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

11 In the Matter of:) NMLS NO.: 325499
12 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) STATEMENT OF ISSUES
13 Complainant,)
14 v.)
15 ROBERTO EDUARDO ALVAREZ,)
16 Respondent.)
17 _____)

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.).

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1 background check and requesting that Alvarez provide a detailed explanation of the circumstances
2 of the criminal proceedings and upload certified copies of the minute order or other court or police
3 documents showing their disposition in an amended Form MU4.

4 11. On August 10, 2012, Alvarez filed an amended Form MU4 in which he changed his
5 “No” answer to question (F)(1) to “Yes.” In an event explanation for question (F)(1) entitled “Not
6 disclosing an arrest,” Alvarez stated that he was “guilty of a single count of fraud (allowing a
7 seller/agent to give a gift to the borrower).” Alvarez uploaded a copy of a judgment dated October
8 17, 2001, showing that he pleaded guilty to one count of felony fraud against the United States
9 Department of Housing and Urban Development (HUD) for the purpose of obtaining HUD-insured
10 mortgage loans in violation of title 18 United States Code section 1010.

11 12. On November 8, 2012, Alvarez requested and was granted withdrawal of his
12 application.

13 **2019 application**

14 13. On January 25, 2019, Alvarez applied for an MLO license by filing a Form MU4
15 through NMLS. His application was sponsored by a lender licensed under the CRMLA.

16 14. Form MU4 question (A)(1) asked: “Have you filed a personal bankruptcy petition or
17 been the subject of an involuntary bankruptcy petition within the past 10 years?”

18 15. Alvarez answered “Yes” to question (A)(1). In the event explanation for question
19 (A)(1), Alvarez stated that in 2010 he filed for chapter 7 bankruptcy to “save my house from going
20 into foreclosure.” Alvarez did not provide supporting documentation for his explanation.

21 16. Form MU4 question (A)(3) asked: “Have you been the subject of a foreclosure
22 action within the past 10 years?”

23 17. Alvarez answered “Yes” to question (A)(3). In the event explanation for question
24 (A)(3), Alvarez stated that his “[h]ouse was in foreclosure in 2010.” Alvarez did not provide
25 supporting documentation for his explanation.

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

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1 19. Alvarez answered “Yes” to question (F)(1). His event explanation for question (F)(1)
2 remained unchanged from his 2012 application.

3 20. Form MU4 question (K) asked, in relevant part:

4 Has any State or federal regulatory agency or foreign financial
5 regulatory authority or self-regulatory organization (SRO) ever:

6 (1) found you to have made a false statement or omission or been
dishonest, unfair or unethical?

7 (2) found you to have been involved in a violation of a financial
8 services-related business regulation(s) or statute(s)?

9 (3) found you to have been a cause of a financial services-related
10 business having its authorization to do business denied, suspended,
11 revoked or restricted?

12 (4) entered an order against you in connection with a financial services-
13 related activity?

14 (5) revoked your registration or license?

15 . . .

16 (8) issued a final order against you based on violations of any law or
17 regulations that prohibit fraudulent, manipulative, or deceptive
18 conduct?

19 (9) entered an order concerning you in connection with any license or
20 registration?

21 21. Alvarez answered “Yes” to questions (K)(1), (K)(2), (K)(3), (K)(4), (K)(5), (K)(8),
22 and (K)(9). In event explanations for these questions, Alvarez stated that the California Department
23 of Real Estate (DRE) revoked his license because he “was guilty of a single count of fraud from an
24 incident that took place in 1999,” in which he had “knowledge of the gift funds coming from the
25 seller, not from a family member.” He stated that he did not “disclose that the borrower received a
26 gift from the seller in 1999.” He stated that his license was “reinstated in 2008.” However, he did
27 not upload supporting documentation related to the DRE action.

28 22. On February 13, 2019, the Commissioner placed a license item on Alvarez’s NMLS
account, noting the 2001 criminal conviction in his background check and requesting that he
provide a detailed explanation of the circumstances of the criminal proceedings and upload certified
copies of the minute order or other court or police documents showing their disposition in an

1 amended Form MU4. The Commissioner also noted that Alvarez had answered “Yes” to Form
2 MU4 questions (K)(1), (K)(2), (K)(3), (K)(4), (K)(5), (K)(8), and (K)(9) and requested that he
3 upload applicable legal documents.

4 23. On February 19, 2019, Alvarez filed an amended Form MU4, in which he uploaded
5 documents for question (F)(1) regarding the felony conviction and provided additional explanations
6 for question (F)(1) and for questions (K)(1), (K)(2), (K)(3), (K)(4), (K)(5), (K)(8), and (K)(9)
7 regarding the DRE revocation. In the event explanation for question (F)(1), Alvarez stated, “I was
8 guilty for allowing the seller to pay the borrower [sic] down payment by using a gift letter, but I
9 never took a loan with falsified employment or bank statements.” Alvarez uploaded another record
10 related to the 2001 criminal action—a presentence report dated August 29, 2001.

11 24. In his explanation for questions (K)(1) to (K)(9), Alvarez stated that his DRE license
12 was revoked because he “did not disclose that the seller assisted the buyer with the down payment.”
13 He failed to upload documents related to the DRE action as requested by the Commissioner.

14 25. On February 25, 2019, Alvarez filed an amended Form MU4, in which he uploaded
15 one document related to the DRE action—the DRE’s order dated February 10, 2003, revoking his
16 license.

17 26. Records obtained from Alvarez and the Commissioner’s investigation show that on
18 October 17, 2001, Alvarez was convicted of felony fraud against HUD for the purpose of obtaining
19 HUD-insured mortgage loans in violation of title 18 United States Code section 1010. According to
20 the criminal information, which formed the factual basis for Alvarez’s conviction by guilty plea,
21 Alvarez “passed as true a document, knowing it to have been altered, forged and counterfeited.”
22 Namely, Alvarez submitted an application for a HUD-insured mortgage loan that contained a “gift
23 letter,” which Alvarez knew falsely stated that the source of the borrowers’ down payment was a
24 cash gift from a relative. According to the presentence report, Alvarez was part of an ongoing
25 property “flipping” scheme involving “investors” who bought, rehabilitated, and sold homes to
26 unqualified buyers, who were able to obtain HUD-insured loans because of false and fraudulent
27 information in their loan applications. Thus, the conduct for which Alvarez was prosecuted and
28 convicted was not an isolated occurrence but rather part of an ongoing course of fraudulent conduct.

1 27. Records obtained from Alvarez and the Commissioner’s investigation show that the
2 DRE revoked Alvarez’s real-estate salesperson license after an administrative hearing in an order
3 dated February 10, 2003. The DRE found cause to revoke Alvarez’s license because of his HUD-
4 fraud conviction. In support of the discipline imposed, the DRE found that Alvarez failed to meet
5 many of the criteria for rehabilitation, including that he “did not seem to understand the gravity of
6 his conduct” and displayed an “inability to take responsibility for his actions.”

7 28. Records obtained from the Commissioner’s investigation show that about four years
8 later, in June 2007, Alvarez filed a petition for reinstatement of his DRE license. In an order dated
9 June 18, 2008, the DRE denied his petition, finding that he was not sufficiently rehabilitated to
10 warrant reinstatement. In particular, the DRE found that Alvarez had “not shown correction of
11 business practices resulting in injury to others or with the potential to cause injury.” Although
12 Alvarez was not entitled to reinstatement, the DRE issued a restricted real-estate salesperson
13 license.

14 29. Records obtained from the Commissioner’s investigation show that on October 15,
15 2009, a notice of default under deed of trust was recorded against Alvarez, thereby formally
16 commencing the foreclosure process. Notices of sale were recorded on January 22 and June 24,
17 2010.

18 30. Records obtained from the Commissioner’s investigation show that Alvarez
19 voluntarily filed for chapter 7 bankruptcy on August 10, 2010 and received a discharge of his debts
20 on December 2, 2010.

21 III.

22 Felony Conviction

23 31. The Commissioner “shall deny” an application for an MLO license unless he makes,
24 at a minimum, specified findings, including that the applicant has not been convicted of, or pleaded
25 guilty or no contest to, a felony during the seven-year period preceding the date of the application,
26 or at any time preceding the date of the application, if such felony involved an act of fraud,
27 dishonesty, a breach of trust, or money laundering. (Fin. Code, § 50141, subd. (a)(2).)
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V.

Financial Responsibility, Character, and General Fitness

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

8 38. As described in paragraphs 26 and 32, Alvarez was convicted of a felony involving
9 fraud and dishonesty in the business of originating residential mortgage loans, the same activity for
10 which he now seeks a license from the Commissioner. Alvarez’s criminal history militates against
11 finding that he has demonstrated the character and general fitness required for licensure as an MLO.

12 39. As described in paragraphs 27 and 28, Alvarez’s real-estate salesperson license was
13 revoked by the DRE in 2003 because of his felony HUD-fraud conviction. The DRE found that
14 Alvarez failed to understand the gravity of his conduct and displayed an inability to take
15 responsibility for his actions. Five years later, in 2008, the DRE found that Alvarez was not
16 sufficiently rehabilitated and denied his petition for reinstatement. As described in paragraphs 20 to
17 25 and 35, Alvarez did not disclose the denial of reinstatement of his DRE license in his application
18 despite filing numerous amended Form MU4s. Thus, although the DRE revocation and denial of
19 reinstatement occurred some time ago, Alvarez’s lack of candor in disclosing prior discipline
20 further weighs against finding the requisite character and fitness.

21 40. As described in paragraphs 14 to 17, 29, and 30, Alvarez was the subject of a
22 foreclosure action beginning in 2009. To stop the foreclosure, Alvarez voluntarily filed for chapter
23 7 bankruptcy in 2010. Alvarez’s foreclosure and bankruptcy weigh against finding that he has
24 demonstrated the financial responsibility required for licensure as an MLO.

25 41. For all these reasons, Alvarez has not demonstrated such financial responsibility,
26 character, and general fitness as to command the confidence of the community and to warrant a
27 determination that he will operate honestly, fairly, and efficiently as an MLO. Under Financial
28 Code section 50141, subdivision (a)(3), Alvarez’s application must be denied.

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VI.

Commissioner’s Authority to Deny Application

42. Financial Code section 50141, subdivision (a), 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:

...

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

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

(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.

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

VII.

Prayer

For the foregoing reasons, the Commissioner finds that Roberto Eduardo Alvarez, also known as Robert Eduardo Alvarez, was convicted of a felony involving an act of fraud, dishonesty,

1 a breach of trust, or money laundering before the date of his application for a mortgage loan
2 originator license within the meaning of Financial Code section 50141, subdivision (a)(2).

3 The Commissioner also finds that Alvarez withheld information and made material
4 misstatements in his application within the meaning of Financial Code section 50513, subdivision
5 (a)(2).

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

8 Accordingly, the Commissioner must deny Alvarez’s application for a mortgage loan
9 originator license.

10 WHEREFORE, IT IS PRAYED that Alvarez’s application for a mortgage loan originator
11 license be denied.

12 Dated: January 9, 2020
13 Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

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15 By: _____
16 SAMUEL J. PARK
17 Counsel
18 Enforcement Division
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