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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	NMLS ID.: 1275344
)	
THE COMMISSIONER OF BUSINESS)	STATEMENT OF ISSUES IN SUPPORT OF
OVERSIGHT,)	NOTICE OF INTENTION TO ISSUE ORDER
)	DENYING MORTGAGE LOAN
Complainant,)	ORIGINATOR APPLICATION
)	(Financial Code section 50141)
v.)	
)	
ELIZABETH GARCIA,)	
)	
Respondent.)	

Manuel P. Alvarez, the Commissioner of Business Oversight (Commissioner), is informed and believes and based upon such information and belief, alleges and charges as follows:

I.

Introduction

The Commissioner of the Department of Business Oversight (DBO) seeks to deny the issuance of a mortgage loan originator (MLO) license to Elizabeth Garcia (Garcia) pursuant to Financial Code section 50141, because Garcia fails to demonstrate the requisite financial

responsibility, character, and general fitness required for issuance of a license. Specifically, Garcia falsely answered “No” on the criminal disclosure portion of the MU4 Form contained in the MLO application, when in fact she had been previously convicted of a misdemeanor for forgery in 1993. Moreover, Garcia previously falsely answered “No” on the criminal disclosure portion during her Department of Real Estate (DRE) application in 1999. Her false response in 1999 on her DRE application failed to disclose the same 1993 misdemeanor forgery conviction.

II.

Statement of Facts

A. The Application

1. On May 22, 2019, Garcia filed an application on NMLS¹ for an MLO license with the Commissioner pursuant to Financial Code section 50140. The application was submitted to the Commissioner when Garcia filed a Form MU4 through the Nationwide Mortgage Licensing System & Registry (NMLS).

2. In submitting her application, under the heading “Criminal Disclosure” Garcia answered “No” to question (H)(1) on Form MU4, which specifically asked:

(H)(1) Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to committing or conspiring to commit a misdemeanor involving: (i) financial services or a financial services-related business, (ii) fraud, (iii) false statements or omissions, (iv) theft or wrongful taking of property, (v) bribery, (vi) perjury, (vii) **forgery**, (viii) counterfeiting, or (ix) extortion? (emphasis added).

3. In submitting her application, Garcia attested that the answers were true and complete to the best of her knowledge.

4. On June 4, 2019, DBO reviewed Garcia’s Form MU4 and performed a Criminal Background Check (CBC) which revealed that Garcia had a 1993 conviction for forgery, a violation of California Penal Code section 476(a).

¹ NMLS stands for Nationwide Multistate Licensing System & Registry and is the system of record for non-depository, financial services licensing or registration in participating agencies, including the District of Columbia and U.S. Territories of Puerto Rico, the U.S. Virgin Islands, and Guam. In these jurisdictions, NMLS is the official system for companies and individuals seeking to apply for, amend, renew and surrender licenses authorities managed through NMLS.

B. Amended Application

5. On June 4, 2019, after a review of Garcia's application, DBO created a "license item"² on NMLS for Garcia, instructing her to amend the MU4 application and provide a detailed explanation of the circumstances surrounding her arrest and conviction and provide any supporting documentation to accompany the explanation.

6. Thereafter, on June 4, 2019, Garcia submitted an amendment to her response to question (H)(1) from "No" to "Yes," but provided no explanation or supporting documents.

7. In submitting the June 4, 2019 amended application, Garcia again attested to and swore that the answers were true and complete to the best of her knowledge.

C. Subsequent Application Review By DBO

8. On June 4, 2019, DBO conducted a review of the DRE Public License Information website and discovered that Garcia was issued a DRE Salesperson license on September 4, 1999. However, on September 25, 1999, the DRE issued an accusation to revoke her license because Garcia misrepresented material facts in her DRE application as well. Garcia answered "No" on the criminal disclosure section of the DRE Salesperson application, when in truth she had been convicted of forgery in 1993.

9. Garcia requested an administrative hearing to contest the accusation by DRE. After a formal evidentiary hearing the matter was submitted to the presiding Administrative Law Judge (ALJ) on February 15, 2001. On March 2, 2001, the ALJ ordered that all licenses and license rights of Garcia with regards to DRE were revoked. The ALJ based his decision on Garcia's failure to reveal criminal matters which constituted the procurement of a real estate license by fraud, misrepresentation or deceit, or by making a material misstatement of fact in her application. Such conduct was cause for suspension or revocation of Garcia's license pursuant to Business and Professions Code sections 498 and 10177(a). On March 21, 2001, the DRE Commissioner adopted

² A "license item" is a request from a regulator such as DBO on the NMLS website to a licensee or applicant to respond to a question or take an action. The NMLS website automatically generates an email to the licensee or applicant directing the person to check the NMLS website for the license item.

the ALJ's proposed decision revoking Garcia's DRE Salesperson license.

10. On June 8, 2005, Garcia petitioned for reinstatement of her DRE Salesperson license. On March 12, 2008, the DRE Commissioner granted the petition, giving Garcia her license back conditioned on her successful completion of the DRE Salesperson examination and application.

11. Garcia's failure to disclose her prior 1993 criminal conviction for forgery not once (Garcia's DRE application on September 4, 1999) but twice (Garcia's current application from May 22, 2019), coupled with the underlying conduct involved in the forgery conviction, establish Garcia has not demonstrated such fitness and character for engaging in MLO business activities.

III.

Character of the Applicant

12. Financial Code section 50141 provides in relevant part:

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

...

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

...

13. Garcia's repeat failures to disclose her prior forgery conviction on both her DRE and MLO applications, coupled with her underlying arrest and conviction for forgery, demonstrate she lacks such financial responsibility, character and general fitness as to command the confidence of the community and calls into question her ability to operate honestly, fairly, and efficiently as an MLO. Garcia previously misled DRE and had her license revoked because of it. Garcia now applies for her MLO license and misleads DBO in the exact same way. Garcia was given a second chance to candidly disclose and yet failed to do so. Her conduct demonstrates a lack of honesty and undermines the commissioner's confidence in her ability to serve California consumers as an MLO.

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IV.**Conclusion**

The Commissioner finds, by reason of the foregoing, that Garcia's false response on the application for a mortgage loan originator license fails to demonstrate such character and general fitness as to command the confidence of the community and to warrant a determination that she will operate honestly, fairly, and efficiently as a mortgage loan originator.

THEREFORE, the Commissioner is mandated under Financial Code section 50141 to deny Elizabeth Garcia's mortgage loan originator license application.

WHEREFORE IT IS PRAYED that the mortgage loan originator application filed by Elizabeth Garcia be denied.

Dated: August 5, 2019
Sacramento, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
TAYLOR HERRLINGER
Counsel