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12 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
13 OF THE STATE OF CALIFORNIA

14 In the Matter of:) NMLS LICENSE NO.: 1049418
15)
16 THE COMMISSIONER OF FINANCIAL) STATEMENT OF ISSUES
17 PROTECTION AND INNOVATION,)
18)
19 Complainant,)
20)
21 v.)
22)
23 CRISTOBAL LARA GARCIA,)
24)
25 Respondent.)
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27)
28)

29 Manuel P. Alvarez, the Commissioner of Financial Protection and Innovation
30 (Commissioner), is informed and believes, and based on such information and belief, alleges and
31 charges Respondent Cristobal Lara Garcia (Garcia) as follows.

32 **I.**

33 **Jurisdiction**

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

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

5 3. Under the provisions of Financial Code sections 22109.1 and 22172 of the CFL and
6 Financial Code sections 50141 and 50513 of the CRMLA, the Commissioner brings this action to
7 deny Garcia’s MLO license application because (1) Garcia was terminated by a former employer for
8 falsely enrolling clients in an online bank feature in violation of bank rules; (2) Garcia was barred by
9 the Financial Industry Regulatory Authority (FINRA) from associating with any registered broker-
10 dealer when Garcia falsified customer account documents for personal gain and then failed to
11 respond to FINRA’s requests for information about the scheme; and (3) Garcia failed to disclose his
12 termination and the FINRA bar in his license application filed with the Commissioner.

13 **II.**

14 **Statement of Facts**

15 *Termination by JPMorgan Chase Bank, N.A.*

16 4. In or about 2007, JPMorgan Chase Bank, N.A. employed Garcia as a “Personal
17 Banker” at its Garland, Texas branch. In addition to his duties at the retail bank, Garcia was a
18 registered representative of Chase Investment Services Corp. (Chase).

19 5. An internal investigation by the bank disclosed that Garcia had violated the bank’s
20 code of conduct and it terminated Garcia on December 5, 2008 (the termination).

21 6. As Garcia was a registered representative of the bank’s affiliated investment adviser
22 firm, Chase, the investment adviser filed a Form U5 termination disclosure document with FINRA on
23 December 23. The U5 Chase filed with FINRA disclosed that Garcia was:

24 Terminated by affiliate bank – non securities related registered rep
25 [Garcia] violated bank code of conduct by enrolling bank clients in an
26 online bank feature without their knowledge and deposited \$50 of his
27 own funds into the clients['] accounts and subsequently withdrew the
same funds. In addition[,] [Garcia] admitted to giving incentive
coupons to customers that were not entitled [to receive them].

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1 *FINRA Bar*

2 7. FINRA is an independent, nongovernmental organization that writes and enforces the
3 rules governing registered brokers and broker-dealer firms in the United States and is considered a
4 self-regulatory organization or SRO.

5 8. On November 5, 2009, FINRA barred Garcia from associating with any member firm
6 in any capacity for falsifying customer account documents, in violation of FINRA rule 2110, and
7 failing to respond to requests for information, in violation of FINRA procedural rule 8210 and
8 conduct rule 2010 (the FINRA bar).

9 9. Specifically, after FINRA received and reviewed Garcia's Form U5, FINRA
10 conducted its own investigation into the matter. FINRA determined that Garcia, while employed by
11 the bank as a Personal Banker and a registered representative of Chase, falsified account opening
12 documents by enrolling 12 bank customers in a bank online bill payment program without their
13 knowledge or consent, and then Garcia accessed and activated those customers' accounts for personal
14 gain. FINRA further concluded that Garcia had failed to respond to FINRA's requests for information
15 concerning his actions while employed by the bank.

16 10. The FINRA bar concerned Garcia's forgery and falsification of customer records,
17 which involved acts of dishonest, unfair, and unethical conduct and false statements or omissions in
18 violation of FINRA rules.

19 *2020 California Application*

20 11. In order to become licensed by the Commissioner as a MLO, an individual must
21 submit a uniform application form (known as the MU4 or Form MU4) through the Nationwide
22 Multistate Licensing System & Registry (the NMLS).

23 12. On June 2, 2020, Garcia applied for a MLO license by filing a Form MU4 through the
24 NMLS. Garcia's application is sponsored by PennywiseMac Loan Services, LLC a CFL and
25 CRMLA-licensed lender.

26 13. When Garcia applied for his license, he failed to answer several of the questions
27 posed, which asked Garcia about the FINRA bar and the termination.

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1 14. For example, Form MU4 question (K) asks, in relevant part:

2 Has any State or federal regulatory agency or foreign financial
3 regulatory authority or self-regulatory organization (SRO) ever:

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

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

8
9 (4) entered an order against you in connection with a financial services-
10 related activity?

11 (7) barred you from association with an entity regulated by such
12 commissions, authority, agency, or officer, or from engaging in a
13 financial services-related business?

14 (8) issued a final order against you based on violations of any law or
15 regulations that prohibit fraudulent, manipulative, or deceptive
16 conduct?

17 (9) entered an order concerning you in connection with any license or
18 registration?

19 15. Garcia answered “No” to questions (K)(1), (2), (4), (7), (8), and (9).

20 16. Garcia correctly answered “Yes” to question (K)(6), which asks the applicant if a state
21 regulatory agency has ever “denied or suspended your registration or license or application for
22 licensure, disciplined you, or otherwise by order, prevented you from associating with a financial
23 services-related business or restricted your activities?” But in the disclosure explanation section of
24 the MU4 application, which asks the applicant to provide a more detailed explanation about his
25 “Yes” response, Garcia failed to disclose the FINRA bar and instead described the suspension of his
26 MLO license by Georgia state regulators due to his inability to obtain sponsorship.

27 17. Garcia also incorrectly answered “No” to termination disclosure questions (Q)(1) and
28 (2), which ask the applicant if he has:

[E]ver voluntarily resigned, been discharged, or permitted to resign
after allegations were made that accused [him] of:

1 (1) violating statute(s), regulation(s), rule(s), or industry standards of
2 conduct?

3 (2) fraud, dishonesty, theft, or the wrongful taking of property?

4 18. On June 2, Garcia executed his MU4 under penalty of perjury that his responses were
5 “current, true, accurate, and complete[.]”

6 19. But the Commissioner’s subsequent review of Garcia’s MU4 application disclosed the
7 termination and Garcia’s FINRA bar.

8 20. On July 2, the Commissioner placed license items on Garcia’s NMLS account,
9 requesting that he amend his application, provide a detailed explanation concerning the termination
10 and FINRA bar, and further asked that he upload all relevant documents related to the termination
11 and FINRA bar.

12 21. Garcia failed to amend his MU4 application or respond to the license item requests.

13 **III.**

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

15 22. The Commissioner must deny a MLO license if the licensee fails to meet the
16 minimum criteria for licensure, which includes a requirement that the applicant “has demonstrated
17 such financial responsibility, character and general fitness as to command the confidence of the
18 community and to warrant a determination that the [MLO] will operate honestly, fairly, and
19 efficiently within the purposes of this division.” (Fin. Code, § 22109.1, subd. (a)(3) and Fin. Code, §
20 50141, subd. (a)(3).)

21 23. As described in paragraphs 12.-18., under penalty of perjury, on June 2, Garcia falsely
22 answered “No” to questions (K)(1), (2), (4), (7), (8), and (9) which asked Garcia if a SRO had ever
23 disciplined him for dishonest conduct, or for violating a financial services-related business regulation
24 or statute, or entered an order against him in connection with a financial services-related activity, or
25 barred him for such misconduct. He further failed to disclose the FINRA bar in response to the
26 regulatory action disclosure explanation for question (K)(6), which asked Garcia if he had ever been,
27 by order, prevented from associating with a financial services-related business. Garcia further falsely
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1 answered “No” to questions (Q)(1) and (2), which asked if he had ever been terminated for violating
2 rules, or industry standards of conduct, or been terminated after allegations were made that accused
3 him of fraud or dishonesty. Garcia withheld information and made material misstatements in his
4 MU4 application, as Garcia was the subject of the termination and the FINRA bar and he failed to
5 disclose the events.

6 24. Thus, Garcia does not meet the minimum criteria for licensure under the CFL and
7 CRMLA, and his application must be denied.

8 **IV.**

9 **Withheld Information and Material Misstatements**

10 25. The CFL and CRMLA further provide that the Commissioner may deny a MLO
11 license if a licensee withholds information or makes a material misstatement in an application for a
12 license or license renewal. (Fin Code, § 22172, (a)(2) and Fin. Code, § 50513, subd. (a)(2).)

13 26. As described in paragraphs 12.-18., above, Garcia withheld information and made
14 material misstatements in his MU4 application concerning the termination and the FINRA bar by
15 failing to answer “Yes” to questions (K)(1), (2), (4), (7), (8), (9) and (Q)(1) and (2). Garcia further
16 failed to disclose the FINRA bar in response to regulatory action disclosure question (K)(6).

17 **V.**

18 **Applicable Statutes**

19 27. Financial Code section 22109.1 provides in pertinent part:

20 (a) The commissioner shall deny an application for a mortgage loan
21 originator license unless the commissioner makes, at a minimum, the
22 following findings:

23 . . .
24 (3) The applicant has demonstrated such financial responsibility,
25 character, and general fitness as to command the confidence of the
26 community and to warrant a determination that the [MLO] will operate
27 honestly, fairly, and efficiently within the purposes of this division.

28 28. Financial Code section 22172 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 [MLO] license if an applicant or licensee fails at any time to meet the requirements of Section 22109.1 or 22109.4, or withholds information or makes a material misstatement in an application for a license or license renewal.

29. 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 [MLO] will operate honestly, fairly, and efficiently within the purposes of this division.

30. Financial Code section 50513 provides in pertinent part:

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

(2) Deny, suspend, revoke, condition, or decline to renew a [MLO] 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.

VI.

Prayer

For the reasons set forth above, the Commissioner finds that Garcia has not demonstrated the financial responsibility, character, and general fitness required under Financial Code section 22109.1, subdivision (a)(3) and Financial Code section 50141, subdivision (a)(3), when Garcia falsely answered “No” to questions (K)(1),(2), (4), (7), (8), and (9) in his MU4, which asked Garcia if he had ever been disciplined by a SRO. Garcia further falsely answered questions (Q)(1) and (2) in his MU4, which asked if he had ever been terminated for violating rules, or industry standards of conduct, or

1 been terminated after allegations were made accusing him of fraud or dishonesty. Finally, Garcia
2 failed to disclose the FINRA bar in response to the regulatory action disclosure explanation section of
3 his MU4 associated with question (K)(6).

4 The Commissioner also finds that Garcia withheld information and made material
5 misstatements in his application for a license under Financial Code sections 22172, subdivision (a)(2)
6 and 50513, subdivision (a)(2).

7 Accordingly, the Commissioner has grounds for denying Garcia's MLO license application.
8 WHEREFORE IT IS PRAYED that the MLO license application filed by Cristobal Garcia be denied.

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10 Dated: January 11, 2021
11 Los Angeles, California

11 MANUEL P. ALVAREZ
12 Commissioner of Financial Protection
13 and Innovation

14 By: _____
15 Blaine A. Noblett
16 Senior Counsel
17 Enforcement Division