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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
OF THE STATE OF CALIFORNIA

In the Matter of:	)	NMLS ID.: DBO1289509
	)	
THE COMMISSIONER OF BUSINESS OVERSIGHT,	)	ACCUSATION TO REVOKE MORTGAGE
	)	LOAN ORIGINATOR LICENSE AND TO
	)	BAR RESPONDENT
Complainant,	)	
	)	(Fin. Code sections 22109.1, 22169, 22172,
v.	)	22714, and 22755; Corp. Code sections 50141,
	)	50318, 50327, 50502, and 50513)
JERMAINE LAMONT WHIGHAM,	)	
	)	
Respondent.	)	
	)	
	)	

Manuel P. Alvarez, the Commissioner of Business Oversight (“Commissioner”) alleges and charges as follows:

**I.**  
**THE APPLICATION AND THE LICENSE**

1. The Commissioner seeks to revoke the mortgage loan originator (“MLO”) license of Jermaine Lamont Whigham (“Whigham”) under the California Financing Law (CFL) (Fin. Code section 22000, et seq.) and/or the California Residential Mortgage Loan Act (CRMLA) (Fin.

1 Code section 50000, et seq.). The Commissioner also seeks to bar Whigham from the mortgage  
2 loan industry pursuant to the CFL and the CRMLA.

3 2. The Department of Business Oversight (“Department”) is authorized to  
4 administer and enforce the provisions of the CFL and the CRMLA, and the rules and regulations  
5 adopted thereunder.

6 3 Whigham first applied through the Nationwide Multistate Licensing System /  
7 Nationwide Mortgage Licensing System and Registry (“NMLS”)<sup>1</sup> for an MLO license in  
8 Arizona, by filing a Form MU4<sup>2</sup> on February 6, 2019<sup>3</sup>. Whigham then applied to three other  
9 states, including California and Idaho, by filing amended Form MU4s on February 15 and March  
10 18. In the March 18 Form MU4, in response to a license item posted by the Department<sup>4</sup>,  
11 Whigham changed a disclosure question response regarding a previous termination to “yes,” but  
12 continued to respond “no” to all other disclosure questions.

13 4. On March 19, the Department issued Whigham MLO license number CA-  
14 DBO1289509 under the CFL and the CRMLA.

15 **II.**  
16 **DISCIPLINARY ACTION TAKEN BY THE STATE OF IDAHO**

17 5. On March 20, the Idaho Department of Finance (“Idaho”) issued to Whigham a  
18 Notice of Intent to Issue Order of Denial of [MLO] License Application (“Notice”) based on (1)

19 \_\_\_\_\_  
20 <sup>1</sup> NMLS is the system of record for non-depository financial services licensing or registration in participating  
21 agencies, including all 50 states, the District of Columbia and the U.S. Territories of Puerto Rico, the U.S. Virgin  
22 Islands, and Guam. In these jurisdictions, NMLS is the official system for companies and individuals seeking to  
23 apply for, amend, renew, and surrender licenses administered through NMLS.

24 <sup>2</sup> Under Financial Code sections 22105.1 and 50140, MLO licensees are required to apply by submitting the  
25 uniform form prescribed by the NMLS (the Form MU4), and to furnish, among other things, information regarding  
26 personal history and experience, financial responsibility, and any administrative, civil, or criminal actions. Licensees  
27 are required under California Code of Regulations, Title 10, sections 1409.1 and 1950.122.9 to file an updated Form  
28 MU4 annually and to file updated forms whenever any disclosure information changes or as specifically requested  
by a regulator. The purpose of these disclosure requirements is to ensure that any disciplinary actions against MLO  
licensees, employment history, and certain other required disclosures are available to the public and industry  
regulators to protect consumers and inform licensing decisions.

<sup>3</sup> Except as otherwise stated, all dates indicated in the Accusation refer to 2019.

<sup>4</sup> A “license item” is a request from a regulator 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 designated email address of  
the licensee or applicant directing the person to check the NMLS website for the license item.

1 material misrepresentations in response to Question D<sup>5</sup> regarding the existence of two  
 2 undisclosed and outstanding California tax liens, and (2) a finding of a lack of financial  
 3 responsibility, character and general fitness sufficient to meet Idaho’s MLO licensing standards.

4 6. Whigham did not contest the Notice, and Idaho issued a final order denying the  
 5 application and posted it on NMLS on April 6.

6 7. On April 9, the Department posted another license item prompting Whigham to  
 7 update his Form MU4 to address Idaho’s application denial.

8 8. On April 17, Whigham changed his Form MU4 “no” response for Question D to  
 9 “yes,” but failed to provide required details or documents explaining the liens. He also did not  
 10 change any of his Question K responses to reflect the Idaho disciplinary action and he omitted  
 11 required details or documents explaining either his Question D or Question K responses.

12 9. On April 23, Whigham filed another updated Form MU4 to reflect a change of  
 13 employer, but he did not make any further disclosures regarding the liens or the Idaho  
 14 disciplinary action.

15 10. On July 25, the Department again prompted Whigham via license item to update  
 16 his Form MU4 responses regarding the Idaho disciplinary action, but he neglected to do so.

17 11. On January 15, 2020, Whigham submitted his annual Form MU4, in which he  
 18 finally amended his response to Question K(6) to reflect the Idaho application denial, but again  
 19 he did not amend any other applicable disclosure question responses related to the Idaho  
 20 administrative action, including K(1), K(2), and K(9).<sup>6</sup>

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22 <sup>5</sup> Question D: “Do you have any unsatisfied judgments or liens against you?”

23 <sup>6</sup> Question K: “Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory  
 24 organization (SRO) ever:

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

25 Response: “No.”

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

27 Response: “No.”

27 (6) denied or suspended your registration or license or application for licensure, disciplined you, or  
 28 otherwise by order, prevented you from associating with a financial services-related business or restricted  
 28 your activities?”

Amended Response: “Yes.”

///



1 of this division, or (3) when a fact or condition exists that reasonably would have warranted the  
2 commissioner in refusing to issue the license originally.

3 17. Similarly, section 50327, subdivision (a) of the CRMLA states that the  
4 Commissioner is authorized to suspend or revoke an MLO license (1) when the licensee has  
5 violated any provision of this division or any rule or order of the commissioner thereunder, or (2)  
6 when any fact or condition exists that reasonably would have warranted the commissioner in  
7 refusing to issue the license originally.

8 **A. Whigham failed to comply with a demand, ruling, or requirement of the**  
9 **commissioner [CFL (section 22714(a)(1))] and violated a provision of the CRMLA**  
10 **or a rule or order of the commissioner thereunder [section 50327(a)(1)]**

11 18. Whigham failed to comply with the disclosure requirements and violated the  
12 Commissioner's rules regarding disclosure when he:

- 13 i. Responded "no" to Question D regarding the liens in each of his first three  
14 Form MU4 filings (2/6, 2/15, 3/18);
- 15 ii. Omitted required information or documents detailing and explaining the  
16 liens in each of his Form MU4 filings (2/6, 2/15, 3/18, 4/17, 4/23,  
17 1/15/2020);
- 18 iii. Responded "no" to Questions K(1), K(2), K(6), and K(9) regarding the  
19 Idaho disciplinary action in two amended Form MU4 filings after the  
20 disciplinary action was issued (4/17, 4/23), after having been prompted by  
21 the Department to amend these responses on April 9;
- 22 iv. Omitted required information or documents detailing and explaining the  
23 Idaho disciplinary action in two amended Form MU4 filings after the  
24 disciplinary action was issued (4/17, 4/23); and
- 25 v. Responded "no" to Questions K(1), K(2), and K(9) regarding the Idaho  
26 disciplinary action in his annual Form MU4 filing on January 15, 2020.

27 19. Whigham also failed to comply with a demand by the Commissioner and violated  
28 an order of the Commissioner by failing to timely amend his Form MU4 in response to the  
Department's July 25 license item.

1           20.     Even when Whigham did change his response to Question K(6) in his annual  
2 Form MU4 filing of January 15, 2020 to reflect the Idaho disciplinary action, he failed to comply  
3 with the disclosure requirements and violated the Commissioner’s rules regarding disclosure by  
4 continuing to respond “no” to Questions K(1), K(2), and K(9), and by neglecting to provide  
5 information or documents detailing and explaining those responses.

6           21.     Because Whigham failed to comply with the disclosure requirements and failed to  
7 comply with a demand by the Commissioner, the Commissioner is required to suspend or revoke  
8 Whigham’s MLO license under the CFL pursuant to section 22714, subdivision (a)(1).

9           22.     Because Whigham violated the Commissioner’s rules regarding disclosure and  
10 violated an order of the Commissioner, the Commissioner is authorized to suspend or revoke  
11 Whigham’s MLO license under the CRMLA pursuant to section 50327, subdivision (a)(1).

12 **B.     Whigham violated a provision of the CFL or a rule or regulation under it (section**  
13 **22714(a)(2)) and a provision of the CRMLA or a rule or order under it (section**  
14 **50327(a)(1))**

15           23.     Section 22755 of the CFL states in relevant part that it is a violation of the CFL  
16 for an MLO to fail to make disclosures required by the CFL or any regulation thereunder, to fail  
17 to comply with the CFL or any regulation thereunder, to willfully or negligently make false  
18 statements, or to knowingly and willfully omit material facts from NMLS filings.

19           24.     Similarly, section 50502 of the CRMLA states in relevant part that it is a violation  
20 of the CRMLA for an MLO to make any untrue statement of a material fact in or omit any  
21 required material fact from any document filed with the Commissioner under the CRMLA or  
22 rules adopted thereunder.

23           25.     Whigham’s failures to comply with the disclosure requirements and the  
24 Commissioner’s license items detailed above therefore also constitute violations subject to  
25 license suspension or revocation under section 22714, subdivision (a)(2), and section 50327,  
26 subdivision (a)(1).

27           26.     Additionally, Whigham violated regulations supporting the CFL and CRMLA.  
28 California Code of Regulations (“CCR”), Title 10, section 1409.1, subdivision (a), in support of  
the CFL, requires in relevant part that a licensed MLO “promptly” file an amendment setting

1 forth any change in the information contained in its license application. Subdivision (c) further  
2 specifies that such amendments to the MU4 and exhibits thereto must be filed within twenty (20)  
3 days of the change of information. CCR, Title 10, section 1950.122.9, in support of the CRMLA,  
4 is substantially the same as section 1409.1.

5 27. Whigham violated both regulations by neglecting to amend his Question K  
6 responses within twenty (20) days of Idaho posting its final order on NMLS on April 6.

7 28. Whigham also committed violations under sections 22755 and 50502 by willfully  
8 or negligently making false statements of material fact or knowingly and willfully omitting  
9 required material facts from his Form MU4 filings when he:

- 10 i. Signed his Form MU4s under penalty of perjury and filed them on three  
11 separate occasions (2/6, 2/15, 3/18) with false “no” responses to Question  
12 D regarding the liens;
- 13 ii. Provided no information or documents detailing and explaining the liens  
14 in the Disclosure Explanations portion of his Form MU4 filings regarding  
15 his initial three “no” responses to Question D (2/6, 2/15, 3/18) or the three  
16 later “yes” responses to Questions D (4/17, 4/23, 1/15/2020);
- 17 iii. Signed his Form MU4s under penalty of perjury and filed them twice  
18 (4/17, 4/23) with false “no” responses to Questions K(1), K(2), K(6), and  
19 K(9) regarding the Idaho disciplinary action;
- 20 iv. Provided no information or documents detailing and explaining the Idaho  
21 disciplinary action in the Disclosure Explanations portion of his two Form  
22 MU4 filings (4/17, 4/23); and
- 23 v. Signed his annual Form MU4 under penalty of perjury and filed it on  
24 January 15, 2020 with false “no” responses to Questions K(1), K(2), and  
25 K(9) regarding the Idaho disciplinary action.

26 29. When Whigham finally disclosed the Idaho disciplinary action, he willfully  
27 misstated and mischaracterized the nature of it in the Disclosure Explanations portion of his  
28 January 15, 2020 Form MU4. There, he falsely stated, under penalty of perjury, that his Idaho

1 application was denied because his credit score was low due to some outstanding collections and  
2 an erroneous bankruptcy reported on his credit. He stated that he had the documents  
3 demonstrating these facts, and then failed to attach any such documents to the Form MU4 filing.

4 30. Because Whigham committed violations under section 22755 by willfully or  
5 negligently making false statements of material fact and by knowingly and willfully omitting  
6 material facts from his NMLS filings, pursuant to section 22714, subdivision (a)(2), the  
7 Commissioner is required to suspend or revoke Whigham’s MLO license under the CFL.

8 31. Because Whigham committed violations under section 50502 by making untrue  
9 statements of material fact in and omitting required material facts from documents filed with the  
10 Commissioner under the CRMLA, pursuant to section 50327, subdivision (a)(1), the  
11 Commissioner is authorized to suspend or revoke Whigham’s MLO license under the CRMLA.

12 **C. Facts or conditions exist that “reasonably would have warranted the commissioner  
13 in refusing to issue the license originally” (sections 22714(a)(3) and 50327(a)(2))**

14 32. The liens discovered by Idaho remain outstanding, and even if Whigham had  
15 disclosed the liens, had not repeatedly made false statements about them, and had not willfully  
16 omitted required material information and documents about them in his Form MU4 filings, these  
17 outstanding liens would have warranted the Commissioner to deny the license originally as  
18 evidence of a lack of financial responsibility sufficient to meet the California’s licensing  
19 standards.

20 33. The Idaho disciplinary action also remains uncontroverted and in effect, and even  
21 if Whigham had disclosed it, had not knowingly made false statements about it, and had not  
22 willfully omitted required material information and documents about it in his Form MU4 filings,  
23 the outstanding Idaho disciplinary action would have warranted the Commissioner to deny the  
24 license originally as evidence of a lack of financial responsibility, character, and general fitness  
25 sufficient to meet California’s licensing standards.

26 34. Because either the existing liens or the Idaho disciplinary action would have  
27 warranted the Commissioner to deny the license originally, pursuant to section 22714,  
28



1 subdivision (a)(3) the Commissioner is required to suspend or revoke Whigham’s MLO license  
2 under the CFL.

3 35. Because the existing liens or the Idaho disciplinary action would have warranted  
4 the Commissioner denying the license originally, pursuant to section 50327, subdivision (a)(3),  
5 the Commissioner is authorized to suspend or revoke Whigham’s MLO license under the  
6 CRMLA.

7 **D. Whigham lacks financial responsibility, character, and general fitness sufficient to**  
8 **meet California’s MLO licensing standards under the CFL or the CRMLA**

9 36. Under sections 22172 and 50513, the Commissioner is authorized to also deny,  
10 suspend, or revoke an MLO license if the licensee fails at any time to meet the application  
11 requirements provided in sections 22109.1 and 50141, respectively, or withholds information or  
12 makes a material misstatement in an application for a license or license renewal.

13 37. Under sections 22109.1 and 50141, the Commissioner must deny any application  
14 for an MLO license unless he finds that “[t]he applicant has demonstrated such financial  
15 responsibility, character, and general fitness as to command the confidence of the community  
16 and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and  
17 efficiently within the purposes of [the CFL and the CRMLA].”

18 38. Whigham has not demonstrated the financial responsibility, character, and general  
19 fitness sufficient for an MLO license under the CFL or the CRMLA because Whigham:

- 20 i. Has outstanding liens;
- 21 ii. Failed to timely disclose the liens;
- 22 iii. Lied about the existence of the liens;
- 23 iv. Refused to provide required information about the liens;
- 24 v. Has an uncontested disciplinary action in effect against him alleging  
25 material misrepresentations and a lack of financial responsibility,  
26 character, and general fitness sufficient to meet the Idaho MLO license  
27 standards;
- 28 vi. Failed to timely disclose the disciplinary action;

- 1           vii.   Lied about the existence of the disciplinary action;
- 2           viii.   Failed to comply with the Commissioner’s license item and regulations
- 3                 requiring prompt amendment regarding the disciplinary action;
- 4           ix.    Lied about the nature of the disciplinary action;
- 5           x.    Violated his former employer’s employment contract by soliciting former
- 6                 clients and/or prospective clients of his former employer; and
- 7           xi.   Violated his former employer’s employment contract and stole from his
- 8                 former employer by originating a sizeable loan with his former employer’s
- 9                 prospective client, despite having received a cease and desist letter from
- 10                his former employer regarding the improper solicitations.

11           39.   Based on all of the above facts, Whigham does not meet the standards set forth in

12           sections 22109.1 and 50141, and the Commissioner is therefore authorized to suspend or revoke

13           Whigham’s license under sections 22172 of the CFL and 50513 of the CRMLA.

14           40.   Given the repeated, ongoing, knowing, willful, delinquent, deceitful, and

15           larcenous nature of all the violations outlined above, a mere suspension would be an inadequate

16           remedy here. Rather, the facts and circumstances require at least a full revocation of Whigham’s

17           MLO license.

18    **V.**

19                                    **THE COMMISSIONER HAS GROUNDS TO BAR WHIGHAM FROM THE**

20    **MORTGAGE LOAN INDUSTRY**

21           41.   Section 22169 of the CFL provides in relevant part that the Commissioner is

22           authorized to bar an MLO from any position of employment with, or management or control of,

23           any finance lender, broker, program administrator, or any other person if the Commissioner finds

24           that a bar is in the public interest and that the person knew or should have known that he or she

25           was committing a violation of the CFL. Section 50318 of the CRMLA is substantially the same

26           as section 22169.

27           42.   As detailed above, Whigham has repeatedly committed knowing violations of the

28           CFL and CRMLA by refusing to comply with the express demands of the Commissioner, by

          failing to adequately disclose material facts about his liens despite being denied a license by

1 another regulator for failing to make the very same disclosures, by making clearly untrue  
2 statements of material fact about his disciplinary action’s uncontested findings, and by  
3 knowingly omitting critical, material facts in his NMLS filings.

4 43. As also detailed above, a bar is very much in the public interest. In every one of  
5 his six (6) Form MU4 filings, Whigham has, to the detriment of his clients, his former and  
6 current employers, underwriters, and all regulators using NMLS, repeatedly misrepresented his  
7 financial responsibility, character, and general fitness to command the confidence of the  
8 community under penalty of perjury.

9 44. Given the repeated, ongoing, knowing, willful, delinquent, deceitful, and  
10 larcenous nature of the violations described above, a bar from the mortgage industry is  
11 warranted.

## 12 VI. 13 PRAYER

14 WHEREFORE, IT IS PRAYED that Whigham’s MLO license be revoked under the CFL  
15 (including sections 22109.1, 22172, 22714 and 22755) and the CRMLA (including sections  
16 50141, 50327, 50502, and 50513).

17 WHEREFORE, IT IS PRAYED that Whigham be barred from any position of  
18 employment with, or management or control of, any finance lender, broker, program  
19 administrator, residential mortgage lender, residential mortgage loan servicer, mortgage loan  
20 originator, or any other person in the mortgage loan industry in accordance with sections 22169  
21 of the CFL and 50318 of the CRMLA.

22  
23 Dated: June 11, 2020

24 Sacramento, California

24 MANUEL P. ALVAREZ  
25 Commissioner of Business Oversight

26  
27 By \_\_\_\_\_  
28 NOAH M. BEAN  
Counsel, Enforcement Division