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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues of THE) NMLS No. 287488
11 CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) Sponsor File No.: 603-G833
13 Complainant,) STATEMENT OF ISSUES IN SUPPORT OF
14 vs.) NON-ISSUANCE OF MORTGAGE LOAN
15) ORIGINATOR LICENSE
16 DAVID MEADE THOMAS,)
17 Respondent.)

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19 The Complainant is informed and believes, and based upon such information and belief,
20 alleges and charges Respondent as follows:

21 I
22 INTRODUCTION

23 On or about November 10, 2010, Complainant determined not to issue a mortgage loan
24 originator license to David Meade Thomas ("Respondent") pursuant to Financial Code section
25 22109.1 in that Respondent has failed to demonstrate such financial responsibility, character, and
26 general fitness as to command the confidence of the community and to warrant a determination that
27 he will operate honestly, fairly, and efficiently.
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II

THE APPLICATION

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3 On or about April 22, 2010, Respondent filed an application for a mortgage loan
4 originator license with the California Corporations Commissioner (“Complainant” or
5 “Commissioner”) pursuant to the California Finance Lenders Law (“CFL”) (Financial Code
6 sections 22000 *et. seq.*), in particular, Financial Code section 22105.1. The application was for
7 employment or working on behalf of Data Mortgage, Inc. doing business as Essex Mortgage, which
8 has its principal place of business located at 1100 Town & Country Road, Suite 100, Orange,
9 California 92868. The application was submitted to the Commissioner by filing Form MU4 through
10 the Nationwide Mortgage Licensing System (“NMLS”). Respondent signed the Form MU4
11 swearing that the answers were true and complete to the best of Respondent’s knowledge.

12 Form MU4 at Question 8. (F)(1) specifically asked: “Have you ever been convicted of or
13 pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to committing
14 or conspiring to commit a misdemeanor involving: (i) financial services or a financial services
15 related business, (ii) fraud, (iii) false statements or omissions, (iv) theft or wrongful taking of
16 property, (v) bribery, (vi) perjury, (vii) forgery, (viii) counterfeiting, or (ix) extortion? Respondent
17 answered “yes”. In providing details about his “yes” answer, Respondent stated on or about May 11,
18 2010 that “Sometime around 1988 or 1989, I was convicted twice of petty theft, both misdemeanors.
19 I don’t recall the first incident, but the second one was for the unlawful taking of a bottle of shampoo
20 from a beauty supply store. . . .”

21 However, the Commissioner, while reviewing the application discovered that Respondent
22 had also been convicted of (i) misdemeanor burglary under California Penal Code section 459 in
23 1989, and (ii) misdemeanor false representation of identity to a peace officer under California Penal
24 Code section 148.9(a) and misdemeanor personate to make others liable under California Penal Code
25 section 529.3 in 1994. It is a violation of Financial Code section 22170(b) to make an untrue
26 statement to the commissioner or NMLS during the course of licensing with the intent to impede,
27 obstruct, or influence the administration or enforcement of the CFL.

1 On or about July 1, 2010, Respondent was sent a letter asking him to explain the (i)
2 misdemeanor burglary conviction in 1989 and (ii) misdemeanor false representation of identity to a
3 peace officer and misdemeanor personate to make others liable conviction in 1994, which
4 Respondent had failed to disclose in his application. On or about July 9, 2010, Respondent replied
5 that “I failed to remember a few cases from nearly 20 years ago when I listed what the “yes”
6 answered question was for. This was not intentional as two of the cases were 20 years ago, when I
7 was 19 years old and the other was 16 years ago.” Respondent then went on to recite the specifics
8 and exact dates of three previously undisclosed convictions; two of which the Commissioner had
9 inquired about and one further misdemeanor burglary conviction in 1989. Respondent stated as
10 follows in describing these further convictions, “Here is a brief description of the cases: 04-03-1989-
11 I was convicted of burglary. I was caught stealing quarters from the video games at Disneyland. 12-
12 05-1989- I obviously didn’t learn my lesson as I was convicted of burglary for stealing quarters from
13 Knotts Berry Farm. 10-27-1994- I was convicted of lying to a police officer. I was driving with a
14 suspended license and I used a bogus name to avoid arrest.”

15 Additionally, Form MU4 at Question 8. (I) specifically asks: “Has any State or federal
16 regulatory agency or foreign financial regulatory authority ever: (1) found you to have made a false
17 statement or omission or been dishonest, unfair or unethical? . . (5) revoked your registration or
18 license? (6) denied or suspended your registration, disciplined you, or otherwise by order, prevented
19 you from associating with a financial services-related business or restricted your activities. . . .”
20 Respondent answered “yes” to those three questions. In providing details, Respondent stated on or
21 about May 11, 2010 that “Sometime around 1998, my Fire & Casualty insurance license was
22 revoked by the Dept. of Insurance. This action was taken due to the department’s interpretation
23 revolving around a chain of events between a long-time client, my company and me. Basically, I
24 listed myself as a driver on a clients auto insurance renewal when, in fact, I never intended to drive
25 the vehicle. I did this to help the client, at her request, as her driving privileges were suspended and
26 she needed to maintain coverage on her car for the lien-holder. This was common practice at the
27 company I worked for at the time. . . .”

28 Documents obtained by the Department of Corporations during the application process

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and efficiently within the purposes of this division."

California Code of Regulations, title 10 section 1422.6.2 provides in relevant part:

(a) The Commissioner's finding required by Section 22109.1(c) of the California Finance Lenders Law relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the role of a mortgage loan originator.

...

(c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:

(1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or

(2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

IV

CONCLUSION

Complainant finds, by reason of the foregoing, that:

(1) Thomas was convicted of misdemeanor petty theft on two separate occasions in or about 1988/1989.

(2) Thomas was convicted of misdemeanor burglary on two separate occasions in 1989.

(3) Thomas was convicted of misdemeanor false representation of identity to a peace officer and misdemeanor personate to make others liable in 1994.

(4) Thomas had his DOI license restricted in 1997 for making a false statement in his May 1, 1995 DOI license application that he had never been convicted of any crime.

(5) Thomas had been convicted of the crimes described in items (1) – (3) above at the time of his May 1, 1995 license application with the DOI, which were in addition to those convictions discovered by DOI.

(6) Thomas had his DOI license revoked on June 15, 2001 for engaging in a fraudulent practice or act, conducting his business in a dishonest manner, acting incompetently, displaying untrustworthiness in the conduct of a business, and lacking integrity.

1 (7) Thomas has made false statements to the Commissioner in his 2010 MLO license
2 application.

3 (8) Thomas has failed to demonstrate the financial responsibility, character and fitness
4 required of a mortgage loan originator under the Finance Lenders Law as demonstrated by his long
5 history of dishonest and deceptive acts.

6 THEREFORE, Complainant asserts that Financial Code section 22109.1 mandated that the
7 Commissioner not issue a mortgage loan originator license to Respondent under the Finance Lenders
8 Law.

9 WHEREFORE IT IS PRAYED that the determination of the Commissioner to not issue a
10 mortgage loan originator license to Respondent in connection with Respondent's April 22, 2010
11 application be upheld.

12 Dated: December 1, 2010
13 Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

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15 By _____
16 Judy L. Hartley
17 Senior Corporations Counsel
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