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8 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
9 OF THE STATE OF CALIFORNIA

10	In the Matter of:	)	NMLS NO.: 354101
11	THE COMMISSIONER OF FINANCIAL	)	ORDER DENYING APPLICATION FOR
12	PROTECTION AND INNOVATION,	)	MORTGAGE LOAN ORIGINATOR LICENSE
13	Complainant,	)	
14	v.	)	
15	BRYNN GARRETT DOWNEY,	)	
16	Respondent.	)	

17  
18 The Commissioner of Financial Protection and Innovation (Commissioner) finds:

19 1. On November 4, 2019, Respondent Brynn Garrett Downey (Downey) applied to the  
20 Commissioner for a mortgage loan originator (MLO) license under the California Financing Law  
21 (CFL) (Fin. Code, § 22000 et seq.) and California Residential Mortgage Lending Act (CRMLA)  
22 (Fin. Code, § 50000 et seq.).

23 2. Downey applied by filing a Form MU4 through the Nationwide Mortgage Licensing  
24 System and Registry (NMLS).

25 3. As described in more detail below, the Commissioner denies the issuance of an MLO  
26 license to Downey under Financial Code sections 22109.1, 22172, 50141, and 50513 because  
27 Downey: (1) was convicted of felonies involving an act of fraud, dishonesty, a breach of trust, or  
28 money laundering; (2) withheld information and made material misstatements in his application for

1 a license; (3) has not demonstrated such financial responsibility, character, and general fitness as to  
2 command the confidence of the community and to warrant a determination that he will operate  
3 honestly, fairly, and efficiently as an MLO; and (4) is not employed by or subject to the supervision  
4 of a lender, broker, or servicer licensed under the CFL or CRMLA.

5 4. On November 4, 2019, Downey applied for an MLO license by filing a Form MU4  
6 through NMLS. His application was not sponsored by a lender, broker, or servicer licensed under  
7 the CFL or CRMLA.

8 5. Form MU4 question (F)(1) asked: “Have you ever been convicted of or pled guilty  
9 or nolo contendere (‘no contest’) . . . to any felony?”

10 6. Downey answered “Yes” to question (F)(1).

11 7. In the event explanation for question (F)(1), Downey stated that in 1996, he was  
12 “convicted of a Marijuana charge.” Downey did not provide supporting documents for his  
13 explanation.

14 8. On November 5, 2019, Downey filed an amended Form MU4 with minor clerical  
15 changes.

16 9. On December 17, 2019, the Commissioner placed license items on Downey’s NMLS  
17 account, noting that Downey had answered “Yes” to Form MU4 question (F)(1) but did not provide  
18 supporting documents and an adequate explanation. The Commissioner requested that Downey file  
19 an amended application with a detailed explanation of the circumstances and upload any applicable  
20 legal documents. The Commissioner also directed Downey to have a CFL- or CRMLA-licensed  
21 company request sponsorship of his license.

22 10. On February 12, 2020, Downey filed an amended Form MU4 with minor clerical  
23 changes.

24 11. On March 25, 2020, Downey filed an amended Form MU4 in which he amended his  
25 event explanation for question (F)(1) and uploaded documents. In the amended event explanation,  
26 Downey stated that in addition to the drug conviction he pleaded guilty to filing false tax returns.  
27 Downey uploaded a copy of a 1996 criminal complaint and a related pre-indictment filing but did  
28 not provide the judgment or another post-indictment filing reflecting his guilty plea or conviction.

1 The uploaded records referred only to the drug charge.

2 12. Records obtained from Downey and the Commissioner’s investigation show that on  
3 May 12, 1997, Downey pleaded guilty to felony conspiracy to distribute and to possess with intent  
4 to distribute marijuana in violation of title 21 United States Code sections 841(a)(1) and 846. In the  
5 same proceeding, Downey also pleaded guilty to three counts of subscribing false tax returns in  
6 violation of title 26 United States Code section 7206(1).

7 13. To date, Downey has not obtained sponsorship from a lender, broker, or servicer  
8 licensed under the CFL or CRMLA.

9 **Felony Convictions**

10 14. The Commissioner “shall deny” an application for an MLO license unless he makes,  
11 at a minimum, specified findings, including that the applicant has not been convicted of, or pleaded  
12 guilty or no contest to, a felony during the seven-year period preceding the date of the application,  
13 or at any time preceding the date of the application, if such felony involved an act of fraud,  
14 dishonesty, a breach of trust, or money laundering. (Fin. Code, §§ 22109.1, subd. (a)(2), 50141,  
15 subd. (a)(2).)

16 15. As described in paragraph 12, Downey was convicted of three felony counts in 1997  
17 for subscribing false tax returns with the Internal Revenue Service (IRS) in violation of title 26  
18 United States Code section 7206(1).<sup>1</sup> Each felony involved an act of fraud and dishonesty. (See  
19 Black’s Law Dict. (7th ed. 1999) p. 670 [defining fraud as “[a] knowing misrepresentation of the  
20 truth or concealment of a material fact to induce another to act to his or her detriment”].)

21 16. Accordingly, before the date of his application, Downey was convicted of three  
22 felonies involving an act of fraud, dishonesty, a breach of trust, or money laundering. Under  
23 Financial Code sections 22109.1, subdivision (a)(2), and 50141, subdivision (a)(2), the  
24 Commissioner must deny Downey’s application.

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28 <sup>1</sup> Section 7026(1) of title 26 of the United States Code, also known as the Internal Revenue Code, provides that any person who willfully “makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter” is guilty of a felony.

1 **Withheld Information and Material Misstatements**

2 17. The Commissioner may deny an application for an MLO license if the applicant  
3 withholds information or makes a material misstatement in the application. (Fin. Code, §§ 22172,  
4 subd. (a)(2), 50513, subd. (a)(2).)

5 18. As described in paragraphs 4 to 12, Downey withheld information regarding his  
6 1997 felony convictions. Although Downey answered “Yes” to Form MU4 question (F)(1)  
7 concerning felony convictions in his initial application, he explained only that he was convicted of a  
8 “Marijuana charge” and failed to upload any relevant legal documents. Only after the  
9 Commissioner asked Downey to explain in more detail the circumstances of his conviction did he  
10 reveal that he pleaded guilty to other counts—filing false tax returns—in the same proceedings.  
11 Even so, the supporting documents provided by Downey reflected only the drug conviction, not all  
12 convictions.

13 19. Thus, Downey withheld information and made material misstatements in his  
14 application for a license. Under Financial Code sections 22172, subdivision (a)(2), and 50513,  
15 subdivision (a)(2), Downey’s application should be denied.

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

17 20. The Commissioner “shall deny” an application for an MLO license unless he makes,  
18 at a minimum, specified findings, including that the applicant has demonstrated such financial  
19 responsibility, character, and general fitness as to command the confidence of the community and to  
20 warrant a determination that the applicant will operate honestly, fairly, and efficiently as a mortgage  
21 loan originator. (Fin. Code, §§ 22109.1, subd. (a)(3), 50141, subd. (a)(3).)

22 21. As described in paragraphs 12 and 15, Downey was convicted in 1997 of felony drug  
23 conspiracy and multiple felony counts of making false or fraudulent statements to the IRS.  
24 Downey’s criminal history militates against finding that he has demonstrated the character and  
25 general fitness required for licensure as an MLO.

26 22. Further, as described in paragraphs 4 to 12 and 18, Downey withheld information  
27 regarding the 1997 felony convictions by failing to fully explain the circumstances of the  
28 convictions and failing to provide supporting documents that accurately reflected the convictions.

1 Thus, although the criminal convictions occurred some time ago, Downey’s lack of candor in  
2 disclosing them further weighs against finding the requisite character and fitness.

3 23. For all these reasons, Downey has not demonstrated such financial responsibility,  
4 character, and general fitness as to command the confidence of the community and to warrant a  
5 determination that he will operate honestly, fairly, and efficiently as an MLO. Under Financial  
6 Code sections 22109.1, subdivision (a)(3), and 50141, subdivision (a)(3), Downey’s application  
7 must be denied.

### 8 **Sponsoring Employer**

9 24. The Commissioner “shall deny” an application for an MLO license unless he makes,  
10 at a minimum, specified findings, including that the applicant is employed by and subject to the  
11 supervision of a lender, broker, or servicer licensed under the CFL or CRMLA. (Fin. Code,  
12 §§ 22109.1, subd. (a)(6), 50141, subd. (a)(6).)

13 25. As described in paragraphs 4 and 13, Downey is not employed or sponsored by a  
14 CFL-licensed lender or broker or a CRMLA-licensed lender or servicer.

15 26. Thus, Downey is not employed by or subject to the supervision of a lender, broker,  
16 or servicer licensed under the CFL or CRMLA. Under Financial Code sections 22109.1,  
17 subdivision (a)(6), and 50141, subdivision (a)(6), Downey’s application must be denied.

18 27. For the foregoing reasons, the Commissioner finds that Downey: (1) was convicted  
19 of three felonies involving an act of fraud, dishonesty, a breach of trust, or money laundering; (2)  
20 withheld information and made material misstatements in his application for a license; (3) has not  
21 demonstrated such financial responsibility, character, and general fitness as to command the  
22 confidence of the community and to warrant a determination that he will operate honestly, fairly,  
23 and efficiently as an MLO; and (4) is not employed by or subject to the supervision of a lender,  
24 broker, or servicer licensed under the CFL or CRMLA.

25 28. On December 18, 2020, the Commissioner issued a Notice of Intention to Issue  
26 Order Denying Application for Mortgage Loan Originator License, Statement of Issues, and  
27 accompanying documents. The documents were served by certified mail at Downey’s latest address  
28 on file on December 31, 2020.

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29. Downey has not requested a hearing, and the time for doing so has expired.

NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the application of Brynn Garrett Downey for a mortgage loan originator license is denied. This Order is effective immediately.

Dated: January 27, 2021  
Los Angeles, California

MANUEL P. ALVAREZ  
Commissioner of Financial Protection and Innovation



By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division