

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 UCHE L. ENENWALI (State Bar No. 235832)
Senior Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013
Telephone: (213) 576-7586
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

11 In the Matter of:) NMLS ID: 1633883
)
12 THE COMMISSIONER OF BUSINESS) STATEMENT OF ISSUES IN SUPPORT OF
13 OVERSIGHT,) ORDER DENYING MORTGAGE LOAN
) ORIGINATOR LICENSE APPLICATION
14 Complainant,)
)
15 v.)
)
16 LULU BARDONADO ALFORQUE,)
17)
18 Respondent.)
19)
)

20
21 The Commissioner of Business Oversight (Commissioner) alleges and charges the
22 Respondent, Lulu Bardonado Alforque (Alforque) as follows:

23 **I.**

24 **Introduction**

25 1. The Commissioner seeks to deny the issuance of a mortgage loan originator license
26 (MLO) to Alforque under Financial Code section 22109.1, subdivision (a)(3), of the California
27 Financing Law (Fin. Code, § 22000 et seq.) (CFL), and Financial Code section 50141, subdivision
28 (a)(3), of the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.)(CRMLA) on

1 the basis that the Commissioner of the California Department of Real Estate (formerly Bureau of
2 Real Estate) (DRE) issued an Order revoking Alforque’s real estate broker licenses effective April
3 21, 2016 for negligent misrepresentation, fraud, and breach of fiduciary duties, as such, Alforque has
4 not demonstrated such financial responsibility, character, and general fitness as to command the
5 confidence of the community and to warrant a determination that Alforque will operate honestly,
6 fairly, and efficiently within the purposes of the CFL and CRMLA.

7 II.

8 Statement of Facts

9 DRE’s Revocation of Alforque’s Broker License

10 2. On or about December 12, 2008, the DRE filed an accusation against Alforque in, *In*
11 *the Matter of the Accusation of Lulu Bardonado Alforque*, Case No. H-5102 SAC (BRE Accusation)
12 alleging that Alforque conducted business as a real estate broker in violation of the California
13 Business and Professions Code, (Code), and California Code of Regulations, title 10 (Regulations).

14 3. As the BRE Accusation reflects, Alforque had been licensed as a real estate broker
15 since June 8, 2002 and did business as “Columbia Financial Mortgage, a mortgage loan brokerage
16 business.” The BRE Accusation alleged that Alforque conducted business as a real estate broker,
17 including, “the operation of and conduct of a mortgage loan brokerage business with the public
18 wherein lenders and borrowers were solicited for loans to be secured directly or collaterally by liens
19 on real property, wherein such loans were arranged, negotiated, processed, and consummated on
20 behalf of others for compensation or in expectation of compensation, and wherein such loans were
21 serviced and payments thereon were collected on behalf of others.”

22 4. The BRE Accusation states that in about 2006, Alforque represented Dale and Cherie
23 Del Rosario (collectively, Borrowers) in the purchase of a house located at 241 Meandering Lane,
24 Turlock, California (subject property). Mr. Del Rosario was a friend of Alforque's husband. On or
25 about January 24, 2007, Borrowers executed a grant deed, which conveyed the subject property, to
26 Alforque’s husband, as "a married man as his sole and separate property." The grant deed was not
27 recorded. In or about January 2007, near the time when Borrowers gave Alforque’s husband the
28

1 grant deed, Borrowers moved out of the subject property and into and paid rent in an apartment
2 owned by Alforque’s husband.

3 5. On or about March 1, 2007, Alforque applied for a residential loan \$100,000,.00
4 purportedly for Borrowers, pursuant to a home equity line of credit that was to be secured by on the
5 subject property. Alforque checked the box in the loan application which indicated that the subject
6 property would be the Borrowers’ “primary residence.”

7 6. In preparing the loan documents for Borrowers, Alforque misrepresented facts, or
8 omitted to state material facts to the lender including, but not limited to the following:

9 a. Alforque misrepresented to the lender that the subject property was
10 Borrowers’ primary residence, when in fact the property belonged to Alforque;

11 b. Alforque misrepresented that Borrowers lived in the subject property as their
12 primary residence when in fact, Alforque rented the subject property to the borrowers and collected
13 the rent;

14 c. Alforque misrepresented that the Borrowers’ gross monthly income was
15 \$10,300.00 when in fact, it was less than \$4,900.00; and

16 d. Alforque failed to disclose to the lender that prior to applying for the loan and
17 at the Alforque’s request, the Borrowers had executed and delivered a grant deed granting all right
18 and title to the subject property to Alforque’s husband.

19 7. On July 15, 2009, the Hon. Karen J. Brandt entered a “Proposed Decision” (Proposed
20 Decision), finding that Alforque’s real estate broker license was subject to suspension or revocation
21 for the following reasons:

22 a) Alforque knowingly and intentionally made substantial
23 misrepresentations to E-Loan to induce it to make the HELOC to
24 Borrowers, and Alforque’s substantial misrepresentations establish
25 cause to revoke Alforque’s real estate broker license under Business
and Professions Code section 10176, subdivision (a).

26 b) Alforque engaged in conduct that "constitutes fraud or
27 dishonest dealing, which establishes cause to revoke Alforque’s real
28 estate broker license under Business and Professions Code section
10176, subdivision (i).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

c) Pursuant to Business and Professions Code section 10177, subdivision (g), a real estate broker license may be suspended or revoked if the broker has demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license. Alforque’s failure to recognize that her misconduct violated the Real Estate Law constitutes negligence and incompetence and establishes cause to discipline Alforque’s real estate broker license under Business and Professions Code section 10177, subdivision (g).

d) Pursuant to Business and Professions Code section 10177, subdivision (j), a real estate broker license may be suspended or revoked if the broker has engaged in conduct that "constitutes fraud or dishonest dealing." Alforque’s conduct constituted fraud and dishonest dealing. This conduct establishes cause to revoke Alforque’s real estate broker license under Business and Professions Code section 10177, subdivision (j). Alforque did not accept any responsibility or show any remorse for her wrongdoing. Given the facts established by clear and convincing evidence in this case, it would be contrary to the public interest, safety, and welfare to allow respondent to retain her real estate broker license. All real estate licenses and license rights of respondent Lulu Bardonado Alforque are hereby REVOKED, effective September 9, 2009.

8. On or about August 19, 2009, the DRE issued an Order adopting the Proposed Decision as the Decision of the Real Estate Commissioner (Decision). The Decision ordered that Alforque’s licenses be revoked effective September 9, 2009.

9. On or about September 8, 2009, Alforque filed a petition for reconsideration and on or about October 8, 2009, Real Estate Commissioner Jeff Davi entered an Order denying Alforque’s petition for reconsideration.

III.
Alforque’s Application for an MLO License

10. On or around February 26, 2020, Alforque filed an application for an MLO license with the Commissioner by submitting a Form MU4 (Application) through the Nationwide Mortgage Licensing System (NMLS) under Financial Code section 50140.

11. Alforque answered “Yes” to Regulatory Action Questions A (1), and A (3), which ask, in pertinent part:

(1) Have you filed a personal bankruptcy petition or been the subject of an involuntary bankruptcy petition within the past 10 years?

1 (3) Have you been the subject of a foreclosure action within the past
2 10 years?

3 12. Alforque provided the following explanation in response to Regulatory Action
4 Questions A (1), and A (3), “I filed for bankruptcy about 5 years ago and the case has been
5 dismissed.”

6 13. Alforque answered “Yes” to Regulatory Action Questions K (1), and K (5), which
7 ask, in pertinent part:

8 (K) Has any State or federal regulatory agency or foreign financial
9 regulatory authority or self-regulatory organization (SRO) ever:

10 (1) found you to have made a false statement or omission or been
11 dishonest, unfair, or unethical?

12 (5) revoked your registration or license...?

13 14. Alforque provided the following explanation in response to Regulatory Action
14 Questions K (1), and K (5), “This was in the revocation of my DRE license ten years ago on October
15 9, 2009.”

16 15. The Department investigates each mortgage loan originator license application it
17 receives. Alforque did not upload an affirmative explanation or the BRE Accusation and on or about
18 March 26, 2020, a license item was sent requesting additional information from Alforque regarding
19 the BRE Accusation. On April 1, 2020 Alforque complied with the license item and uploaded the
20 DRE’s Accusation.

21 **IV.**
22 **Grounds to Deny MLO License**

23 16. Paragraphs 1-15 are hereby realleged and incorporated herein by reference as if set
24 forth in their entirety.

25 17. Section 22109.1 of the CFL and section 50141 of the CRMLA provide in relevant
26 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:

....

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

(Fin. Code, §§ 22109.1 and 50141)

6 18. Section 50513 of the CFL provides in relevant part:

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

8 ...

9 (2) Deny, suspend, revoke, condition, or decline to renew a mortgage
10 loan originator license if an applicant or licensee fails at any time to
11 meet the requirements of Section 50141 or 50144, or withholds
12 information or makes a material misstatement in an application for a
13 license or license renewal.

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

14 Failure to Demonstrate Requisite Financial Responsibility, Character, and General Fitness

15 19. Paragraphs 1-18 are hereby realleged and incorporated herein by reference as if set
16 forth in their entirety.

17 20. Based on the foregoing facts, the Commissioner finds that Alforque has failed to
18 demonstrate such financial responsibility, character, and general fitness as to command the
19 confidence of the community and to warrant a determination that the mortgage loan originator will
20 operate honestly, fairly, and efficiently within the purposes of the CFL, a requirement for licensure
21 under Financial Code section 22109.1, subdivision (a)(3).

22 21. The underlying purposes and policies of the CFL include the protection of borrowers
23 against unfair practices by unscrupulous lenders and the protection of property owners from
24 deceptive and misleading practices. (See Cal. Fin. Code, §22001) Honesty, truthfulness, and
25 integrity are important qualifications necessary to perform the functions and duties of a mortgage
26 loan originator consistent with the policies and purposes of the CFL.

27 22. The California Supreme Court observed when discussing the qualifications of real
28 estate professionals:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Where the occupation is one wherein those following it act as the agents and representatives of others and in a more or less confidential and fiduciary capacity, it certainly can be fairly said that those pursuing it should have in a particular degree the qualifications of honesty, truthfulness, and good reputation. (*Riley v. Chambers* (1919) 181 Cal. 589, 594 [185 P. 855]; accord, *Golde v. Fox* (1979) 98 Cal.App.3d 167, 176 [“(T)here is more to being a licensed professional than mere knowledge and ability. Honesty and integrity are deeply and daily involved in various aspects of the practice.”].)

23. In *Gee v. California State Personnel Bd.* (1970) 5 Cal.App.3d 713, the appellate court expressed that “dishonesty” connotes a disposition to deceive. (Citation.) It ... denotes an absence of integrity; a disposition to cheat, deceive or defraud[.]” (Id. at pp. 718-719.) Courts have held integrity to mean “soundness of moral principle and character, as shown by a person’s dealings with others in the making and performance of contracts, in fidelity and honesty in the discharge of trusts. In short, it is used as a synonym for probity, honesty, and uprightness in business relations with others.” (See *In re Estate of Gordon* (1904) 142 Cal.125 quoting, *In re Bauquier* (1891) 88 Cal.307.)

e) The BRE Accusation against Alforque and the facts upon which it is based demonstrate Alforque’s unfitness for the MLO industry. As alleged in paragraph 7 above, the DRE’s Decision revoking Alforque’s real estate broker license established that (i) Alforque knowingly and intentionally made substantial misrepresentations in inducing a lender to make a HELOC to Borrowers; (ii) Alforque engaged in conduct that "constitutes fraud or dishonest dealing;” (iii) Alforque demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license; and (iv) Alforque’s failure to recognize that her misconduct violated the Real Estate Law constitutes negligence and incompetence.

24. The DRE’s Decision described Alforque’s conduct as constituting fraud or dishonest dealing, noting that Alforque “did not accept any responsibility or show any remorse for her wrongdoing . . . , it would be contrary to the public interest, safety and welfare to allow respondent to retain her real estate broker license.”

25. Based on the foregoing facts, Alforque has not shown that she has such financial responsibility, character, and general fitness as to command the confidence of the community and to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

operate honestly, fairly and efficiently as an MLO within the purposes of the purposes of the CFL, a requirement for licensure under Financial Code section 22109.1, subdivision (a)(3).

V.
Conclusion

The Commissioner finds that Alforque fails to demonstrate the requisite financial responsibility, character and general fitness required under Financial Code sections 50141, 50513, and 22109.1. Based on the foregoing, the Commissioner is required under Financial Code section 50141, 50513, and 22109.1, to deny the issuance of a mortgage loan originator license to Alforque.

WHEREFORE IT IS PRAYED, by reason by the foregoing, under Financial Code sections 22109.1, 50513, and 50141 that the MLO application filed by Lulu Bardonado Alforque on February 26, 2020 be denied.

Dated: September 2, 2020
Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
Uche L. Enenwali
Senior Counsel
Enforcement Division