

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 SAMUEL J. PARK (State Bar No. 293902)
Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013
Telephone: (213) 576-7683
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

11	In the Matter of:)	NMLS NO.: 1444841
12	THE COMMISSIONER OF BUSINESS)	
13	OVERSIGHT,)	ORDER DENYING APPLICATION FOR
14	Complainant,)	MORTGAGE LOAN ORIGINATOR LICENSE
15	v.)	
16	LOUIS MARTIN BORGES,)	
17	Respondent.)	

18
19 The Commissioner of Business Oversight (Commissioner) finds:

20 1. On June 26, 2018, Respondent Louis Martin Borges (Borges) applied to the
21 Commissioner for a mortgage loan originator (MLO) license under the California Financing Law
22 (CFL) (Fin. Code, § 22000 et seq.) and California Residential Mortgage Lending Act (CRMLA)
23 (Fin. Code, § 50000 et seq.). Borges applied by filing a Form MU4 through the Nationwide
24 Mortgage Licensing System and Registry (NMLS).

25 2. Borges filed eight amended Form MU4s, on June 27, July 30, August 13, August 31,
26 September 18, September 27, October 5, and October 22, 2018.

27 3. As described in more detail below, the Commissioner denies the issuance of an MLO
28 license to Borges under Financial Code sections 22109.1, 22172, 50141, and 50513 because

1 Borges: (1) withheld information and made material misstatements in his application for a license
2 and (2) has not demonstrated such financial responsibility, character, and general fitness as to
3 command the confidence of the community and to warrant a determination that he will operate
4 honestly, fairly, and efficiently as a mortgage loan originator.

5 **Unsatisfied judgments and liens**

6 4. Under Financial Code sections 22172, subdivision (a)(2), and 50513, subdivision
7 (a)(2), the Commissioner “may . . . [d]eny . . . a mortgage loan originator license if an applicant . . .
8 withholds information or makes a material misstatement in an application for a license.”

9 5. Form MU4 question (D) asked: “Do you have any unsatisfied judgments or liens
10 against you?”

11 6. Borges answered “No” to question (D) in his initial Form MU4 on June 26, 2018,
12 and in all eight of his amended Form MU4s.

13 7. According to a records search, however, Borges had eight unsatisfied judgments or
14 liens against him, as follows.

15 8. On April 14, 2010, the Franchise Tax Board filed a notice of state tax lien in the
16 amount of \$24,284.44 for tax years 2000, 2003, 2004, and 2006 with the Los Angeles County
17 recorder under record number 20100507007. No certificate of release for this tax lien appears to
18 exist.

19 9. On March 11, 2015, the Franchise Tax Board filed a notice of state tax lien in the
20 amount of \$2,164.20 for tax year 2013 with the Los Angeles County recorder under record number
21 20150261269. No certificate of release for this tax lien appears to exist.

22 10. On May 18, 2015, the Internal Revenue Service filed a notice of federal tax lien in
23 the amount of \$26,447.34 for tax years 2010, 2011, and 2013 with the Los Angeles County recorder
24 under record number 20150573401. No certificate of release for this tax lien appears to exist, and
25 the lien has not been released by operation of the self-releasing language on the face of the notice of
26 the lien.

27 ///

28 ///

1 11. On June 6, 2018, the Franchise Tax Board filed a notice of state tax lien in the
2 amount of \$2,418.04 for tax year 2016 with the Los Angeles County recorder under record number
3 20180558991. No certificate of release for this tax lien appears to exist.

4 12. On June 17, 1998, the Los Angeles County Department of Child Support Services
5 recorded a judgment lien against Borges by filing an abstract of support judgment with the Santa
6 Barbara County recorder under record number 98-044609. No certificate of satisfaction of judgment
7 for this judgment lien appears to exist.

8 13. On February 13, 2003, the Placer County Department of Child Support Services
9 recorded a judgment lien against Borges by filing an abstract of support judgment with the Santa
10 Barbara County recorder under record number 2003-0018533. No certificate of satisfaction of
11 judgment for this judgment lien appears to exist.

12 14. On July 14, 2003, the Santa Barbara County Department of Child Support Services
13 recorded a judgment lien against Borges by filing an abstract of support judgment with the Santa
14 Barbara County recorder under record number 2003-0093242. No certificate of satisfaction of
15 judgment for this judgment lien appears to exist.

16 15. On July 8, 2010, the Los Angeles County Superior Court issued an abstract of
17 judgment in the amount of \$1,008.00 against Borges in *Robert A. McClintock II v. Louis M. Borges*,
18 case number 08C04564. No acknowledgment of satisfaction of judgment was filed in the case.

19 16. The Commissioner finds that by failing to disclose these eight unsatisfied judgments
20 or liens in his initial Form MU4 and all eight subsequent amended Form MU4s, Borges withheld
21 information and made material misstatements in his application.

22 **Misdemeanor theft conviction**

23 17. Form MU4 question (H)(1) asked: “Have you ever been convicted of or pled guilty
24 or nolo contendere (‘no contest’) . . . to committing or conspiring to commit a misdemeanor
25 involving: (i) financial services or a financial services-related business, (ii) fraud, (iii) false
26 statements or omissions, (iv) theft or wrongful taking of property, (v) bribery, (vi) perjury, (vii)
27 forgery, (viii) counterfeiting, or (ix) extortion?”

28 ///

1 18. Borges answered “No” to question (H)(1) in his initial Form MU4 on June 26, 2018,
2 and in all eight of his amended Form MU4s.

3 19. Form MU4 question (F)(1) asked: “Have you ever been convicted of or pled guilty
4 or nolo contendere (‘no contest’) . . . to any felony?”

5 20. Borges answered “Yes” to question (F)(1) in his initial Form MU4 on June 26, 2018,
6 and in all eight of his amended Form MU4s.

7 21. In his initial Form MU4 on June 26, 2018, Borges explained that he “[g]ot busted
8 with intent to sell of ecstasy back around 2000-2001 . . . I was young and dumb and partying too
9 much.”

10 22. On July 26, 2018, the Commissioner placed a license item on Borges’s NMLS
11 account, noting that Borges “did not provide a detailed explanation or supporting documentation”
12 for his “yes” response to question (F)(1) and asking him to provide “a detailed explanation of the
13 circumstances . . . and upload applicable court/police department documents” in an amended Form
14 MU4. The Commissioner also noted that Borges had not disclosed a 1999 conviction for
15 misdemeanor theft by use of credit card in violation of Penal Code section 484g and asked him to
16 explain why he did not disclose that conviction.

17 23. On July 30, 2018, Borges filed an amended Form MU4. Borges amended his
18 explanation for question (F)(1) by deleting the previous information and adding new information. In
19 the amended explanation, Borges stated that at “the end of College” he was involved in using and
20 dealing MDMA, also known as Ecstasy, and “got busted” when police found Ecstasy in his room.
21 He did not explain whether he was convicted by jury trial or guilty plea, nor did he upload any
22 applicable court or police records as requested by the Commissioner.

23 24. In a new, second event explanation for question (F)(1), Borges stated that he was
24 “busted” for “[p]etty theft” involving fraudulent use of a credit card at a Nordstrom department
25 store. In explaining why, he had not disclosed the misdemeanor theft conviction, Borges stated, “I
26 totally forgot about this, it was dealt with so quick that I forgot.”

27 25. Despite admitting the misdemeanor theft conviction, Borges did not change his “No”
28 answer to question (H)(1), the question regarding misdemeanor convictions.

1 26. On August 31, 2018, Borges filed an amended Form MU4, which included, for the
2 first time, an upload of court records related to his felony drug conviction and misdemeanor theft
3 conviction.

4 27. The records showed that on March 29, 2001, Borges pleaded no contest to and was
5 convicted of felony possession for sale of a controlled substance in violation of Health and Safety
6 Code section 11378.

7 28. The record for the misdemeanor theft conviction listed only basic information such
8 as the case number, defendant’s name and date of birth, filing date, and “Charge(s).” The
9 “Charge(s)” field listed “PC 484G,” denoting Penal Code section 484g.

10 29. Penal Code section 484g provides that “[e]very person who, *with the intent to*
11 *defraud*, (a) uses, for the purpose of obtaining money, goods, services, or anything else of value, an
12 access card or access card account information that has been altered, obtained, or retained in
13 violation of Section 484e or 484f, or an access card which he or she knows is forged, expired, or
14 revoked, or (b) obtains money, goods, services, or anything else of value by representing without
15 the consent of the cardholder that he or she is the holder of an access card and the card has not in
16 fact been issued, *is guilty of theft*” (emphases added).

17 30. Despite admitting the misdemeanor theft conviction and providing documentation of
18 it, Borges did not change his “No” answer to question (H)(1), which asked if Borges had ever been
19 convicted of a misdemeanor involving theft or fraud.

20 31. On September 27, 2018, Borges filed an amended Form MU4, which included an
21 upload of additional court records for other misdemeanor convictions.

22 32. Despite admitting the misdemeanor theft conviction and providing documentation of
23 it, Borges did not change his “No” answer to question (H)(1).

24 33. On October 5, 2018, Borges filed an amended Form MU4.

25 34. In the October 5, 2018 Form MU4, Borges amended his second event explanation
26 for question (F)(1), regarding his felony convictions. In the amended explanation, Borges stated that
27 he was “convicted of misdemeanor for use of a stolen credit card.” He stated that there “were no
28 other charges but was convicted for charge 484G PC in the beginning of 1999.” He stated that he

1 was caught “returning some shoes that were purchased under someone else [sic] name and credit
2 card” by a friend.

3 35. On October 22, 2018, Borges filed an amended Form MU4 adding a new, third event
4 explanation for question (F)(1). Borges stated that on February 1, 1999, he pleaded no contest to the
5 Penal Code section 484g charge. Again, he stated that “[t]here was no other arrest or charges.”

6 36. But the docket from that criminal proceeding indicates that Borges was charged with
7 three other counts in addition to Penal Code section 484g: one count of burglary in violation of
8 Penal Code section 459 and two counts of credit-card forgery in violation of Penal Code section
9 484(f), subdivision (b).

10 37. Thus, Borges failed to disclose his misdemeanor theft conviction in response to
11 question (H)(1) in all nine filings of his application. He also falsely stated in his application that he
12 was not arrested or charged for any other counts in the proceeding for that theft conviction. The
13 Commissioner therefore finds that Borges withheld information and made material misstatements in
14 his application.

15 **Financial responsibility, character, and general fitness**

16 38. Under Financial Code sections 22109.1 and 50141, the Commissioner “shall deny”
17 an application for an MLO license unless he makes, at a minimum, specified findings, including
18 that the applicant “has demonstrated such financial responsibility, character, and general fitness as
19 to command the confidence of the community and to warrant a determination that the mortgage
20 loan originator will operate honestly, fairly, and efficiently.” (§§ 22109.1, subd. (a)(3), 50141, subd.
21 (a)(3).)

22 39. As described in paragraphs 4 to 16, Borges had eight unsatisfied judgments or liens
23 against him, including tax liens spanning nearly two decades and totaling over \$55,000.00. (See
24 Cal. Code Regs., tit. 10, § 1422.6.2, subd. (c)(2) [MLO license may be denied when applicant’s
25 personal history includes “liens, judgments, or financial or professional conditions that indicate a
26 pattern of dishonesty”].)

27 40. As described in paragraphs 4 to 16, Borges failed to disclose the existence of any of
28 these unsatisfied judgments and liens in any of his nine application filings.

1 41. As described in paragraphs 17 to 37, Borges was convicted of theft for his conduct in
2 a scheme involving fraudulent and dishonest use of a credit card—a financial product—in a retail
3 transaction. (See Pen. Code, § 484g [crime involves “intent to defraud”].)

4 42. As described in paragraphs 17 to 37, Borges disclosed the theft conviction in his
5 application only after the Commissioner discovered the conviction and required more information
6 from Borges. And even after admitting the theft conviction in an event explanation in his July 30,
7 2018 Form MU4, Borges did not change his “No” answer to question (H)(1), nor did he change his
8 answer in his amended Form MU4s filed on August 13, August 31, September 18, September 27,
9 October 5, and October 22, 2018.

10 43. As described in paragraphs 17 to 37, Borges misrepresented the circumstances
11 leading to his theft conviction. After uploading a Santa Barbara County Superior Court document
12 that listed only “PC 484G” in the “Charge(s)” field, Borges stated that he was not arrested for or
13 charged with any other counts in that criminal proceeding. In fact, he was charged with three other
14 counts.

15 44. Thus, the Commissioner finds that Borges has not demonstrated such financial
16 responsibility, character, and general fitness as to command the confidence of the community and to
17 warrant a determination that he will operate honestly, fairly, and efficiently as a mortgage loan
18 originator.

19 45. For the foregoing reasons, the Commissioner finds that Borges (1) withheld
20 information and made material misstatements in his application and (2) has not demonstrated the
21 financial responsibility, character, and general fitness required for licensure. Under Financial Code
22 sections 22109.1, subdivision (a)(3); 22172, subdivision (a)(2); 50141, subdivision (a)(3); and
23 50513, subdivision (a)(2), the Commissioner has grounds to deny Borges’s application.

24 46. On June 11, 2019, the Commissioner issued a Notice of Intention to Issue Order
25 Denying Application for Mortgage Loan Originator License, Statement of Issues, and
26 accompanying documents. On June 12, 2019, the documents were served by certified mail at
27 Borges’s latest address on file.

28 47. Borges has not requested a hearing, and the time for doing so has expired.

1 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that Louis Martin
2 Borges’ application for a mortgage loan originator license is denied. This Order is effective
3 immediately.

4
5 Dated: July 11, 2019
6 Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

7
8 By: _____
9 MARY ANN SMITH
10 Deputy Commissioner
11 Enforcement Division
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28