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10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

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| <p>12 In the Matter of: 13 THE COMMISSIONER OF BUSINESS 14 OVERSIGHT, 15 Complainant, 16 v. 17 TERRI K. MCALAVY, 18 Respondent.</p> | <p>NMLS NO.: 1337342 ORDER DENYING APPLICATION FOR MORTGAGE LOAN ORIGINATOR LICENSE</p> |
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20 The Commissioner of Business Oversight (Commissioner) finds:

21 1. On May 31, 2018, Terri K. McAlavy (McAlavy) applied to the Commissioner for a
22 mortgage loan originator (MLO) license under the California Financing Law (CFL) (Fin. Code,
23 § 22000 et seq.) and the California Residential Mortgage Lending Act (Fin. Code § 50000 et seq.)
24 (CRMLA).

25 2. McAlavy applied for an MLO license by filing a form MU4 (Application) through the
26 Nationwide Mortgage Licensing System. Her Application was sponsored by a lender licensed under
27 the CFL and CRMLA.

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1 3. As described in more detail below, the Commissioner denies the issuance of an MLO
2 license to McAlavy under Financial Code sections 22109.1, 22172, 50141 and 50513 because
3 McAlavy: (1) was convicted of a felony theft involving an act of fraud, dishonesty, a breach of trust,
4 or money laundering; (2) failed to meet the minimum threshold requirement that she demonstrates
5 such character and general fitness as to command the confidence of the community and to warrant a
6 determination that the mortgage loan originator will operate honestly, fairly, and efficiently; and (3)
7 knowingly made an untrue statement during the course of licensure with the intent to impede,
8 obstruct, or influence the administration or enforcement of the law governing mortgage loan
9 originators.

10 4. Question F(1) of the Application asks whether the applicant has ever been convicted
11 of or pled guilty or nolo contendere in a domestic, foreign, or military court to any felony.

12 5. McAlavy answered “Yes” to question F(1).

13 6. On August 27, 1998, McAlavy pled guilty to a felony first degree theft of property
14 exceeding \$1,500.00 in Vancouver, Washington. Between December 1996 and July 1997, while
15 working as a bookkeeper, McAlavy unlawfully obtained property of her employer by engaging in a
16 series of transactions constituting a common scheme or plan by using deception.

17 7. On October 8, 1998, the court sentenced McAlavy to a term of 90 days confinement,
18 and ordered her to pay restitution in the amount of \$16,378.09, as well as fines and fees. McAlavy
19 was placed under community supervision for 2 years and prohibited from employment involving
20 handling of or accessing funds.

21 8. Question K(6) of the Application asks whether any state or federal regulatory agency
22 ever “denied or suspended your registration or license or application for licensure, disciplined you, or
23 otherwise by order, prevented you from associating with a financial services-related business or
24 restricted your activities.” McAlavy answered “No” to this question.

25 9. When submitting the form MU4, applicants use an electronic signature to attest, under
26 penalty of perjury, that the information contained in an application is current, complete and accurate.

27 McAlavy’s MLO license Application reads, in part:

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1 I Terri K McAlavy (1337342) . . . swear (or affirm) that I executed this
2 application on my own behalf, and agree to and represent the
3 following:

4 . . .
5 That the information and statements contained herein, including
6 exhibits attached hereto, and other information filed herewith, all of
7 which are made a part of this application, are current, true, accurate and
8 complete and are made under the penalty of perjury, or un-sworn
9 falsification to authorities, or similar provisions as provided by law.

10 . . .
11 If an Applicant has made a false statement of a material fact in this
12 application or in any documentation provided to support the foregoing
13 application, then the foregoing application may be denied.

14 10. On March 29, 2017, the California Department of Real Estate (DRE) denied
15 McAlavy’s application for an MLO license endorsement because of McAlavy’s felony theft
16 conviction involving dishonesty, breach of trust and fraud.

17 11. On February 12, 2016, McAlavy filed an application with the DRE for an MLO
18 license endorsement. On September 27, 2016, the DRE filed a Statement of Issues seeking to deny
19 McAlavy’s application for an MLO license endorsement.

20 12. McAlavy requested a hearing, and the matter was heard by the Office of
21 Administrative Hearings in Los Angeles, California, on February 2, 2017.

22 13. After receiving oral and documentary evidence and hearing McAlavy’s and DRE’s
23 argument, the Office of Administrative Hearings issued a decision denying McAlavy’s application
24 for an MLO license endorsement. The decision became effective on March 29, 2017.

25 14. McAlavy knowingly responded falsely to Question K(6) in violation of Financial
26 Code sections 22170, subdivision (b), and 50512, subdivision (b). McAlavy also failed to upload the
27 DRE action to her MLO Application.

28 15. On August 31 and December 5, 2018, McAlavy amended her MLO Application and
answered “Yes” to Question K(6) only after the Department notified McAlavy about her false
response and demanded that McAlavy revise her response on the MLO Application and disclose the
DRE MLO license application denial.

16. McAlavy’s amended Application also states that a state or federal regulatory agency

1 or foreign financial regulatory authority or self-regulatory organization found McAlavy to have made
2 a false statement or omission or have been dishonest, unfair or unethical. No further explanation was
3 given regarding this response.

4 **Felony Conviction**

5 17. The Commissioner “shall deny” an application for an MLO license unless he makes,
6 at a minimum, specified findings, including that the applicant has not been convicted of, or pleaded
7 guilty or no contest to, a felony during the seven-year period preceding the date of the application, or
8 at any time preceding the date of the application, if such felony involved an act of fraud, dishonesty, a
9 breach of trust, or money laundering. (Fin. Code, §§ 22109.1, subd. (a)(2)(A), and 50141, subd.
10 (a)(2)(A).)

11 18. As described in paragraphs 6 to 7, McAlavy was convicted of a felony first degree
12 theft by deception, in August 1998. Between December 1996 to July 1997, while working as a
13 bookkeeper, McAlavy unlawfully obtained property of her employer by engaging in a series of
14 transactions constituting a common scheme or plan by using deception.

15 19. On October 8, 1998, McAlavy was sentenced to 90 days confinement, and ordered to
16 pay restitution in the amount of \$16,378.09, as well as fines and fees. McAlavy was placed under
17 community supervision for 2 years, and prohibited from employment involving handling of or
18 accessing funds.

19 20. McAlavy’s felony theft conviction involved acts of fraud, dishonesty, and a breach of
20 trust.

21 **Withheld Information and Material Misstatement**

22 21. The Commissioner may deny an application for an MLO license if the applicant
23 withholds information or makes a material misstatement in the application. (Fin. Code, §§ 22172,
24 subd. (a)(2), and 50513, subd. (a)(2).)

25 22. As described in paragraphs 8 to 15, McAlavy answered “No” to question K(6) in her
26 initial Application on May 31, 2018, although she was supposed to answer “Yes” because of her
27 MLO license endorsement denial by the DRE.

28 23. Thus, McAlavy withheld information and made a material misstatement in her

1 Application when she falsely responded to Question K(6) in violation of Financial Code sections
2 22170, subdivision (b), and 50512, subdivision (b).

3 **Character and General Fitness**

4 24. The Commissioner “shall deny” an application for an MLO license unless he makes,
5 at a minimum, specified findings, including that the applicant has demonstrated such financial
6 responsibility, character, and general fitness as to command the confidence of the community and to
7 warrant a determination that the applicant will operate honestly, fairly, and efficiently as a mortgage
8 loan originator. (Fin. Code, §§ 22109.1, subd. (a)(3), and 50141, subd. (a)(3).)

9 25. As described in paragraphs 6 to 7, McAlavy was convicted of a felony first degree
10 theft, which involved acts of fraud, dishonesty, and a breach of trust by unlawfully obtaining property
11 of her employer and engaging in a series of transactions constituting a common scheme or plan by
12 using deception.

13 26. Further, as described in paragraphs 8 to 15, McAlavy failed to disclose her DRE MLO
14 license application denial until after the Commissioner discovered the DRE decision and asked
15 McAlavy to amend her Application and disclose the DRE order denying her MLO license
16 application.

17 27. McAlavy also admits that a state or federal agency or regulatory agency found her to
18 have made a false statement or omission or have been dishonest, unfair or unethical.

19 28. Accordingly, McAlavy has not demonstrated such character and general fitness to
20 command the confidence of the community that she would operate honestly and fairly as a mortgage
21 loan originator, as described in Financial Code sections 22109.1, subdivision (a)(3); and 50141,
22 subdivision (a)(3). McAlavy’s MLO Application must be denied.

23 29. On August 20, 2019, the Commissioner issued and served a Notice of Intention in
24 Support of Order Denying Mortgage Loan License Application, Statement of Issues and
25 accompanying documents based on Financial Code sections 22109.1, 22172, 50141 and 50513.

26 31. The Commissioner has received no request for a hearing and the time to request a
27 hearing has expired.

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1 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the Application
2 for a mortgage loan originator license of Terri K. McAlavy is denied.

3 This Order is effective immediately.

4 Dated: September 11, 2019
5 Sacramento, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

6 By _____
7 Mary Ann Smith
8 Deputy Commissioner
9 Enforcement Division
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