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

13	In the Matter of:)	OAH Case No. 2019090398
14	THE COMMISSIONER OF BUSINESS)	NMLS No. 1275344
15	OVERSIGHT,)	SETTLEMENT AGREEMENT
16	Complainant,)	Hearing Dates: December 23, 2019
17	v.)	Hearing Time: 9:00 a.m.
18	ELIZABETH GARCIA, as an individual,)	Location: Office of Administrative Hearings Los Angeles, CA
19	Respondent.)	
20)	
21)	

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23 This Settlement Agreement is entered between the Commissioner of Business Oversight
24 (Commissioner) and Elizabeth Garcia (Garcia) and is made with respect to the following facts:

25 RECITALS

26 A. The Commissioner has jurisdiction over the licensing and regulation of persons and
27 entities engaged in the business of lending and servicing residential mortgage loans under the
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1 California Financing Law (CFL) (Fin. Code, § 22000 et seq.), including mortgage loan originators
2 (MLOs).

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

7 C. In submitting her application, under the heading “Criminal Disclosure” Garcia
8 answered “No” to question (H)(1) on Form MU4, which inquired about previous convictions,
9 including forgery.

10 D. On June 4, 2019, the Department of Business Oversight (DBO) reviewed Garcia’s
11 Form MU4 and performed a Criminal Background Check (CBC) which revealed that Garcia had a
12 1993 conviction for forgery, a violation of California Penal Code section 476(a).

13 E. On June 4, 2019, after a review of Garcia’s application, DBO created a “license
14 item”² on NMLS for Garcia, instructing her to amend the MU4 application and provide a detailed
15 explanation of the circumstances surrounding her arrest and conviction and provide any supporting
16 documentation to accompany the explanation.

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

19 G. On June 4, 2019, DBO conducted a review of the DRE Public License Information
20 website and discovered that Garcia was issued a DRE Salesperson license on September 4, 1999.
21 However, on September 25, 1999, the DRE issued an accusation to revoke her license because

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

28 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.

1 Garcia misrepresented material facts in her DRE application as well. Garcia answered “No” on the
2 “Criminal Disclosure” section of the DRE Salesperson application, when in truth she had been
3 convicted of forgery in 1993.

4 H. On March 2, 2001, an Administrative Law Judge ordered that all licenses and license
5 rights of Garcia with regards to DRE were revoked. However, On June 8, 2005, Garcia petitioned
6 for reinstatement of her DRE Salesperson license. On March 12, 2008, the DRE Commissioner
7 granted the petition, giving Garcia her license back following her successful completion of the DRE
8 Salesperson examination and application.

9 I. In reviewing Garcia’s MLO application, the Commissioner could not make, at a
10 minimum, the finding that Garcia had demonstrated such financial responsibility, character, and
11 general fitness as to command the confidence of the community and warrant a determination that
12 she will operate honestly, fairly, and efficiently as a MLO under the meaning of Financial Code
13 section 50141.

14 J. On August 5, 2019, the Commissioner issued to Garcia a Statement of Issues, Notice
15 of Intention to Deny License Application (Notice) and accompanying documents (collectively,
16 Administrative Action). The Administrative Action was received by Garcia on August 28, 2019.
17 Garcia submitted a timely written hearing request on August 28, 2019 and statutory time waiver on
18 September 4, 2019.

19 K. Since requesting a hearing, Garcia has apologized, accepted responsibility for her
20 actions, and assured the Department she will follow all guidelines and operate as a responsible
21 MLO. After Department review, the Commissioner finds that entering into a Settlement Agreement
22 is in the public interest, protects consumers, and is consistent with the purposes fairly intended by
23 the policies and provisions of the CFL.

24 NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set
25 forth herein, the parties agree as follows:

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1 TERMS AND CONDITIONS

2 1. Purpose. This settlement agreement resolves the issue before the Commissioner in
3 manner that avoids the expense of a hearing and other possible court proceedings, protects
4 consumers, is in the public interest, and is consistent with the purposes and provisions of the CFL.

5 2. Licensure. The Commissioner agrees to issue Garcia her MLO license pursuant to
6 Financial Code section 50513. In consideration of Garcia’s MLO license being issued, Garcia
7 understands and agrees that retention of the MLO license is dependent upon Garcia’s compliance
8 with the following requirements:

9 a. Continuing Education. Garcia agrees to annually take at least 12 hours of
10 continuing education offered by a NMLS approved vendor for the next 36 months and agrees to
11 submit proof of compliance to Taylor Herrlinger, Counsel, Enforcement Division, 1515 K Street,
12 Suite 200, Sacramento, CA 95814 or to any future Department of Business Oversight address in the
13 event of office relocation. The first proof of compliance is due on **December 1, 2020**. The second
14 proof of compliance is due on **December 1, 2021**. The third proof of compliance is due on
15 **December 1, 2022**.

16 b. Administrative Fee. Garcia agrees to pay an administrative fee of two
17 thousand five hundred dollars (\$2,500) as consideration for settling this matter in-light of the
18 alleged violations of the CFL. One thousand two hundred and fifty dollars (\$1,250) shall be due
19 within 30 calendar days of the effective date of this Settlement Agreement. The remaining one
20 thousand two hundred and fifty dollars (\$1,250) shall be due and payable within 180 calendar days
21 of the effective date of this Settlement Agreement. All fees shall be labeled “administrative fee” and
22 made payable in the form of a cashier’s check or Automated Clearing House deposit to the
23 “Department of Business Oversight,” and transmitted to the attention of:

24 ATTN: Accounting – Litigation
25 Department of Business Oversight
26 1515 K Street, Suite 200
27 Sacramento, California 95814

28 Notice of payment shall be made via email to Taylor Herrlinger, Counsel, Department
of Business Oversight, at Taylor.Herrlinger@dbo.ca.gov.

1 3. Breach. For three years from the Effective Date of this Settlement Agreement, any one
2 of the following shall be grounds for automatic revocation of Garcia’s MLO license: (1) Garcia’s
3 failure to fulfill each and every requirement in the manner set forth in the Settlement Agreement; (2)
4 a finding by the Commissioners that Garcia violated or is violating any provision of the CFL or law
5 relating to Garcia’s employment as an MLO; and (3) any conviction of any felony or misdemeanor
6 involving an act of fraud, dishonesty or deceit. Garcia also understands and hereby waives all notice
7 and hearing rights to contest an immediate revocation of her MLO license initiated pursuant to this
8 provision which may be afforded under the California Residential Mortgage Lending Act (CRMLA),
9 Administrative Procedure Act (APA), the Code of Civil Procedure (CCP), or any other provision of
10 law in connection with these matters.

11 4. Waiver of Hearing Rights. Garcia acknowledges the Commissioner is ready, willing,
12 and able to proceed with the filing of an administrative enforcement action on the matters contained
13 in this Settlement Agreement. Garcia hereby waives the right to any hearings, and to any
14 reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, APA,
15 CCP or any other provision of law. By waiving such rights, Garcia effectively consents to this
16 Settlement Agreement as becoming final.

17 5. Failure to Comply with Settlement Agreement. Garcia acknowledges that if she fails
18 to comply with the terms of this Settlement Agreement, the Commissioner may, in addition to all
19 other available remedies it may invoke under the CFL, summarily revoke Garcia’s MLO license until
20 Garcia is in compliance. Garcia waives any notice and hearing rights to contest such summary
21 suspensions which may be afforded under the CFL, APA, CCP or any other provision of law in
22 connection therewith.

23 6. Information Willfully Withheld or Misrepresented. This Settlement Agreement may
24 be revoked, and the Commissioner may pursue any and all remedies available under the law against
25 Garcia if the Commissioner discovers that Garcia knowingly or willfully withheld or misrepresented
26 information used for and relied upon in this Settlement Agreement.
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1 7. Future Actions by Commissioner. If Garcia fails to comply with any terms of the
2 Settlement Agreement, the Commissioner may institute proceedings for any and all violations
3 otherwise resolved under this Settlement Agreement. The Commissioner reserves the right to bring
4 any future actions against Garcia for any and all unknown violations of the CFL.

5 8. Assisting Other Agencies. Nothing in this Settlement Agreement limits the
6 Commissioner’s ability to assist a government agency (whether city, county, state, or federal) with
7 any administrative, civil or criminal action brought by that agency against Garcia.

8 9. Headings. The headings to the paragraphs of this Settlement Agreement are inserted
9 for convenience only and will not be deemed a part hereof or affect the construction or
10 interpretation of the provisions hereof.

11 10. Binding. This Settlement Agreement is binding on all heirs, assigns, or successors in
12 interest.

13 11. Reliance. Each of the parties represents, warrants, and agrees that in executing this
14 Settlement Agreement he, she, or it has relied solely on the statements set forth herein and the
15 advice of its own counsel. Each of the parties further represents, warrants, and agrees that in
16 executing this Settlement Agreement he, she, or it has placed no reliance on any statement,
17 representation, or promise of any other party, or any other person or entity not expressly set forth
18 herein, or upon the failure of any party or any other person or entity to make any statement,
19 representation, or disclosure of anything whatsoever. The parties have included this clause (1) to
20 preclude any claim that any party was in any way fraudulently induced to execute this Settlement
21 Agreement and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or
22 contradict the terms of this Settlement Agreement.

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24 12. Waiver, Amendments, and Modifications. No waiver, amendment, or modification
25 of this Settlement Agreement will be valid or binding unless it is in writing and signed by each of
26 the parties. The waiver of any provision of this Settlement Agreement will not be deemed a waiver
27 of any other provision. No waiver by either party of any breach of, or of compliance with, any
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1 condition or provision of this Agreement by the other party will be considered a waiver of any other
2 condition or provision or of the same condition or provision at another time.

3 13. Full Integration. This Settlement Agreement is the final written expression and the
4 complete and exclusive statement of all of the agreements, conditions, promises, representations,
5 and covenants between the parties with respect to the subject matter hereof, and supersedes all prior
6 or contemporaneous agreements, negotiations, representations, understandings, and discussions
7 between and among the parties, their respective representatives, and any other person or entity, with
8 respect to the subject matter covered hereby.

9 14. Governing Law. This Settlement Agreement will be governed by and construed in
10 accordance with California Law. Each of the parties hereto consents to the jurisdiction of such
11 court, and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an
12 inconvenient forum to the maintenance of such action or proceeding in such court.

13 15. Counterparts. This Settlement Agreement may be executed in one or more separate
14 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
15 together constitute a single document.

16 16. Effect Upon Future Proceedings. If Garcia applies for any license, permit or
17 qualification under the Commissioner's current or future jurisdiction, or are the subject of any
18 future action by the Commissioner to enforce this Settlement Agreement, then the subject matter
19 hereof shall be admitted for the purpose of such application(s) or enforcement proceeding(s).

20 17. Voluntary Agreement. Garcia enters into this Settlement Agreement voluntarily and
21 without coercion and acknowledges that no promises, threats, or assurances have been made by the
22 Commissioner or any officer, or agent thereof, about this Settlement Agreement. The parties each
23 represent and acknowledge that he, she or it is executing this Settlement Agreement completely
24 voluntarily and without any duress or undue influence of any kind from any source.

25 18. Independent Legal Advice. Each of the parties represents, warrants, and agrees that
26 he, she, or it has received independent advice from its attorney(s) and/or representative(s) with
27 respect to the advisability of executing this Settlement Agreement.
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1 19. Notice. Any notice required under this Settlement Agreement shall be provided to
2 each party at the following addresses. In the event of any future Department of Business Oversight
3 office relocation, notice shall be provided to the Commissioner at that future address.

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5 If to the Respondent: Elizabeth Garcia
6 11642 Lakewood Boulevard
7 Downey, California 90241
 lizgarciagroup@yahoo.com

8 If to the Commissioner: Taylor Herrlinger, Counsel
9 Department of Business Oversight
10 1515 K Street, Suite 200
11 Sacramento, California 95814
 Taylor.Herrlinger@dbo.ca.gov

12 20. Signatures. A fax or electronic mail signature shall be deemed the same as an
13 original signature.

14 21. Public Record. Garcia hereby acknowledges that this Settlement Agreement is and
15 will be a matter of public record.

16 22. Effective Date. This Settlement Agreement shall become final and effective when
17 signed by all parties and delivered by the Commissioner’s agent via e-mail to Garcia at
18 lizgarciagroup@yahoo.com.

19 23. Authority to Sign. Each signatory hereto covenants that he/she possesses all
20 necessary capacity and authority to sign and enter into this Settlement Agreement and undertake the
21 obligations set forth herein.

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IN WITNESS WHEREOF, the parties hereto have approved and executed this Settlement Agreement on the dates set forth opposite their respective signatures.

Dated: 12/19/19

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

ELIZABETH GARCIA, Respondent

Dated: 12/18/19

By _____
ELIZABETH GARCIA