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

10 In the Matter of:)	NMLS ID: 1798617
11 THE COMMISSIONER OF BUSINESS)	ORDER DENYING MORTGAGE LOAN
12 OVERSIGHT,)	ORIGINATOR APPLICATION
13 Complainant,)	(Financial Code sections 22109.1 & 50141)
14 v.)	
15 SHAHER KHALIFEH MUSHARBASH,)	
16 Respondent.)	

17 Manuel P. Alvarez, the Commissioner of Business Oversight (Commissioner), finds against
18 Respondent Shaher Khalifeh Musharbash (Musharbash) as follows:

19 **I.**
20 **Introduction**

21 The Commissioner denies the issuance of a mortgage loan originator (MLO) license to
22 Shaher Khalifeh Musharbash (Musharbash) pursuant to Financial Code sections 22109.1 and 50141
23 because Mushbarash fails to meet the minimum threshold requirement that he demonstrates such
24 financial responsibility, character, and general fitness as to command the confidence of the
25 community and to warrant a determination that the mortgage loan originator will operate honestly,
26 fairly, and efficiently.

27 Specifically, Musharbash’s application for an MLO license must be denied because
28 Musharbash falsely answered “No” on the criminal disclosure portion of the MU4 Form contained in

1 the MLO application, when, in fact, he had been previously convicted of or pled guilty to a
2 misdemeanor burglary and three misdemeanor petty thefts in 2014.

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4 **II.**
Statement of Facts

5 1. On July 8, 2019, Musharbash filed an application on the Nationwide Mortgage
6 Licensing System & Registry (NMLS)¹ for an MLO license with the Commissioner pursuant to
7 Financial Code section 22109.2 and 50140 (Application). The Application was submitted to the
8 Commissioner when Musharbash filed a Form MU4 through NMLS. The employer sponsoring
9 Musharbash’s application holds licenses under both the California Financing Law (Cal. Fin.
10 Code, § 22000 et seq.) and the California Residential Mortgage Lending Act (Cal Fin. Code, §
11 50000 et seq.)

12 2. In submitting his Application, under the heading “Criminal Disclosure” Musharbash
13 answered “No” to question (H)(1) on Form MU4, which specifically asked:

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

21 3. In submitting his Application, Musharbash attested that the answers were true and
22 complete to the best of his knowledge.

23 4. Further review by the Department revealed that Musharbash pled guilty in 2014 to
24 one count of misdemeanor commercial burglary in the second degree and three counts of
25 misdemeanor petty theft in the Superior Court of California, Orange County. Musharbash admitted
26 under penalty of perjury in each of his plea forms filed with that court that he stole property from a
27 retail store. The dates of these admitted thefts were May 12, June 8, and July 30, 2013.

28 ¹ NMLS is the system of record for non-depository, financial services licensing or registration in participating agencies,
including the District of Columbia and the 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.

1 5. Based on its review, the Department created “license items”² on NMLS for
2 Musharbash, instructing him to amend the Application, provide a detailed explanation of the
3 circumstances surrounding any criminal history that needed to be disclosed, explain why this history
4 was not previously disclosed, and provide any supporting documentation to accompany the
5 explanation.

6 6. On July 11, 2019, Musharbash submitted amendments to his Application (First
7 Amended Application), in which he changed his response to question (H)(1) from “No” to “Yes,”
8 and disclosed and offered an explanation of his misdemeanor burglary and one of his petty theft
9 convictions for the theft on May 12, 2013, but did not disclose the other two petty theft convictions.

10 7. In his explanation in the First Amended Application, Musharbash stated, in summary,
11 that he was not primarily culpable for the May 12, 2013, petty theft and that he had simply been in
12 the wrong place at the wrong time with the wrong friends, who were primarily culpable. Musharbash
13 stated that he only pled guilty because the expense of trial outweighed the sentence of probation,
14 community service, and fines that he was offered for pleading guilty.

15 8. In submitting the First Amended Application, Musharbash again attested to and swore
16 that the answers were true and complete to the best of his knowledge.

17 9. Musharbash’s explanation in his First Amended Application is not credible because
18 he stated under penalty of perjury on his guilty plea form for the theft on May 12, 2013, “On 5/12/13
19 in Orange County, I did willfully and unlawfully enter Walmart, a commercial building, with the
20 intent to commit larceny, and stole personal property of Walmart.” Additionally, Musharbash’s pleas
21 of guilty with similar statements under penalty of perjury related to petty thefts committed on June 8,
22 2013, and July 30, 2013, also make Musharbash’s explanation of simply being in the wrong place at
23 the wrong time not credible. Further, Musharbash did not explain why he did not provide a true
24 answer to question (H)(1) on his initial Application.

25 10. On July 15, 2019, Musharbash submitted another amendment (Second Amended
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28 ² A “license item” is a request from the Department 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 Application). In this Second Amended Application, Musharbash uploaded documents relating to the
2 May 12, 2013, misdemeanor burglary and petty theft he disclosed but made no changes to his
3 explanation. Musharbash again attested to and swore that the answers were true and complete to the
4 best of his knowledge, including the accuracy of information previously submitted that was not
5 amended.

6 11. On July 22, September 5, September 12, and September 17, 2019, Musharbash
7 submitted or attested to amendments that changed other parts of his MU4 (Subsequent Amended
8 Applications) not related to the criminal disclosure questions or merely reorganizing documentation
9 relating to the criminal disclosure questions. Musharbash again attested to and swore that the
10 answers were true and complete to the best of his knowledge, including the accuracy of information
11 previously submitted that was not amended.

12 **III.**
13 **Applicable Law**

14 12. Financial Code section 22109.1 provides in relevant part:

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

18 ...

19 (3) The applicant has demonstrated such financial responsibility,
20 character, and general fitness as to command the confidence of the
21 community and to warrant a determination that the mortgage loan
22 originator will operate honestly, fairly, and efficiently within the
23 purposes of this division.

24 ...

25 13. Financial Code section 50141 provides in relevant part:

26 (a) The commissioner shall deny an application for a mortgage loan
27 originator license unless the commissioner makes at a minimum the
28 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.

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IV.
Character of the Applicant

14. Musharbash’s 2014 commercial burglary and petty theft guilty pleas, his failure to disclose the guilty pleas in his Application, his failure to disclose two of his guilty pleas in his First and Second Amended Applications, his continued failure to disclose in his Subsequent Amended Applications, and his incredible explanation regarding the crimes he pled guilty to on May 12, 2013, establishes that Musharbash does not demonstrate the requisite character and general fitness to command the confidence of the community nor to warrant a determination by the Commissioner that he will operate honestly, fairly and efficiently within the purposes of the CFL and CRMLA. As such, Musharbash’s MLO application must be denied.

V.
Conclusion

The Commissioner finds, by reason of the foregoing, that Musharbash fails to demonstrate such character and general fitness as to command the confidence of the community and to warrant a determination that Musharbash will operate honestly, fairly, and efficiently as a mortgage loan originator.

THEREFORE, Financial Code section 22109.1 and 50141 mandates that the Commissioner not issue a mortgage loan originator license to Musharbash.

WHEREFORE on December 2, 2019, the Commissioner issued a Notice of Intention to Issue Order Denying Mortgage Loan Originator Application, Statement of Issues, and accompanying documents (Notice of Intention to Deny) based on the above findings. The Notice of Intention to Deny was served on Musharbash on December 2, 2019. Musharbash did not request a hearing and the time to request a hearing has expired.

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NOW GOOD CAUSE APPEARING THEREFOR, it is hereby ordered that the mortgage loan originator application dated July 8, 2019, and as subsequently amended, filed by Shaher Khalifeh Musharbash, is denied.

Dated: January 16, 2020
Sacramento, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner