

1 MARY ANN SMITH
Deputy Commissioner
2 DANIEL P. O'DONNELL
Assistant Chief Counsel
3 JEREMY F. KOO (State Bar No. 300225)
4 Counsel
5 Department of Financial Protection and Innovation
6 2101 Arena Boulevard
7 Sacramento, California 95834
8 Telephone: (916) 936-7582
9 Facsimile: (916) 928-7929
10 Email: Jeremy.Koo@dfpi.ca.gov

11 Attorneys for Complainant

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

14 In the Matter of:)	NMLS FILE NO. 1914329
)	
15 THE COMMISSIONER OF FINANCIAL)	STATEMENT OF ISSUES IN SUPPORT OF
16 PROTECTION AND INNOVATION,)	NOTICE OF INTENTION TO ISSUE ORDER
)	DENYING MORTGAGE LOAN ORIGINATOR
17 Complainant,)	LICENSE APPLICATION
)	
18 v.)	
)	
19 CHRISTOPHER E. MARX,)	
)	
20 Respondent.)	
)	
)	

21 The Complainant, the Commissioner of Financial Protection and Innovation (Commissioner)
22 of the Department of Financial Protection and Innovation (Department), alleges and charges
23 Respondent, Christopher E. Marx (Marx), as follows:

24 **I.**

25 **Introduction**

- 26 1. The Commissioner licenses and regulates mortgage loan originators, finance lenders,
27 and brokers under the California Financing Law (Fin. Code, § 22000 et seq.) (CFL).
- 28 2. To become licensed by the Commissioner as a mortgage loan originator (MLO), an

1 individual must submit a uniform application form (known as the MU2 or MU4 form) through the
2 Nationwide Multistate Licensing System & Registry (NMLS). The NMLS contains a detailed set of
3 instructions for filing license applications, including a checklist of items to be completed by the
4 applicant, who is fully responsible for all the requirements of the license.

5 3. The Commissioner intends to issue an order denying the issuance of an MLO license to
6 Christopher Ellis Marx pursuant to Financial Code sections 22109.1 and 22172 because Marx has: (1)
7 not demonstrated such financial responsibility, character, and general fitness as to command the
8 confidence of the community and to warrant a determination that the mortgage loan originator will
9 operate honestly, fairly, and efficiently within the purposes of the CFL, and (2) withheld information
10 or made a material misstatement in his application for a license.

11 4. The Commissioner determines that Marx made a material misstatement in his
12 application for a license by (1) stating that he had satisfied the conditions of a regulatory order issued
13 by the State of Arizona when in fact a \$50,000.00 penalty remained outstanding and (2) initially
14 answering certain disclosure questions relating to his regulatory history incorrectly. The
15 Commissioner further determines that his prior regulatory history, his failure to pay an outstanding
16 regulatory penalty, his failure to disclose his outstanding penalty, and his failure to initially answer the
17 disclosure questions correctly do not allow the Commissioner to determine Marx will operate
18 honestly, fairly, and efficiently within the purposes of the CFL, requiring denial of the license.

19 II.

20 Previous Regulatory History

21 A. License Discipline by Other Government Agencies

22 5. On or about August 19, 2005, Marx and the Nevada Division of Insurance (NDOI)
23 entered into a consent order in which NDOI found Marx committed 154 violations of Nevada Revised
24 Statutes (“N.R.S.”) section 686A.110 by offering a bonus on bank certificates of deposit as an
25 inducement or rebate to purchase annuities. Marx agreed not to engage in similar conduct in future and
26 was ordered to pay \$10,010.00 in penalties, \$65 per violation.

27 6. On or about March 13, 2007, Marx and the (ADOI) entered into a consent order in
28 which the ADOI revoked his license as an Arizona resident life, health and accident, and property and

1 casualty insurance producer. Marx admitted as true that the Arizona Corporation Commission
2 Securities Division had issued an order finding him in violation of securities fraud by selling
3 unregistered securities and for not being registered as a salesman. The Arizona Department of
4 Insurance found this order evidenced a violation of Arizona Revised Statutes section 20-295(A)(8)
5 (demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of
6 business in the state or elsewhere).

7 **B. Non-License Administrative Actions by State Government Agencies**

8 7. On or about April 3, 2003, the California Department of Corporations, a predecessor
9 agency to the California Department of Financial Protection and Innovation, issued a Desist and
10 Refrain Order against Marx, Easy Street Financial Group, Inc. (“Easy Street”), and others, for
11 violations of Corporations Code section 25110 (sale of securities without qualification from the then-
12 Corporations Commissioner) and 25401 (sale of securities by means of omissions or untrue statements
13 of material fact). The Department of Corporations found:

- 14 a. Marx was the principal officer of Easy Street;
- 15 b. Easy Street was advertising “FDIC Insured Bank CD’s” at yields higher than those
16 actually available on such certificates of deposit, and that payment of such yields
17 were possible because Easy Street paid the difference between a certificate of
18 deposit it obtained from an FDIC-insured bank and the advertised rate called
19 “bonus dollars”;
- 20 c. That the purported investments were securities, and that therefore their offer and
21 sale without first having been qualified by the Corporations Commissioner was a
22 violation of Corporations Code section 25110; and
- 23 d. The purported offer and sale of these securities were accomplished by means of
24 communications that included untrue statements of material fact or omitted to state
25 facts necessary made, in the light of the circumstance under which they were made,
26 not misleading.

27 8. On or about September 21, 2004, the Nevada Secretary of State (“NSOS”) issued a
28 Summary Order to Cease and Desist against Marx and his corporation, Easy Street Financial Group,

1 Inc. (“Easy Street”), for violations of that state’s securities laws, including:

- 2 a. Nevada Revised Statutes (“N.R.S.”) section 90.460 (offering and/or selling and/or
3 allowing the offer and/or sale of securities not registered to be sold in or from the
4 State of Nevada);
- 5 b. N.R.S. sections 90.310 and 90.330 (Easy Street not licensed in Nevada as either a
6 broker-dealer or an investment advisor); and
- 7 c. N.R.S. sections 90.310(1) & (2) (Easy Street employed or contracted with
8 unlicensed sales representatives) and 90.330(1) & (2) (Easy Street employed
9 unlicensed persons as investment advisers).

10 9. On or about December 1, 2004, pursuant to a consent agreement agreed to by Marx and
11 the NSOS in settlement of the Summary Order issued September 21, 2004, the NSOS issued a
12 Permanent Order to Cease and Desist.

13 10. On or about November 14, 2006, Marx and the Arizona Corporation Commission
14 (ACC) entered into a consent order in which Marx was ordered to cease and desist from violating the
15 Arizona Securities Act, pay restitution to investors in the amount of \$590,492.71, and pay an
16 administrative penalty of \$50,000.00 to the ACC. The ACC found Marx violated the Arizona
17 Securities Law by:

- 18 a. Offering or selling securities that were neither registered nor exempt from
19 registration (Ariz. Rev. Stat. Ann. § 44-1841);
- 20 b. Offering or selling securities while not registered as a salesman nor exempt from
21 registration (Ariz. Rev. Stat. Ann. § 44-1842);
- 22 c. (a) Employing a device, scheme, or artifice to defraud; (b) making untrue
23 statements or misleading omissions of material facts; and (c) engaging in
24 transactions, practice, or courses of business which operate or would operate as a
25 fraud or deceit (Ariz. Rev. Stat. Ann. § 44-1991).

26 **C. Outstanding Regulatory Penalty to the State of Arizona**

27 11. In relation to the November 14, 2006 consent order of the Arizona Corporation
28 Commission, Marx has satisfied his obligation to pay restitution to investors, but the \$50,000.00

1 penalty to the State of Arizona remains outstanding as of this date.

2 **III.**

3 **Application for MLO Licensure**

4 12. On January 7, 2020, Marx filed an application with the Commissioner for an MLO
5 license (NMLS file number 1914329) by submitting a Form MU4 through the Nationwide Multistate
6 Licensing System and Registry (NMLS) pursuant to Financial Code section 22109.6. Later on January
7 7, 2020, and then on March 5, 2020, Marx filed amendments to his Form MU4 for the purpose of
8 updating other information.

9 13. In each Form MU4 filed between January 7, 2020, and March 5, 2020, inclusive, Marx
10 answered “Yes” to Form MU4 Regulatory Action Disclosure Questions (K)(2) – (K)(6) and (K)(8) –
11 (K)(9). These questions ask:

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

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

16 (3) found you to have been a cause of a financial services-related business having its
17 authorization to do business denied, suspended, revoked or restricted?

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

19 (5) revoked your registration or license?

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

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

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

26 14. In each Form MU4 filed between January 7, 2020, and March 5, 2020, inclusive, Marx
27 answered “No” to Form MU4 Regulatory Action Disclosure Question (K)(1) and (K)(7). These
28 questions ask:

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

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

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

4 15. On or about March 18, 2020, Department licensing staff sent a “license item” message
5 to Marx through NMLS noting that Marx had answered “No” to question (K)(1) and (K)(7) requesting
6 that he provide, through an amended filing, a detailed explanation of the circumstances of his previous
7 regulatory orders and upload applicable documents.

8 16. On or about April 1, 2020, Marx submitted an amendment to his Form MU4 in which
9 he expanded on his disclosure explanations and uploaded additional documents relating to his
10 regulatory orders. He continued to answer questions (K)(1) and (K)(7) as “No.”

11 17. On April 15, 2020, Department licensing staff sent another licensing item to Marx. The
12 license item requested that Marx update his Form MU4 to provide proof of payment concerning
13 payment of the restitution and penalty ordered by the Arizona Corporation Commission in its
14 November 14, 2006, consent order.

- 15 18. On April 17, 2020, Marx submitted an amendment to his Form MU4, in which Marx:
- 16 a. changed the answers to disclosure questions (K)(1) and (K)(7) from “No” to “Yes;”
 - 17 and
 - 18 b. submitted a letter from the receiver authorized to settle the restitution Marx was
 - 19 ordered to pay indicating that Marx had paid the restitution. However, Marx failed
 - 20 to disclose the unpaid \$50,000.00 penalty and continued to assert that he had
 - 21 “complied with” the order of the Arizona Corporation Commission.

22 IV.

23 **Grounds to Deny Marx’s MLO License Application**

24 19. The Commissioner is authorized under the CFL to deny a MLO license application if
25 an applicant withholds information or make a material misstatement in an application for a license.
(Fin. Code, § 22172, subd. (a)(2).

26 20. The Commissioner finds that Marx made the following material misstatements in his
27 application for a MLO license:

- 28 a. His initial answer of “No” to Regulatory Action Disclosure Question (K)(1) when

1 the desist and refrain order issued by the California Department of Corporations and
2 the consent order issued by the Arizona Corporation Commission included findings
3 that Marx engaged in conduct that can fairly be described as dishonest, unfair, or
4 unethical; and

5 b. His statement that he had complied with the terms of the consent order issued by
6 the Arizona Corporation Commission when in fact he still owed a \$50,000.00
7 administrative penalty.

8 21. The CFL requires the Commissioner to deny a mortgage loan originator license unless
9 the Commissioner finds that the applicant has demonstrated such financial responsibility, character,
10 and general fitness as to command the confidence of the community and to warrant a determination
11 the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the
12 CFL. (Fin. Code, § 22109.1, subd. (a)(3).)

13 22. The Commissioner finds the following matters prevent him from making the finding
14 required by Financial Code section 22109.1, subdivision (a)(3) to issue Marx a license:

- 15 a. His prior regulatory history as set forth, *ante*, in Part II;
- 16 b. His failure to pay an outstanding regulatory penalty to the state of Arizona;
- 17 c. His failure to disclose an outstanding regulatory penalty to the state of Arizona; and
- 18 d. His failure to initially disclose previous regulatory findings that he had engaged in
19 dishonest, unfair, or unethical conduct.

20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

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

V.

Conclusion

Based on the foregoing, the Commissioner asserts that he is justified under Financial Code sections 22109.1 and 22172 to deny the issuance of a MLO license to Marx.

WHEREFORE, the Commissioner prays that the application for a mortgage loan originator license filed by Christopher Ellis Marx on January 7, 2020, and as subsequently amended, be denied.

Dated: February 1, 2021

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation

By _____
JEREMY F. KOO
Counsel
Enforcement Division