f) and 50204, subdivision (k), and California Code of Regulations, title 10, sections 1409.1, subdivision (c) and 1950.122.9, subdivision (c) provide grounds for the Commissioner to revoke the mortgage loan originator license of Monsalve.

WHEREFORE, IT IS PRAYED that the mortgage loan originator license of Andres Eugenio Monsalve be revoked.

Dated: October 19, 2016

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
MARLOU de LUNA  
Senior Counsel  
Enforcement Division