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

10
11 In the Matter of:) NMLS ID: 1632130
)
12 THE COMMISSIONER OF BUSINESS)
13 OVERSIGHT,) STATEMENT OF ISSUES IN SUPPORT OF
) ORDER DENYING MORTGAGE LOAN
14 Complainant,) ORIGINATOR APPLICATION
)
15 v.)
)
16 RICARDO ALBERTO)
17 BARRAZA-WENDLANDT,)
)
18 Respondent.)
)
19)
20)

21 The Commissioner of Business Oversight (Commissioner) alleges and charges Respondent
22 as follows:

23 **I.**
24 **Introduction**

25 1. The Commissioner seeks to deny the issuance of a mortgage loan originator (MLO)
26 license to Ricardo Alberto Barraza-Wendlandt (Barraza-Wendlandt) under Financial Code sections
27 22170, subdivision (b), and 22109.1, subdivision (a)(3), of the California Financing Law (Fin. Code,
28 § 22000 et seq.) (CFL), California Code of Regulations (CCR) title 10, section 1422.6.2, subdivision

1 (c)(2), and Financial Code sections 50141 and 50513 of the California Residential Mortgage
2 Lending Act (Fin. Code, § 50000 et seq.) (CRMLA) in that Barraza-Wendlandt has: (1) knowingly
3 made untrue statements to the Commissioner; (2) withheld information in an application for a
4 license; and (3) has not demonstrated such financial responsibility, character, and general fitness as
5 to command the confidence of the community and to warrant a determination that Barraza-
6 Wendlandt will operate honestly, fairly, and efficiently within the purposes of the CFL and CRMLA.

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8 **II.**
9 **Application**

10 2. On August 18, 2019, Barraza-Wendlandt filed an application for a MLO license with
11 the Commissioner by submitting a Form MU4 (Application) through the Nationwide Mortgage
12 Licensing System (NMLS) under Financial Code section 50140.

13 3. Barraza-Wendlandt answered “No” to Financial Disclosure Question D, which ask, in
14 pertinent part: (D) “Do you have any unsatisfied judgments or liens against you?”

15 4. The Commissioner’s investigation of Barraza-Wendlandt showed he failed to disclose
16 his outstanding tax liens with the State of California Franchise Tax Board:

- 17 • 2013 – total lien amount of \$4,569.92;
- 18 • 2015 – total lien amount of \$2,492.82; and
- 19 • 2016 – total lien amount of \$7,218.58.

20 5. The Commissioner’s review of the Application also showed Barraza-Wendlandt did
21 not disclose a judgment of \$6,220.65 filed on June 10, 2010, in the matter of *Mohamed Malik*
22 *Kirouani v. Rosa A. Barraza and Ricardo A. Barraza (Kirouani v. Barraza)*, Case No. 37-2009-
23 00046825-CL-UD-CTL, Superior Court of California, County of San Diego, San Diego Judicial
24 District.

25 6. The Commissioner’s review also showed that Barraza-Wendlandt did not disclose an
26 outstanding judgment of \$10,619.41 filed on April 28, 2018, in the matter of *20600 Ventura*
27 *Boulevard Apartment Investors LLC v. Ricardo Barraza (20600 Ventura Blvd. Apt. Investors v.*
28 *Barraza)*, Case No. 17veudo1442, Superior Court of California, County of Los Angeles, Van Nuys
Court.

1 7. The Commissioner’s review also showed that Barraza-Wendlandt did not disclose a
2 writ of execution (money judgment) of \$7,571.43 filed on May 13, 2011, in the matter of *Louise*
3 *O’Flaherty v. Rosa Barraza, Ricardo Barraza (O’Flaherty v. Barraza)*, Case No. 37-2011-
4 00043022-CL-UD-CTL, Superior Court of California, County of San Diego, Central Judicial
5 District.

6 8. Barraza-Wendlandt answered “Yes” to Question F(1): “Have you ever been convicted
7 of or pled guilty or nolo contendere (‘no contest’) in a domestic, foreign, or military court to any
8 felony?”

9 9. In his Application, Barraza-Wendlandt provided the following explanation: “[p]lead
10 guilty to theft by control on or about 2001-2002. Class 6 Felony Open/Ended. The courts have Set
11 Aside my conviction and restored my rights.”

12 10. In his Application, Barraza-Wendlandt provided an Amended Order from the matter
13 *State of Arizona v. Ricardo A. Barraza (Arizona v. Barraza)*, Case No. CR20022709, Superior Court
14 of the State of Arizona, Pima County. The Amended Order dated July 19, 2010 set aside Barraza-
15 Wendlandt’s conviction and restored his civil rights.

16 11. Barraza-Wendlandt signed his Application on August 18, 2019 under penalty of
17 perjury, attesting that “the information and statements contained herein, including exhibits attached
18 hereto, and other information filed herewith, all of which are made a part of this application are
19 current, true, accurate and complete[.]” The attestation contains the following admonition to which
20 Barraza-Wendlandt agreed: “If an Applicant has made a false statement of material fact in this
21 application or in any documentation provided to support the foregoing application, then the
22 foregoing application may be denied.”

23 12. On August 19, 2019, Barraza-Wendlandt filed two additional applications through
24 NMLS. The First and Second Amended Applications were identical to Barraza-Wendlandt’s August
25 18, 2019 Application and signed under penalty of perjury.

26 13. The Commissioner’s investigation of Barraza-Wendlandt’s August 18, 2019
27 Application and amended applications revealed Barraza-Wendlandt did not disclose that he pled
28 guilty to theft of a credit card, a class 6 undesignated felony in the matter of *The State of Arizona v.*

1 *Ricardo A. Barraza (Arizona v. Barraza)*, Case No. 20013872, Superior Court of the State of
2 Arizona, Pima County.

3 14. On or around August 23, 2019, the Commissioner created a license item in NMLS
4 instructing Barraza-Wendlandt to submit an amended application to explain his 2001 theft of a credit
5 card felony conviction; provide court documents; to disclose a “Yes” response to any applicable
6 disclosure question; and explain why he did not disclose this conviction on his previous application.

7 15. On August 23, 2019, Barraza-Wendlandt filed three additional amended applications
8 on NMLS. In his Sixth Amended Application filed on August 23, 2019, Barraza-Wendlandt
9 answered “Yes” to Question F(1): “Have you ever been convicted of or pled guilty or nolo
10 contendere (‘no contest’) in a domestic, foreign, or military court to any felony?”

11 16. Barraza-Wendlandt also answered “Yes” to Question H(1): “Have you ever been
12 convicted of or pled guilty or nolo contendere (‘no contest’) in a domestic, foreign, or military court
13 to committing or conspiring to commit a misdemeanor involving: ... (ii) fraud, ... (iv) theft or
14 wrongful taking of property of another?”

15 17. In his Sixth Amended Application filed on August 23, 2019, Barraza-Wendlandt
16 provided the following explanation for his 2001 theft of a credit card conviction:

17 “For CR 20013872 This charge is a misdemeanor and not a felony. I
18 have supplied the Disposition report separately which was sent to me
19 today on 8/23/2019 directly from Pima County District Attorney
20 Office. This form will have to be read in its entirety. The ‘felony
21 charge’ was designated as a misdemeanor and allowed me to continue
22 on probation which since then completed sometime 2007 to the best of
23 my knowledge. I overlooked question H and I apologize for doing so.
24 I would not intentionally with hold any information on both cases. I
25 hope this can clarify CR20013872. This was the Originally the Class
26 6 felony and designated as a misdemeanor.”

27 18. Barraza-Wendlandt included a copy of his Disposition Report filed on February 26,
28 2002 in the matter of *Arizona v. Barraza*, Case No. 20013872, Superior Court of the State of
Arizona, Pima County; and the Amended Order dated July 19, 2010 in the matter of *Arizona v.*
Barraza, Case No. 20022709, Superior Court of the State of Arizona, Pima County.

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1 originator will operate honestly, fairly, and efficiently within the
2 purposes of this division.

3 (Fin. Code, §§ 22109.1 and 50141)

4 26. CCR, title 10, section 1422.6.2, provides in relevant part:

5 (a) The Commissioner’s finding required by Section 22109.1(c) of the
6 California Financing Law relates to any matter, personal or
7 professional, that may impact upon an applicant’s propensity to
8 operate honestly, fairly, and efficiently when engaging in the role of a
9 mortgage loan originator.

10 . . .

11 (c) An applicant may be precluded from obtaining a mortgage loan
12 originator license where his or her personal history includes:

- 13 (1) Any liens or judgments for fraud, misrepresentation,
14 dishonest dealing, and/or mishandling of trust funds, or
- 15 (2) Other liens, judgments, or financial or professional
16 conditions that indicate a pattern of dishonesty on the part of
17 the applicant.

18 (CCR, tit. 10, § 1422.6.2, subdivisions (a) and (c))

19 27. Financial Code section 22170, provides in relevant part:

20 (b) It is unlawful for any person to knowingly make an untrue
21 statement to the commissioner or the Nationwide Mortgage Licensing
22 System and Registry during the course of licensing, investigation, or
23 examination, with the intent to impede, obstruct, or influence the
24 administration or enforcement of any provision of this division.

25 (Fin. Code, § 22170, subdivision (b))

26 28. Financial Code section 50513, provides in relevant part:

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

28 . . .

- (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.

(Fin. Code, § 50513, subdivision (a)(2))

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IV.
False Statements

29. Paragraphs 1-28 are hereby realleged and incorporated herein by reference as if set forth in their entirety.

30. Barraza-Wendlandt made false statements to the Commissioner and withheld information in his August 18, 2019 application and subsequent amended applications by not disclosing his theft of a credit card conviction from the matter of *Arizona v. Barraza*, Case No. 200120013872, Superior Court of the State of Arizona, Pima County.

31. Barraza-Wendlandt provided details of his 2001 theft of credit card conviction only after the Commissioner instructed him through NMLS to amend his application and provide supporting documentation.

32. Throughout the MLO application process, Barraza-Wendlandt never disclosed his outstanding liens and judgments as listed above in paragraphs 4-7.

33. Barraza-Wendlandt withheld information and knowingly made untrue statements to the Commissioner during the course of licensing with the intent to impede, obstruct, or influence the administration or enforcement of law governing mortgage loan originators, in violation of Financial Code sections 22170, subdivision (b) and 50513, subdivision (a)(2).

V.
Failure to Demonstrate Requisite Financial Responsibility, Character, and General Fitness

34. Paragraphs 1- 33 are hereby realleged and incorporated herein by reference as if set forth in their entirety.

35. Throughout the application process, Barraza-Wendlandt did not disclose the following outstanding tax liens with the State of California Franchise Tax Board:

- 2013 – total lien amount of \$4,569.92;
- 2015 – total lien amount of \$2,492.82; and
- 2016 – total lien amount of \$7,218.58.

36. Barraza-Wendlandt never disclosed a judgment of \$6,220.65 in the matter of *Kirouani v. Barraza*, Case No. 37-2009-00046825-CL-UD-CTL, Superior Court of California, County of San Diego, San Diego Judicial District.

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WHEREFORE IT IS PRAYED, by reason by the foregoing, under Financial Code sections 22109.1, subdivision (a)(3); 50141; 50513, subdivision (a)(2); 22170, subdivision (b); and CCR, title 10, section 1422.6.2, subdivisions (a) and (c); that the MLO application filed by Ricardo Alberto Barraza-Wendlandt be denied.

Dated: January 6, 2020
San Diego, CA

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____

Vanessa T. Lu
Counsel
Enforcement Division