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

10  
11 In the Matter of: ) NMLS FILE NO.: 1747828  
 )  
12 THE COMMISSIONER OF BUSINESS )  
13 OVERSIGHT, )  
 ) ORDER DENYING APPLICATION FOR  
14 Complainant, ) MORTGAGE LOAN ORIGINATOR LICENSE  
 )  
15 v. )  
 )  
16 RUSSELL WILLIAM BURGIN, )  
17 )  
18 Respondent. )  
 )  
19 )  
\_\_\_\_\_ )

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

22 1. The Commissioner is authorized to administer and enforce the provisions of the  
23 California Financing Law (Fin. Code, § 22000 et seq.) (CFL) and the rules and regulations  
24 promulgated thereunder.

25 2. Respondent Russell William Burgin (Burgin) was disbarred from the Kentucky State  
26 Bar on August 25, 2016, for lying to a judge in open court when his membership status was  
27 questioned by the judge, practicing law with a suspended license, and numerous other professional  
28 misconduct violations. Prior to being disbarred, Burgin was suspended from the practice of law on

1 five separate occasions.

2 3. Under the provisions of Financial Code section 22109.1, the Commissioner brought  
3 an action to deny Burgin’s mortgage loan originator (MLO) license application.

4 4. On or about August 2, 2018, Burgin submitted an individual MU4 License Form  
5 (MU4) to the Department of Business Oversight (Department), through the Nationwide Multistate  
6 Licensing System (NMLS), seeking licensure as a mortgage loan originator.

7 5. Burgin answered “Yes” to the following questions on the MU4:

- 8 a. “Have you ever had an authorization to act as an attorney, accountant, or State or  
9 federal contractor that was revoked or suspended?”
- 10 b. “Has any State or federal regulatory agency or foreign financial regulatory  
11 authority or self-regulatory organization (SRO) ever:
- 12 i. Revoked your registration or license?
- 13 ii. Entered an order concerning you in connection with any license or  
14 registration?”

15 6. On or around August 22, 2018, at the Department’s request, Burgin uploaded an  
16 Opinion and Order Imposing Disbarment, entered by the Supreme Court of Kentucky (the Court)  
17 on August 25, 2016, in the matter of *Kentucky Bar Association v. Russell W. Burgin*, Case Number  
18 2016-SC-000098-KB and 2016-SC-000203-KB. The Order is final.

19 7. Burgin was admitted to practice law in Kentucky on May 1, 2001.

20 8. On March 22, 2012, Burgin admitted to, and was found guilty by the Supreme Court  
21 of Kentucky of:

- 22 a. failing to diligently proceed with a client’s case,  
23 b. failing to keep his client reasonably informed about the status of his client’s case,  
24 c. failing to deposit an advance into an escrow account,  
25 d. failing to timely refund any portion of the unearned fee, and  
26 e. failing to take reasonable steps to expedite the client’s case.

27 Burgin stipulated to a 30-day suspension from the practice of law, which was probated so  
28 long as he attended the Office of Bar Counsel’s Ethics Professionalism and Enhancement Program

1 (EPEP).

2 9. Approximately eight months later, on November 21, 2013, Burgin was again found  
3 guilty by the Supreme Court of Kentucky of one count of professional misconduct (lacking  
4 reasonable diligence and promptness in handling a client’s settlement check and Medicaid lien).  
5 The trial commissioner in the case found that Burgin had a “languid, if not cavalier, attitude with  
6 regard to his practice” and that he “exhibits an extreme[ly] lackadaisical and disconcerting nature  
7 and lack of diligence in the performance of his practice” and that his “delays in taking any remedial  
8 action, despite potential for consequences, were inexcusable.” Burgin was suspended from the  
9 practice of law for 60-days, with 30 days of the suspension probated for two years on the following  
10 conditions:

- 11 a. That Burgin attend and complete the EPEP course,
- 12 b. That Burgin show proof to Bar Counsel that he satisfied the Medicaid lien, and
- 13 c. Burgin pay costs of the proceedings in the amount of \$778.72.

14 10. Burgin’s 30-day suspension was set to expire automatically in December 2013. The  
15 Kentucky State Bar objected to Burgin’s automatic reinstatement. As result, Burgin remained  
16 suspended and to this day, has not been reinstated or restored to practice and was subsequently  
17 disbarred in August of 2016.

18 11. Approximately one year later, on December 18, 2014, the Supreme Court of  
19 Kentucky found Burgin guilty of:

- 20 a. failing to act with reasonable diligence and promptness in dealing with a client  
21 matter,
- 22 b. failing to keep the client reasonably informed regarding the status of the matter,
- 23 c. failing to respond to his client’s requests for information,
- 24 d. failing to give reasonable notice to his client that he had abandoned the matter  
25 and thereby ended the representation, and
- 26 e. failing to respond to the State Bar of Kentucky’s complaint.

27 The Court further found that as of the date of the order, Burgin had not complied with the  
28 three requirements in the November 21, 2013 order. The court issued an order to show cause.

1 Burgin failed to respond. The Court suspended Burgin from the practice of law for 181 days,  
2 concurrent with any other suspensions imposed and ordered Burgin to notify all courts or other  
3 tribunals and all of his clients of his inability to represent them. Burgin was ordered to refrain from  
4 accepting new clients or collect unearned fees while suspended.

5 12. Only five months later, on May 14, 2015, the Supreme Court of Kentucky found  
6 Burgin guilty of:

- 7 a. failing to act with reasonable diligence and promptness in dealing with a client  
8 matter,
- 9 b. failing to keep his client reasonably informed about the status of the matter,
- 10 c. failing to promptly reply to his client’s requests for information,
- 11 d. failing to give reasonable notice to his client that he had abandoned the matter  
12 and thereby ended the representation, and
- 13 e. failing to respond to the State Bar of Kentucky’s complaint despite having been  
14 warned that the failure to respond could result in additional charges of  
15 misconduct under the rule.

16 The Court suspended Burgin from the practice of law for 181 days, consecutive with any  
17 other suspension. Burgin was also referred to the Kentucky Lawyer Assistance Program (KYLAP).  
18 Burgin was ordered to notify all courts or other tribunals and all of his clients of his inability to  
19 represent them, and to refrain from accepting new clients or collect unearned fees while suspended.

- 20 13. On September 24, 2015, the Supreme Court of Kentucky found Burgin guilty of:
- 21 a. engaging in conduct involving dishonesty, fraud, deceit or misrepresentation,
  - 22 b. failing to act with reasonable diligence and promptness in dealing with a client  
23 matter,
  - 24 c. failing to keep his client reasonably informed about the status of the matter,
  - 25 d. failing to promptly reply to his client’s requests for information,
  - 26 e. failing to protect his client’s interests upon termination of representation as he  
27 failed to give her reasonable notice to allow time for employment of other  
28 counsel, failed to surrender papers and property that his client was entitled, failed

- 1 to refund any advance payment of fee or expense that had not yet been earned,
- 2 f. practicing law despite being suspended, and
- 3 g. knowingly failed to respond to the bar complaint and charge issued against him,

4 14. Specifically, the Court found that Burgin misled a client into believing that he had  
5 filed a complaint on her behalf when he hadn't, subsequently asked the client to file the complaint  
6 once he was suspended from the practice of law, required the client to pay the filing fee when she  
7 had already advanced the fee to Burgin, and continued to represent a client while suspended from  
8 the practice of law, among other things.

9 15. The Court further suspended Burgin from the practice of law for one year,  
10 consecutive with the previously imposed suspensions. Burgin was ordered to notify all courts or  
11 other tribunals and all of his clients of his inability to represent them, and to refrain from accepting  
12 new clients or collect unearned fees while suspended.

- 13 16. On August 25, 2016, the Supreme Court of Kentucky found Burgin guilty of:
- 14 a. engaging in conduct involving dishonesty, fraud, deceit or misrepresentation
  - 15 (two counts),
  - 16 b. failing to keep his client reasonably informed about the status of the matter,
  - 17 c. failing to promptly reply to his client's requests for information,
  - 18 d. practicing law despite being suspended (three counts), and
  - 19 e. failing to respond to lawful demands for information from a disciplinary
  - 20 authority.

21 17. Specifically, the Court found that Burgin appeared in court on a misdemeanor charge  
22 on behalf of a client while suspended. "When his membership status was questioned in open court  
23 by the presiding district judge, [Burgin] represented to the court that he had been reinstated to  
24 practice" which the Court found to be false. The Court also found that, Burgin intimidated his  
25 client's wife in a marriage dissolution proceeding, so that she would agree to a final divorce decree,  
26 filed two separate marriage dissolution petitions while suspended, failed to comply with continuing-  
27 legal-education requirements, and failed to respond to the State of Kentucky's complaint and  
28 charges in any manner.



1 Deny was personally served on Burgin on December 19, 2018. Burgin did not request a hearing  
2 and the time to request a hearing has expired.

3 22. Based on the foregoing findings, pursuant to Financial Code section 22109.1  
4 the Commissioner denies Burgin’s application for a mortgage loan originator license.

5 NOW GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the Application  
6 filed by Russell William Burgin for a mortgage loan originator license is denied.

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8 Dated: January 23, 2019  
9 Los Angeles, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

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By \_\_\_\_\_  
11 MARY ANN SMITH  
12 Deputy Commissioner

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