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7
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9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) NMLS LICENSE NO. 399553
13)
14 THE COMMISSIONER OF BUSINESS) STATEMENT OF ISSUES
OVERSIGHT,)
15)
16 Complainant,)
v.)
17 EMOGENE McGHEE, aka EMOGENE BYRD,)
18 EMOGENE WILLIAMS, GWEN HARRIS,)
19 Respondent.)
20)
21)

22 Manuel P. Alvarez, the Commissioner of Business Oversight (Commissioner), is informed
23 and believes, and based on such information and belief, alleges and charges Respondent Emogene
24 McGhee, aka Emogene Byrd, Emogene Williams, Gwen Harris (McGhee) as follows:

25 I.

26 **Jurisdiction**

27 1. The Commissioner has jurisdiction over the licensing and regulation of persons
28

1 engaged in the business of making, servicing, or brokering residential mortgage loans, including
2 mortgage loan originators, under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.)
3 and the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.). The
4 Commissioner is authorized to administer the CFL and CRMLA and the rules and regulations
5 promulgated in title 10 of the California Code of Regulations (CCR).

6 2. Respondent McGhee applied for a mortgage loan originator (MLO) license with the
7 Commissioner.

8 3. Under the provisions of Financial Code section 22109.1 of the CFL and Financial
9 Code section 50141 of the CRMLA, the Commissioner brings this action to deny McGhee's MLO
10 license application because: (1) McGhee is not employed by, and subject to the supervision of, a CFL
11 or CRMLA-licensed lender, servicer, or broker, and therefore does not meet the minimum criteria to
12 receive a MLO license and (2) McGhee has not demonstrated such financial responsibility, character,
13 and general fitness as to command the confidence of the community and to warrant a determination
14 that she will operate honestly, fairly, and efficiently as a MLO.

15 II.

16 Statement of Facts

17 *The People v. Emogene Byrd – 2015 Misdemeanor Grand Theft Conviction*

18 4. On November 14, 2011, under a felony complaint, the Riverside County District
19 Attorney charged McGhee with one count of grand theft, in violation of Penal Code section 487,
20 subdivision (a). The district attorney alleged that on or about February 4, 2011, in the County of
21 Riverside, McGhee willfully and unlawfully took money and personal property from Kimberly
22 Willford totaling \$4,632.32 in a residential mortgage loan modification scheme.

23 5. On October 2, 2015, McGhee pleaded guilty and was convicted of grand theft, in
24 violation of Penal Code section 487, subdivision (a), a misdemeanor. The court placed McGhee on
25 summary probation for three years, ordering her to be committed to the Riverside County Sheriff for
26 150 days with credit for one day served, to serve 148 days through the Alternative Sentencing Hard
27 Labor Program and one day in custody for booking purposes only, and to pay restitution and fines
28 and fees totaling \$2,397.64.

1 6. On June 1, 2018, McGhee satisfied the terms of her probation.

2 7. Under Penal Code section 1203.4, McGhee subsequently petitioned the court to
3 dismiss her 2015 grand theft conviction. On or about October 26, 2018, the court granted McGhee’s
4 request, allowing McGhee to withdraw her plea of guilty and enter a plea of not guilty, thereby
5 dismissing the felony complaint filed against McGhee.

6 8. Despite the dismissal, McGhee is required to disclose her 2015 grand theft conviction
7 in response to any direct question contained in any questionnaire or application for licensure by the
8 state or local agency. (Pen. Code § 1203.4.)

9 *2017 Department of Insurance License Revocation Proceedings*

10 9. On May 31, 2017, effective June 30, 2017, the Department of Insurance revoked
11 McGhee’s Life Only agent and Accident and Health agent licenses in the “Matter of the Licenses and
12 Licensing Rights of: Emogene Williams, aka Emogene Williams Byrd, aka Emogene MGhee, aka
13 Emiagee Williams, aka E’Mia’Gene Williams, aka Gwen Harris, aka Anna Marie Barnes, aka
14 Katrina Marie La Beau, aka Deborah Palmer, aka Elnora Florence Scoot, aka Madeline Williams.”

15 10. Under the adopted decision, the insurance commissioner concluded McGhee’s Life
16 Only agent and Accident and Health agent licenses must be revoked as a result of her 2015 grand
17 theft conviction, McGhee’s failure to disclose the grand theft conviction on her January 31, 2016
18 license renewal application filed with the department, and McGhee’s lack of candor and honesty
19 concerning her criminal conviction and her failure to disclose the conviction on her license renewal
20 application filed with the department.

21 *2018 Department of Real Estate License Revocation Proceedings*

22 11. On January 5, 2018, effective February 5, 2018, the Department of Real Estate
23 revoked McGhee’s real estate salesperson’s license in the “Matter of the Accusation of Emogene
24 Williams.”

25 12. Under the decision after rejection, the real estate commissioner concluded McGhee’s
26 real estate salesperson’s license must be revoked as a result of her 2015 grand theft conviction,
27 McGhee’s failure to disclose the grand theft conviction on her Salesperson Renewal Application filed
28 with the department on March 31, 2016, and McGhee’s lack of candor and honesty concerning her

1 criminal conviction and her failure to disclose the conviction on her license renewal application filed
2 with the department.

3 *2019 California Application*

4 13. To become licensed by the Commissioner as a MLO, an individual must submit a
5 uniform application form (known as the MU4) through the Nationwide Mortgage Licensing System
6 and Registry (the NMLS).

7 14. On March 13, 2019, McGhee first applied for a MLO license by filing a Form MU4
8 through the NMLS.

9 15. In her March 13 MU4, McGhee truthfully responded to the disclosure questions that
10 asked about her criminal conviction and the state license revocation proceedings before the
11 Departments of Insurance and Real Estate.

12 16. On April 12, the Commissioner's staff reviewed McGhee's MU4. The examiner noted
13 a number of deficiencies with McGhee's application, including McGhee's failure to designate a
14 sponsoring employer; failure to submit fingerprints for a criminal background check; failure to
15 provide criminal conviction documents concerning the 2011-2015 grand theft proceedings; failure to
16 provide copies of the pleadings filed by the Departments of Insurance and Real Estate in McGhee's
17 license revocation proceedings before the state; and her failure to provide a statement of citizenship,
18 alienage, or immigration.

19 17. That same day, April 12, the examiner placed several license items on McGhee's
20 account, requesting McGhee correct the deficiencies the examiner had identified on McGhee's MU4.

21 18. On April 16, McGhee received sponsorship from American Advisors Group (AGG),
22 which holds CRMLA and CFL licenses with the department.

23 19. Between April 16 and May 21, McGhee attested and filed six amended MU4
24 applications. In each of the six amended MU4s McGhee attested and filed, the examiner determined
25 McGhee had failed to provide the requested documents concerning her criminal conviction and the
26 license revocation proceedings before the Departments of Insurance and Real Estate.

27 20. On May 31, AAG withdrew its sponsorship of McGhee's MLO application.

28 21. On July 1, Apex Lending, Inc. (Apex), a CFL-licensed lender, requested sponsorship

1 of McGhee's license application. Apex withdrew its sponsorship of McGhee's MLO license
2 application on July 31.

3 22. Under CCR sections 1422.6 and 1950.122.5, the Commissioner abandoned McGhee's
4 application on July 31, based on McGhee's failure to timely provide the required documentation
5 requested through the license items placed on McGhee's NMLS account.

6 23. McGhee subsequently contacted the department concerning the abandonment of her
7 application and asked that her application be reinstated. The Commissioner granted McGhee's
8 request and reinstated McGhee's MLO application on December 17.

9 24. On December 23 and 24, McGhee uploaded to the NMLS additional documents
10 related to her criminal conviction and the license revocation proceedings before the Department of
11 Real Estate.

12 III.

13 **Failure to Meet Minimum Criteria for License**

14 25. The Commissioner must deny a MLO license if the licensee fails to meet the
15 minimum criteria for licensure, which includes a requirement that the applicant is employed by, and
16 subject to the supervision of, a licensed CFL or CRMLA lender, servicer, or broker. (Fin. Code, §§
17 50141, subd. (a)(6) and 22109.1, subd. (a)(6).)

18 26. As described in paragraphs 20 and 21, above, McGhee was initially employed and
19 sponsored by AAG. AAG withdrew its sponsorship of McGhee's application on May 31. Apex
20 applied to sponsor McGhee's application on July 1. Apex withdrew its sponsorship of McGhee's
21 application on July 31, and McGhee has not found employment with another licensed lender,
22 servicer, or broker.

23 27. Thus, McGhee does not meet the minimum criteria for licensure under either the CFL
24 or CRMLA, and her application must be denied.

25 IV.

26 **Financial Responsibility, Character, and General Fitness**

27 28. The Commissioner must deny a MLO license if a licensee fails to demonstrate such
28 financial responsibility, character, and general fitness as to command the confidence of the

1 community and to warrant a determination that the MLO will operate honestly, fairly, and efficiently.
2 (Fin. Code, §§ 22109.1, subd. (a)(3) and 50141, subd. (a)(3).)

3 29. As described in paragraphs 9 and 10, above, the Department of Insurance revoked
4 McGhee’s Life Only agent and Accident and Health agent licenses, effective June 30, 2017, and
5 McGhee’s licenses have not been reinstated.

6 30. As described in paragraphs 11 and 12, above, the Department of Real Estate revoked
7 McGhee’s real estate salesperson’s license, effective February 5, 2018, and McGhee’s license has not
8 been reinstated.

9 31. Thus, McGhee has not demonstrated such financial responsibility, character, and
10 general fitness as to command the confidence of the community and to warrant a determination that
11 she will operate honestly, fairly, and efficiently as a MLO. Under Financial Code sections 22109.1,
12 subdivision (a)(3) and 50141, subdivision (a)(3), McGhee’s application must be denied.

13 **V.**

14 **Applicable Statutes**

15 32. Financial Code section 22109.1 provides in pertinent part:

16 (a) The commissioner shall deny an application for a mortgage loan
17 originator license unless the commissioner makes, at a minimum, the
18 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[.]

22 . . .

23 (6) The applicant is employed by, and subject to the supervision of, a
24 finance lender or broker that has obtained a license from the
25 commissioner pursuant to this division.

26 33. Financial Code section 50141, provides in pertinent part:

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

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(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.

(6) The applicant is employed by, and subject to the supervision of, a residential mortgage lender or servicer that has obtained a license from the commissioner pursuant to this division[.]

VI.

Prayer

For the reasons set forth above, the Commissioner finds that McGhee does not meet the minimum requirements for the issuance of a MLO license as provided by Financial Code sections 22109.1, subdivision (a)(6) and 50141, subdivision (a)(6), when Apex, McGhee’s former employer, withdrew its sponsorship of McGhee’s MLO application.

The Commissioner also finds that McGhee has not demonstrated the financial responsibility, character, and general fitness required under Financial Code sections 22109.1, subdivision (a)(3) and 50141, subdivision (a)(3). Accordingly, the Commissioner has grounds for denying McGhee’s MLO license application.

WHEREFORE IT IS PRAYED that the MLO license application filed by Emogene McGhee, aka Emogene Byrd, Emogene Williams, Gwen Harris be denied.

Dated: March 17, 2020
Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By: _____
Blaine A. Noblett
Senior Counsel
Enforcement Division