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7  
8 Attorneys for Complainant

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

12 In the Matter of: ) NMLS LICENSE NO. 1891629  
13 )  
14 THE COMMISSIONER OF BUSINESS ) ORDER DENYING MORTGAGE LOAN  
OVERSIGHT, ) ORIGINATOR APPLICATION  
15 )  
16 Complainant, )  
17 v. )  
18 RAHUL MAHENDRA PANDEY, )  
Respondent. )  
19 )  
20 )  
21 )

22 The Commissioner of Business Oversight (Commissioner) finds that:

23 1. The Commissioner has jurisdiction over the licensing and regulation of persons  
24 engaged in the business of making, servicing, or brokering residential mortgage loans, including  
25 mortgage loan originators, under both the California Financing Law (CFL) (Fin. Code, § 22000 et  
26 seq.) and the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.).

27 2. The Commissioner is authorized to administer the CFL and CRMLA and the rules and  
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1 regulations promulgated in title 10 of the California Code of Regulations (CCR).

2 3. Respondent, Rahul Mahendra Pandey (Pandey), applied for a mortgage loan originator  
3 (MLO) license with the Commissioner.

4 4. Under the provisions of Financial Code sections 22109.1 and 22172 of the CFL and  
5 Financial Code sections 50141 and 50513 of the CRMLA, the Commissioner brought an action to  
6 deny Pandey's MLO license application because (a) Pandey is not employed by, and subject to the  
7 supervision of, a CFL or CRMLA-licensed lender, servicer, or broker, and therefore does not meet  
8 the minimum criteria to receive a MLO license and (b) Pandey has failed to demonstrate that he is a  
9 citizen of the United States or a qualified alien, nonimmigrant alien under the Immigration and  
10 Nationality Act (INA), or an alien paroled into the United States for less than one year (qualified  
11 alien), and, therefore, he does not satisfy the requirements of 10 CCR sections 250.60 and 250.61  
12 imposed upon all applicants seeking to obtain a CFL or CRMLA license pursuant to CCR sections  
13 1422.7.1 and 1950.122.7.

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

17 6. On January 14, 2020, Pandey first applied for an MLO license by filing his Form  
18 MU4 through the NMLS.

19 7. Pandey holds an Indian passport and, according to his MU4, he resides in Hamilton,  
20 New Zealand.

21 8. Pandey's application lacked sponsorship and Pandey was not employed by a CFL-  
22 licensed lender or broker or a CRMLA-licensed lender or servicer.

23 9. Pandey's application listed his employer as the Ravenshield Corporation located at  
24 2019 West 42nd Street, Los Angeles, California.

25 10. On April 11, the Commissioner's staff reviewed Pandey's MU4. Included with the  
26 application was a copy of Pandey's Indian passport. The examiner noted certain deficiencies with  
27 Pandey's application, including Pandey's failure to provide acceptable legal documentation to  
28 establish his eligibility to obtain an MLO license.

1           11.     That same day, April 11, the examiner placed a license item on Pandey's NMLS  
2 account, requesting Pandey provide acceptable supporting documentation to establish his United  
3 States citizenship or his qualified alien status.

4           12.     On April 13, Pandey filed an amended MU4 in which he provided the Commissioner  
5 with a copy of his B-2 tourist visa issued by the U.S. Department of State. A B-2 tourist visa allows a  
6 foreign national to visit the United States for pleasure. A B-2 tourist visa does not authorize a foreign  
7 national to obtain employment in the United States. The documents Pandey provided the  
8 Commissioner did not satisfy the citizenship or alienage requirements of the CFL and CRMLA under  
9 10 CCR sections 1422.7.1 and 1950.122.7 and 10 CCR sections 250.60 and 250.61.

10          13.     On April 14, Pandey sent department staff an email. Pandey asserted that because he  
11 does not reside in the United States, he was not required to submit a work authorization to the  
12 Commissioner. In his email, Pandey claimed that he planned to work remotely from New Zealand by  
13 telephone and video conferencing.

14          14.     On April 16, department staff directed Pandey to the CFL and CRMLA regulations  
15 that require an MLO applicant submit a completed Statement of Citizenship, Alienage, and  
16 Immigration Status form (Statement of Citizenship) and accompanying documentation. (10 CCR, §§  
17 1422.7.1 and 1950.122.7, citing 10 CCR, §§ 250.60 and 250.61)

18          15.     Pandey responded to the Commissioner's examiner that same day, asserting that 10  
19 CCR section 250.60 provides an exception to the citizenship and qualified alien requirements of the  
20 CFL and CRMLA pursuant to the federal Personal Responsibility and Work Opportunity  
21 Reconciliation Act of 1996 (the PRWORA) (8 U.S.C. § 1621 et seq.). Specifically, Pandey claimed  
22 that because he was a foreign national and not physically present in the United States, Pandey was  
23 entitled to obtain an MLO license issued by the Commissioner under the exception provided at 8  
24 U.S.C. section 1621(c)(2)(C) of the PRWORA.

25          16.     Under the PRWORA, a non-qualified alien is prohibited from receiving a state or local  
26 public benefit, subject to certain exceptions. (8 U.S.C. sections 1621(a) and (b).) A state-issued  
27 license, such as an MLO license, is a state or local public benefit. (See 8 U.S.C. § 1621(c).) Section  
28 1621(c)(2)(C) of the PRWORA, the applicable statute Pandey cited in his email to department staff,

1 excepts from the definition of state or local public benefit, “the issuance of a professional license to,  
2 or the renewal of a professional license by, a foreign national not physically present in the United  
3 States.”

4 17. 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 be employed by, and  
6 subject to the supervision of, a licensed CFL or CRMLA lender, servicer, or broker. (Fin. Code, §§  
7 22109.1, subd. (a)(6) and 50141, subd. (a)(6).)

8 18. As described in paragraph 8, above, Pandey was not employed and sponsored by a  
9 CFL-licensed lender or broker or a CRMLA-licensed lender or servicer.

10 19. Thus, Pandey did not meet the minimum criteria for licensure under either the CFL or  
11 CRMLA, and his application must be denied.

12 20. The CFL and CRMLA provide at Financial Code sections 22105.1, subdivision (a)  
13 and 50140, subdivision (a), that an applicant for an MLO license must submit his application through  
14 the NMLS and the commissioner may request additional information and supporting documentation  
15 from the applicant.

16 21. 10 CCR sections 1422.7.1 and 1950.122.7, provide that an applicant for an MLO  
17 license under both the CFL and CRMLA must submit to the department a completed Statement of  
18 Citizenship and accompanying documentation in accordance with 10 CCR sections 250.60 and  
19 250.61.

20 22. CCR section 250.60, subdivision (a) applies to MLO applicants seeking licensure  
21 under the CFL or CRMLA or both.

22 23. Subdivision (c) of CCR section 250.60 provides, pursuant to Section 411 of the  
23 PRWORA, that “aliens who are not qualified aliens, nonimmigrant aliens under the [INA] . . . , or  
24 aliens paroled into the United States . . . for less than one year, are not eligible to receive a license or  
25 certificate [under the CFL or CRMLA], except as provided in 8 U.S.C. 1621(c)(2).”

26 24. 10 CCR 250.60, subdivision (f) requires any individual applying for an MLO license  
27 complete the Statement of Citizenship and submit relevant supporting documentation, *e.g.*, a United  
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1 States passport or birth certificate establishing U.S. citizenship or relevant documents establishing the  
2 applicant's qualified alien status.

3 25. As described in paragraphs 10 through 12, above, Pandey completed and uploaded to  
4 the NMLS his Statement of Citizenship and provided his relevant citizenship and immigration  
5 documents. The Statement of Citizenship Pandey uploaded showed that he held an Indian passport.  
6 Pandey also held a B-2 tourist visa issued by the U.S. Department of State. But the documents  
7 Pandey provided to the Commissioner failed to establish and satisfy the citizenship or alienage  
8 requirements of 10 CCR sections 250.60 and 250.61, and thus Pandey was unable to meet the  
9 requirements of the CFL or CRMLA to obtain an MLO license.

10 26. Pandey maintained that he was excepted from the requirements of sections 250.60 and  
11 250.61, and was thus entitled to the license under section 1621(c)(2)(C) of the PRWORA, because he  
12 was a foreign national residing outside the United States. But the exception Pandey cited in his email  
13 did not apply to his MLO license application, as Pandey had failed to demonstrate that the MLO  
14 license he sought under the CFL or CRMLA was a "professional license" for purposes of the  
15 PRWORA. Therefore, Pandey could not show that he qualified for the exception provided at section  
16 1621(c)(2)(C) of the PRWORA.

17 27. Thus, Pandey violated 10 CCR sections 1422.7.1 and 1950.122.7 and 250.60 and  
18 250.61, and Pandey's MLO license application must be denied under Financial Code section 22172,  
19 subdivision (a)(1) and Financial Code section 50513, subdivision (a)(1), as he violated rules and  
20 regulations adopted under the CFL and CRMLA.

21 28. Based on the foregoing findings, Financial Code sections 22109.1, subdivision (a)(6),  
22 22172, subdivision (a)(1), 50141, subdivision (a)(6), and 50513, subdivision (a)(1) require that the  
23 Commissioner deny Pandey's application for an MLO license.

24 29. On August 7, 2020, the Commissioner issued Pandey his notice of intention to deny  
25 Pandey's MLO license application, statement of issues, and other supporting pleadings (collectively,  
26 Statement of Issues).

27 30. On August 20, the Commissioner served Pandey with the Statement of Issues at his  
28 address of record on file with the Commissioner.

1           31. Pandey did not file his notice of defense with the Commissioner within the time  
2 required, and the time to file his hearing request concerning the Statement of Issues has now expired.

3           NOW GOOD CAUSE APPEARING THEREFORE, IT IS HEREBY ORDERED that the  
4 application for an MLO license of Rahul Mahendra Pandey is denied. This order is effective  
5 immediately.

6 Dated: September 22, 2020  
7           Los Angeles, California

MANUEL P. ALVAREZ  
Commissioner of Business Oversight

9 By: \_\_\_\_\_  
10 Mary Ann Smith  
11 Deputy Commissioner  
12 Enforcement Division  
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