

BEFORE THE  
DEPARTMENT OF BUSINESS OVERSIGHT  
STATE OF CALIFORNIA

In the Matter of:

OAH No.: 2016110193

THE CALIFORNIA COMMISSIONER OF  
BUSINESS OVERSIGHT,

Complainant,

v.

MATTHEW R. HODLIN

Respondent.

ORDER OF REJECTION OF PROPOSED DECISION  
(Government Code section 11517, subdivision (c)(2)(E))

The California Commissioner of Business Oversight ("Commissioner") hereby rejects the Proposed Decision In the Matter of THE CALIFORNIA COMMISSIONER OF BUSINESS OVERSIGHT v. MATTHEW R. HODLIN, dated April 14, 2017.

The parties are advised that the Commissioner considered, but did not adopt, the proposed decision and that the Commissioner will decide the case under the provisions of Government Code section 11517, subdivision (c)(2)(E). In accordance with Government Code section 11517, subdivision (c)(2)(E)(ii), each party may submit written arguments to the Commissioner. The Commissioner rejected the proposed decision because the legal conclusion in the Proposed Decision was not based on the legal basis for which the bar was requested in the Amended Accusation in Support of Notice of Intention to Bar Matthew R. Hodlin from Any Position of Employment, Management or Control Pursuant to Financial Code Section 50318.

Any written argument that each party may submit to the Commissioner in this matter must be filed with the Department of Business Oversight on or before August 31, 2017, by mail or e-mail as follows:

Mail

Department of Business Oversight  
Attn: Sherri Kaufman, Legal Division  
1515 K Street, Suite 200

Sacramento, California 95814

E-mail

sherri.kaufman@dbo.ca.gov

Dated: July 16, 2017



JAN LYNN OWEN  
COMMISSIONER OF BUSINESS OVERSIGHT

BEFORE THE  
DEPARTMENT OF BUSINESS OVERSIGHT  
STATE OF CALIFORNIA

In the Matter of the Amended Accusation  
Against:

MATTHEW R. HODLIN,

Respondent.

NMLS ID No. 339382

OAHNo. 2016110193

**PROPOSED DECISION**

Administrative Law Judge Roy W. Hewitt, Office of Administrative Hearings, State of California, heard this matter in San Diego, California, on March 17, 2017.

Counsel for the Department of Business Oversight, Lindsay B. Herrick, represented complainant, the Commissioner of Business Oversight.

William Winship, Jr., Esq., represented respondent, Matthew R. Hodlin. Respondent was present throughout the hearing.

The matter was submitted on March 17, 2017.

**FACTUAL FINDINGS**

*Jurisdiction*

1. On September 22, 2010, the Commissioner of Business Oversight issued a mortgage loan originator license (MLO) to respondent.
2. On December 8, 2015, respondent filed an application with the commissioner for renewal of his MLO license. Respondent filed his application with the commissioner by filing a Form MU4 through the Nationwide Mortgage Licensing System & Registry (NMLS).
3. Respondent's MLO license was renewed on December 24, 2015. Subsequently, on October 19, 2016, the commissioner filed an accusation against respondent seeking revocation of his MLO license and an order barring respondent from any position of

employment, management or control of any business that participates in any business activity of a licensed residential mortgage lender and/or servicer, or MLO, and from any business activity on the premises where such lender, servicer or originator is conducting its business. The accusation was based on respondent's July 10, 2015, felony criminal conviction for violating 18 United States Code section 371 (conspiracy to commit wire fraud).

4. On December 31, 2016, respondent's MLO license expired and respondent failed to petition the commissioner for reinstatement; accordingly, on March 8, 2017, the commissioner issued an amended accusation. In the amended accusation the commissioner withdrew her notice of intention to revoke respondent's MLO license. The amended accusation seeks to bar respondent pursuant to Financial Code section 5038.

5. Respondent timely filed notices of defense and the instant proceedings ensued.

*Respondent's July 10, 2015, Felony Conviction*

6. On July 10, 2015, in the United States District Court, Southern District of California, case number 11CR3486-JAH, respondent, after entry of a guilty plea, was convicted of one count of violating 18 United States Code section 371 (conspiracy to commit wire fraud), a felony.

7. The facts and circumstances underlying respondent's conviction, as set forth in his criminal plea agreement, were as follows:

B. ELENNTS UNDERSTOOD AND ADMITTED . . .

Defendant [respondent] has fully discussed the facts of this case with defense counsel. Defendant has committed each of the elements of the crime<sup>1</sup>. . . . The following facts are true and undisputed:

In or about October and November 2006, Defendant agreed with coconspirators including Karen Brito and others to make material misrepresentations in the refinance mortgage loan applications for borrower [name omitted] in order to obtain fraudulent mortgage loans totaling \$342,000 for the borrower.

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<sup>1</sup> 18 United States Code section 371 provides, in part: "If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both."

In Furtherance of this agreement and to carry out its object, within the Southern District of California, on or about October 13, 2006, Brito and Defendant exchanged emails discussing whether Defendant had left the statement about the borrower's assets the same or whether he had 'pump[ed] them up' on the loan application. On or about the same date, Defendant instructed Brito not to list any assets for the borrower on the loan application.

Based at least in part on the above false statements, the fraudulent loan application was approved, and the loan was funded via interstate wire. After default and foreclosure, an estimated loss of approximately \$157,000 resulted from this transaction. (Exh. 17, DBO00251)

8. As a result of the conviction respondent was placed on five years of probation with house confinement; six months of monitoring using location monitoring technology; 30 days in a half-way-house; 100 hours of community service; disclosure of personal and business financial records; prohibition from opening checking accounts, incurring new credit card charges or opening additional lines of credit without approval; and that he pay \$157,000 in restitution.

9. Respondent's felony conviction was for a crime directly and substantially related to the qualifications, functions and duties of a licensee.

*Respondent's Explanation for his Conviction*

10. Respondent testified that he was implicated with about 25 others in a fraudulent mortgage lending scheme by "merely responding to an email" According to respondent, on October 13, 2006, he received the following email from a representative at "Terra-finance.com":

Question, did you leave the assets in the bank the same or did you pump them up? I currently have \$3400 in total assets listed in point. This approval is asking to have \$14,517.25 in assets verified. Please let me know.

Respondent answered: "Look at the part 'for cash from new or exi[s]ting home' the heloc cash is your reserves, don't list any assets on the 1003"

11. According to respondent, when he was charged with conspiracy to commit fraud, his attorney advised him to plead guilty to a plea negotiation that kept him from going to prison.

*Character References*

12. Five witnesses testified about respondent's character for hard "by the book" work, truthfulness, honesty, integrity and trustworthiness.

*Analysis*

13. Respondent's minimization of his role in the crime leading to his conviction was unavailing. He cannot use this forum to collaterally attack his criminal conviction and, his rendition of the facts underlying his conviction did not mitigate his culpability.<sup>2</sup>

LEGAL CONCLUSIONS

1. Financial Code section 50318 provides, in part:

(a) The commissioner may, after appropriate notice and opportunity for hearing by order . . . bar from any position of employment, management, or control any . . . person, if the commissioner finds either of the following:

(1) That the . . . bar is in the public interest and that the person has committed or caused a violation of this division or rule . . . and (A) the violation was either known or should have been known by the person committing or causing it, or (B) the violation has caused material damage to the . . . public.

2. Based on the Factual Findings set forth above, cause exists to issue a bar order against respondent pursuant to Financial Code section 50318.

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<sup>2</sup> In administrative disciplinary proceedings, a licensee may not seek to impeach a prior criminal conviction by means of an "an inquiry into the circumstances surrounding the offense." On the other hand, the licensee "should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." Regardless of the motives which may have impelled the plea, the conviction based thereon stands as conclusive evidence of guilt of the offense charged. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.)

ORDER

Respondent Matthew R. Hodlin is barred from any position of employment, management, or control of any residential mortgage lender, residential mortgage servicer, or mortgage loan originator, and from any business activity on the premises where such lender, servicer or originator conducts its business.

Dated: April 14, 2017



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ROY W. HEWITT  
Administrative Law Judge  
Office of Administrative Hearings