

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.: 1667989
12 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) STATEMENT OF ISSUES
13 Complainant,)
14 v.)
15 SOCRATES BENSON DELACRUZ)
VILLAR,)
16 Respondent.)

18
19 The Commissioner of Business Oversight (Commissioner) is informed and believes, and
20 based upon such information and belief, alleges and charges Respondent as follows:

21 **I.**

22 **Jurisdiction**

23 1. The Commissioner has jurisdiction over the licensing and regulation of persons
24 engaged in the business of making or servicing residential mortgage loans, including mortgage loan
25 originators, under the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000
26 et seq.).

27 2. On September 7, 2018, Respondent Socrates Benson DelaCruz Villar (Villar)
28 applied to the Commissioner for a mortgage loan originator (MLO) license under the CRMLA.

1 documentation” in an amended Form MU4. The Commissioner also asked Villar to explain why he
2 did not disclose several criminal convictions that were discovered during a background check.

3 12. On October 22, 2018, Villar filed an amended Form MU4 in which he changed his
4 answers to questions (F)(1) and (H)(1) from “No” to “Yes.” In the event explanation for question
5 (F)(1) concerning felonies, Villar stated that he was charged with committing felonies in two
6 criminal cases in 2001—in one case, with drug possession and burglary “with intent to commit
7 theft,” and in the other case, with grand theft. Villar also disclosed a 2005 felony charge for
8 criminal threats. In the event explanation for question (H)(1) concerning misdemeanors, Villar
9 stated that in 1998 he was convicted of petty theft for shoplifting. He also disclosed a 1999
10 misdemeanor conviction for a Vehicle Code offense. In neither of the event explanations did Villar
11 explain why he initially failed to disclose the criminal convictions.

12 13. Villar’s October 22, 2018 Form MU4 included an upload of court records related to
13 his criminal convictions. Records obtained from Villar and the Commissioner’s investigation show
14 the following:

15 a. On March 9, 1998, Villar pleaded guilty to misdemeanor petty theft in
16 violation of Penal Code section 484, subdivision (a).

17 b. On November 12, 1999, Villar pleaded guilty to misdemeanor driving
18 without a license in violation of Vehicle Code section 12500, subdivision (a).

19 c. On August 16, 2001, Villar pleaded guilty to felony burglary in violation of
20 Penal Code section 459.

21 d. On July 8, 2002, Villar pleaded no contest to felony grand theft of credit card
22 account information in violation of Penal Code section 484e, subdivision (d).

23 e. On February 16, 2006, Villar pleaded guilty to felony criminal threats in
24 violation of Penal Code section 422.

25 14. On November 16 and 20, 2018, Villar filed amended Form MU4s with minor
26 changes.

27 15. On December 19, 2018, Villar filed an amended Form MU4 in which he revised his
28 explanations for questions (F)(1) and (H)(1). In his amended explanations, Villar stated that he

1 initially answered “No” to questions (F)(1) and (H)(1) because he thought his convictions were
 2 expunged based on conversations with the attorney that represented him in the proceedings
 3 resulting in the 2006 conviction. However, none of the court records uploaded by Villar on October
 4 22, 2018, mentioned expungement.

5 **III.**

6 **Felony Conviction**

7 16. The Commissioner “shall deny” an application for an MLO license unless he makes,
 8 at a minimum, specified findings, including that the applicant has not been convicted of, or pleaded
 9 guilty or no contest to, a felony during the seven-year period preceding the date of the application,
 10 or at any time preceding the date of the application, if such felony involved an act of fraud,
 11 dishonesty, a breach of trust, or money laundering. (Fin. Code, § 50141, subd. (a)(3).)

12 17. As described in paragraphs 12 to 13, Villar was convicted in 2001 of felony burglary
 13 with intent to commit theft in violation of Penal Code section 459. Villar was also convicted in
 14 2002 of felony grand theft of credit card account information in violation of Penal Code section
 15 484e, subdivision (d).

16 18. Theft is an act of dishonesty. (*People v. Wheeler* (1992) 4 Cal.4th 284, 297; *People*
 17 *v. Mireles* (2018) 21 Cal.App.5th 237, 247.) Thus, Villar’s 2001 felony burglary with intent to
 18 commit theft involved an act of dishonesty, as did his 2002 felony grand theft. The 2002 grand theft
 19 also involved an act of fraud. (See Pen. Code, § 484e, subd. (d) [“[e]very person who acquires or
 20 retains possession of access card account information with respect to an access card validly issued
 21 to another person, without the cardholder’s or issuer’s consent, *with the intent to use it fraudulently,*
 22 *is guilty of grand theft*” (emphasis added)].)

23 19. Thus, before the date of his application, Villar was convicted of two felonies
 24 involving an act of fraud, dishonesty, a breach of trust, or money laundering. Under Financial Code
 25 section 50141, subdivision (a)(3), the Commissioner must deny Villar’s application.

26 //

27 //

28 //

1 IV.

2 **Withheld Information and Material Misstatements**

3 20. The Commissioner may deny an application for an MLO license if the applicant
4 withholds information or makes a material misstatement in the application. (Fin. Code, § 50513,
5 subd. (a)(2).)

6 21. As described in paragraphs 4 to 15, Villar answered “No” to questions (F)(1) and
7 (H)(1) in his initial Form MU4 on September 7, 2018, although he was supposed to answer “Yes”
8 because of his misdemeanor and felony convictions. Villar also failed to change his “No” answers
9 in two subsequent amended Form MU4s on October 4 and 8, 2018.

10 22. Thus, Villar withheld information and made material misstatements in his
11 application for a license. Under Financial Code section 50513, subdivision (a)(2), Villar’s
12 application should be denied.

13 V.

14 **Financial Responsibility, Character, and General Fitness**

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

20 24. As described in paragraphs 12 to 13, Villar was convicted in 2001 of felony burglary
21 with intent to commit theft and convicted in 2002 of felony grand theft for conduct involving
22 fraudulent and dishonest use of credit cards, which are financial products. Villar was also convicted
23 of various other crimes from 1998 to 2006, including another theft, which is an act of dishonesty.
24 Villar’s extensive criminal history militates against finding that he has demonstrated the character
25 and general fitness required for licensure as an MLO.

26 25. Further, as described in paragraphs 4 to 15, Villar did not disclose any of his
27 numerous criminal convictions in his application until after the Commissioner discovered them and
28 asked Villar about them. Thus, although Villar’s criminal convictions occurred some time ago, his

1 recent failure to disclose the convictions further weighs against finding the requisite character and
2 fitness.

3 26. Thus, Villar has not demonstrated such financial responsibility, character, and
4 general fitness as to command the confidence of the community and to warrant a determination that
5 he will operate honestly, fairly, and efficiently as an MLO. Under Financial Code section 50141,
6 subdivision (a)(3), Villar’s application must be denied.

7 **VI.**

8 **Commissioner’s Authority to Deny Application**

9 27. Financial Code section 50141, subdivision (a), provides in relevant part:

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

12 . . .

13 (2) (A) The applicant has not been convicted of, or pled guilty or nolo
14 contendere to, a felony in a domestic, foreign, or military court during
15 the seven-year period preceding the date of the application for licensing
16 and registration, or at any time preceding the date of application, if such
17 felony involved an act of fraud, dishonesty, a breach of trust, or money
18 laundering. Whether a particular crime is classified as a felony shall be
19 determined by the law of the jurisdiction in which an individual is
20 convicted.

21 (B) For purposes of this paragraph, an expunged or pardoned felony
22 conviction shall not require denial of an application. However, the
23 commissioner may consider the underlying crime, facts, or
24 circumstances of an expunged or pardoned felony conviction when
25 determining the eligibility of an applicant for licensure under this
26 paragraph or paragraph (3).

27 (3) The applicant has demonstrated such financial responsibility,
28 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.

28 28. Financial Code section 50513, subdivision (a), provides in relevant part:

(a) The commissioner may do one or more of the following:

. . .

(2) Deny, suspend, revoke, condition, or decline to renew a mortgage
loan originator license if an applicant or licensee fails at any time to

1 meet the requirements of Section 50141 or 50144 or withholds
2 information or makes a material misstatement in an application for a
license or license renewal.

3 **VII.**

4 **Prayer**

5 For the foregoing reasons, the Commissioner finds that before the date of his application for
6 a mortgage loan originator license, Socrates Benson Delacruz Villar was convicted of felonies
7 involving an act of fraud, dishonesty, a breach of trust, or money laundering within the meaning of
8 Financial Code section 50141, subdivision (a)(3).

9 The Commissioner also finds that Villar withheld information and made material
10 misstatements in his application within the meaning of Financial Code section 50513, subdivision
11 (a)(2).

12 The Commissioner also finds that Villar has not demonstrated the financial responsibility,
13 character, and general fitness required under Financial Code section 50141, subdivision (a)(3).

14 Accordingly, the Commissioner must deny Villar’s application for a mortgage loan originator
15 license.

16 WHEREFORE, IT IS PRAYED that Villar’s application for a mortgage loan originator
17 license be denied.

18 Dated: July 11, 2019
19 Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

21 By: _____
22 SAMUEL J. PARK
23 Counsel
24 Enforcement Division
25
26
27
28