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8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of:) NMLS ID 508524
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) ORDER DENYING MORTGAGE LOAN
14)
Complainant,)
15)
v.)
16)
17 DANIEL NICOLAU,)
18 Respondent.)

19 The Commissioner of Business Oversight (“Commissioner”) finds that:

- 20 1. On September 16, 2014, Respondent filed an application for a mortgage loan originator
21 license with Complainant pursuant to the California Residential Mortgage Lending Act
22 (“CRMLA”) (Fin. Code § 50000 et. seq.), in particular, Financial Code section 50140. The
23 application was for employment as a mortgage loan originator with or working on behalf of
24 Prime Source Mortgage, Inc. located at 5000 Birch Street, Newport Beach, California. The
25 application was submitted to the Commissioner by filing a Form MU4 through the Nationwide
26 Mortgage Licensing System (“NMLS”).
27 2. The Form MU4 at Question (F)(1) specifically asked: “Have you ever been convicted of or
28 pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony?”

1 Respondent answered “Yes”.

2 3. Documents received by Complainant during the application process disclosed that
3 Respondent had been convicted of receiving stolen property in violation of 18 United States Code
4 section 2315. Respondent signed the Form MU4 swearing that the answers were true and complete
5 to the best of Respondent’s knowledge.

6 4. The documentation and information obtained by the Commissioner during the application
7 process revealed that on or about November 25, 1998, in the United States District Court for the
8 Central District of California, case number CR98-1051, Respondent pled guilty to felony receipt of
9 stolen property regarding a series of fraudulently leased personal computers from Dell Financial
10 Services using numerous false identities. Respondent was subsequently convicted of felony receipt
11 of stolen property in violation of 18 United States Code section 2315 and was sentenced to eleven
12 and one-half months in prison, with supervised release thereafter for three years, and restitution in
13 the amount of \$70,066.

14 5. In that case, the court imposed additional conditions on Respondent, including that he
15 provide to the Probation Officer a signed release authorizing credit checks, an accurate financial
16 statement, sources and amounts of income and all expenses, and that he provide both federal and
17 state tax returns as requested. Respondent was also prohibited from obtaining or possessing any
18 driver’s license, Social Security number, birth certificate, passport or any other form of identification
19 without the prior approval of the Probation Officer and was prohibited from using any name other
20 than his true legal name. Further, Respondent was prohibited from applying for any loan or opening
21 any line of credit without prior approval of the Probation Officer and was required to maintain a
22 single, personal bank account into which all income, financial proceeds and gains were to be
23 deposited and from which all expenses shall be paid.

24 6. Financial Code section 50141 provides in relevant part:

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

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

1 during the seven-year period preceding the date of the application
2 for licensing and registration, or at any time preceding the date of
3 application, if such felony involved an act of fraud, dishonesty, a
4 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.

5 7. Respondent’s above-mentioned felony conviction for receipt of stolen property requires the
6 Commissioner to deny Respondent’s application under Financial Code section 50141, subdivision
7 (a)(2)(A) because it is a felony involving an act of fraud, dishonesty, and/or breach of trust.

8 8. Financial Code section 50141 further provides in relevant part:

9 (a) The commissioner shall deny an application for a mortgage loan
10 originator license unless the commissioner makes at a minimum the
11 following findings:
12

13 (3) The applicant has demonstrated such financial responsibility,
14 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.

15 By having been convicted of the above-mentioned felony, Respondent has failed to
16 demonstrate such character and general fitness as to command the confidence of the community and
17 to warrant a determination that he will operate honestly, fairly, and efficiently as a mortgage loan
18 originator.

19 9. Complainant finds, by reason of the foregoing, that Respondent has been convicted of felony
20 receipt of stolen property, which constitutes a felony involving an act of fraud, dishonesty, and/or
21 breach of trust.

22 10. Complainant further finds, by reason of the foregoing, that Respondent has failed to
23 demonstrate such character and general fitness as to command the confidence of the community and
24 to warrant a determination that he will operate honestly, fairly, and efficiently as a mortgage loan
25 originator.

26 11. On January 12, 2016, the Commissioner issued a Notice of Intention to Issue Order Denying
27 Mortgage Loan Originator License Application and accompanying documents based on the above
28 findings. Respondent was personally served with those documents on January 20, 2016. On January

1 26, 2016, Respondent requested a hearing and on May 13, 2016 withdrew that request.

2 NOW GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the mortgage
3 loan originator license application of Daniel Nicolau, described in Paragraph 1 above, is denied.

4 This order is effective as of the date hereof.

5 Dated: June 2, 2016
6 Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

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9 By: _____
10 MARY ANN SMITH
11 Deputy Commissioner
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