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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. 398551
13)
14 THE COMMISSIONER OF BUSINESS) STATEMENT OF ISSUES
OVERSIGHT,)
15)
16 Complainant,)
17 v.)
18 JACK GRANT SMITH,)
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 Jack Grant
24 Smith (Smith) as follows:

25 I.

26 Jurisdiction

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

4 2. Respondent Smith applied for a mortgage loan originator (MLO) license with the
5 Commissioner.

6 3. Under the provisions of Financial Code section 22109.1 of the CFL and Financial
7 Code sections 50141 and 50513 of the CRMLA, the Commissioner brings this action to deny Smith's
8 MLO license application because (1) Smith is not employed by, and subject to the supervision of, a
9 CFL or CRMLA-licensed lender, servicer, or broker, and therefore does not meet the minimum
10 criteria to receive a MLO license; (2) Smith withheld information and made material misstatements
11 in his application for a license; and (3) Smith has not demonstrated such financial responsibility,
12 character, and general fitness as to command the confidence of the community and to warrant a
13 determination that he will operate honestly, fairly, and efficiently as a MLO.

14 II.

15 Statement of Facts

16 *Oregon Cease and Desist Order*

17 4. On October 3, 2013, Smith, on behalf of himself and in his capacity as CEO of
18 Harvest Capital Risk Mitigation Group, LLC fka Harvest Capital Loan Modifications, LLC (Harvest
19 Capital), entered into a cease and desist order (Order) with the State of Oregon Department of
20 Consumer and Business Services Division of Finance and Corporate Securities (hereinafter, Oregon).

21 5. Oregon determined that Smith and Harvest Capital had engaged in unlicensed
22 mortgage brokering and debt management services with at least one Oregon resident. According to
23 the Order, Smith and Harvest Capital received an advance fee of \$2,980.00. In exchange for their fee,
24 Smith and Harvest Capital were to have provided the consumer with loan modification services
25 concerning a mortgage loan on a residential property located in Oregon. But neither Smith nor
26 Harvest Capital had received the appropriate licenses or registrations with the state of Oregon to offer
27 such services to the Oregon resident.

28 6. Under the Order, Smith and Harvest Capital agreed to refund the consumer \$2,980.00;

1 pay Oregon civil penalties totaling \$2,020.00; cease and desist from violating the Oregon Mortgage
2 Lender Laws and Rules and Debt Management Service Providers Laws and Rules; and refrain from
3 engaging in any business activity in Oregon that requires registration or licensing by the “Division of
4 Finance and Corporate Securities” without first obtaining the requisite registration or license.

5 7. The Order is final.

6 *2016 Texas Denial of MLO License Renewal Application*

7 8. On or about April 28, 2016, the state of Texas denied Smith’s MLO application to
8 renew his license.

9 *2019 California Application*

10 9. In order to become licensed by the Commissioner as a MLO, an individual must
11 submit a uniform application form (known as the MU4) through the Nationwide Mortgage Licensing
12 System and Registry (the NMLS).

13 10. On June 20, 2019, Smith applied for a MLO license by filing a Form MU4 through the
14 NMLS. Smith’s application was sponsored by Sprint Funding, Inc. (Sprint Funding), a lender
15 licensed under the CFL. Sprint Funding withdrew its sponsorship of Smith’s MLO application on
16 January 21, 2020. Smith is no longer employed by a sponsoring lender, servicer, or broker licensed
17 under either the CRMLA or CFL, as Sprint Funding withdrew its support of Smith’s application on
18 January 21 and Smith has failed to obtain employment with another CFL or CRMLA-licensed
19 sponsoring lender, servicer, or broker.

20 11. When Smith applied for his license, Smith failed to answer several of the questions
21 posed, which asked Smith about the Order and Texas’ denial of his MLO license application.

22 12. For example, Form MU4 question (K) asked, in relevant part:
23 Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory
24 organization (SRO) ever:

- 25 . . .
- 26 (2) found you to have been involved in a violation of a financial
- 27 services-related business regulation(s) or statute(s)?
- 28 . . .

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

3 13. Smith answered “No” to questions (K)(2) and (K4).

4 14. Smith also answered “No” to question (M), which asked:

5 Based upon your activities that occurred while you exercised control
6 over an organization, has any State or federal regulatory agency or
7 foreign financial regulatory authority or self-regulatory organization
8 (SRO) ever taken any of the actions listed in (K) through (L) above
9 against any organization?

10 15. Smith correctly answered “Yes” to question (K)(6), which asks the applicant if a state
11 regulatory agency has ever “denied or suspended your registration or license or application for
12 licensure, disciplined you, or otherwise by order, prevented you from associating with a finance
13 services-related business or restricted your activities?” But in the disclosure explanation section of
14 the MU4 application, which asks the applicant to provide a more detailed explanation about his
15 “Yes” responses, Smith failed to provide any information or an explanation concerning Texas’
16 refusal to renew his MLO license in 2016.

17 16. But in response to question (K)(6), Smith did upload a copy of the Order with an
18 explanation concerning the circumstances surrounding Oregon’s issuance of the Order, as follows:

19 The Cease and Desist Order dated 10/3/2013 was as a result of work
20 that my former company Harvest Capital Risk Mitigation performed in
21 2008. This entity has been closed since 2010. Our company performed
22 a forensic loan audit for an Oregon resident who was facing foreclosure
23 on their home and believed their mortgage loan process consisted of
24 RESPA violations. We performed the work promised but the client
25 filed a complaint despite the work completed. In the summer of 2013[,]
26 the state of Oregon notified me that I would need to sign a consent
27 order to cease and desist, or fight the complaint. Challenging the
28 complaint would have cost me exuberant [*sic*] amounts of money. We
only performed our service for 1 client in Oregon, and have no
outstanding complaints or filings against the defunct entity.

17. On July 18, 2019, the Commissioner placed a license item on Smith’s NMLS account,
requesting Smith provide a detailed explanation concerning Texas’ denial of his MLO application
and asked that he upload all relevant legal documents he received from Texas. Smith failed to amend

1 his MU4 application or respond to the license item request.

2 **III.**

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

4 18. The Commissioner must deny a MLO license if the licensee fails to meet the
5 minimum criteria for licensure, which includes a requirement that the applicant is employed by, and
6 subject to the supervision of, a licensed CRMLA or CFL lender, servicer, or broker. (Fin. Code, §§
7 50141, subd. (a)(6) and 22109.1, subd. (a)(6).)

8 19. As described in paragraph 10, above, Smith was employed and sponsored by Sprint
9 Funding when he first applied for his MLO license. Sprint withdrew its sponsorship of Smith's
10 application on January 21, and Smith has not found employment with another licensed lender,
11 servicer, or broker.

12 20. Thus, Smith does not meet the minimum criteria for licensure under either the CFL or
13 CRMLA, and his application must be denied.

14 **IV.**

15 **Withheld Information and Material Misstatements**

16 21. The Commissioner may deny a MLO license if a licensee withholds information or
17 makes a material misstatement in an application for a license or license renewal. (Fin. Code, § 50513,
18 subd. (a)(2).

19 22. As described above in paragraphs 12, 13, and 14, Smith withheld information or made
20 material misstatements in his application concerning the Order by failing to provide accurate
21 responses to MU4 questions (K)(2), (K)(4), and (M). Smith should have answered "Yes" to disclosure
22 questions (K)(2), (K)(4), and (M), since he (and a company over which he exercised control as CEO)
23 were both subject to a final order for violations of financial services-related business regulations or
24 statutes in connection with a financial services-related activity.

25 23. As described above in paragraphs 15, 16, and 17, Smith withheld information or made
26 material misstatements in his application concerning Texas' refusal to renew his MLO license by
27 failing to provide a detailed disclosure in response to question (K)(6). The Commissioner requested
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1 Smith amend his application and provide a more detailed response concerning Texas' denial, but
2 Smith has not responded to the request and his answer remains unchanged.

3 V.

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

5 24. The Commissioner must deny a MLO license if a licensee fails to demonstrate such
6 financial responsibility, character, and general fitness as to command the confidence of the
7 community and to warrant a determination that the MLO will operate honestly, fairly, and efficiently.
8 (Fin. Code, §§ 22109.1, subd. (a)(3) and 50141, subd. (a)(3).)

9 25. As described in paragraphs 4 through 7, Smith, and a company over which he
10 exercised control as CEO, were the subjects of the Order. Oregon found Smith and Harvest Capital (a
11 company he controlled) had engaged in unlicensed mortgage brokering and debt management
12 services with at least one Oregon resident and ordered Smith and Harvest Capital to provide the
13 consumer a refund and pay civil monetary penalties to the state.

14 26. As described in paragraph 8, the state of Texas refused to renew Smith's MLO license
15 on or about April 28, 2016.

16 27. As described in paragraphs 12 through 17, Smith withheld information and made
17 material misstatements in his MU4 concerning the Order and Texas' refusal to renew his MLO
18 license in 2016. Specifically, Smith should have answered "Yes" to disclosure questions (K)(2),
19 (K)(4), and (M), since he (and the company over which he exercised control as CEO) were both
20 subject to a final order for violations of financial services-related business regulations or statutes in
21 connection with a financial services-related activity. Moreover, Smith failed to explain (in his
22 disclosure explanation response to question (K)(6)) the reasons and the circumstances surrounding
23 Texas' refusal to renew his MLO license in 2016.

24 28. Thus, Smith has not demonstrated such financial responsibility, character, and general
25 fitness as to command the confidence of the community and to warrant a determination that he will
26 operate honestly, fairly, and efficiently as a MLO. Under Financial Code sections 22109.1,
27 subdivision (a)(3) and 50141, subdivision (a)(3), Smith's application must be denied.

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VI.

Applicable Statutes

29. Financial Code section 22109.1 provides in pertinent part:

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

. . .

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

30. Financial Code section 50141, provides in pertinent part:

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

. . .

(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[.]

31. Financial Code section 50513 provides in pertinent part:

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

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(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 reasons set forth above, the Commissioner finds that Smith does not meet the minimum requirements for the issuance of a mortgage loan originator license as provided by Financial Code sections 22109.1, subdivision (a)(6) and 50141, subdivision (a)(6), when Sprint Funding, Smith’s employer, withdrew its sponsorship of Smith’s MLO application. The Commissioner also finds that Smith withheld information and made material misstatements in his application for a license under Financial Code section 50513, subdivision (a)(2).

The Commissioner also finds that Smith 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 Smith’s MLO license application.

WHEREFORE IT IS PRAYED that the MLO license application filed by Jack Grant Smith be denied.

Dated: March 17, 2020
Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By: _____
Blaine A. Noblett
Senior Counsel
Enforcement Division