

BEFORE THE
DEPARTMENT OF BUSINESS OVERSIGHT
STATE OF CALIFORNIA

In the Matter of:

THE COMMISSIONER OF BUSINESS
OVERSIGHT,

Complainant,

v.

PETER GREGORY MONTRENES,

Respondent.

OAH No. 2019100393

ORDER OF DECISION


DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Department of Business Oversight as its Decision in the above-entitled matter.

This Decision shall become effective on February 29, 2020.

IT IS SO ORDERED this 30th day of January, 2020.




MANUEL P. ALVAREZ
Commissioner of Business Oversight

**BEFORE THE
DEPARTMENT OF BUSINESS OVERSIGHT
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues against:

PETER GREGORY MONTRENES, Respondent

OAH No. 2019100393

NMLS No. 1525557

PROPOSED DECISION

Deena R. Ghaly, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on November 27, 2019, in Los Angeles, California.

Judy L. Hartley, Senior Counsel, appeared on behalf of complainant Manuel P. Alvarez, Commissioner, Department of Business Oversight, State of California. Respondent Peter Gregory Montrenes represented himself and was present throughout the hearing.

The record closed and the matter was submitted for decision on the hearing day.

SUMMARY

Complainant denied respondent's application for a license as a mortgage loan originator, citing respondent's two recent criminal convictions and his failure to disclose the convictions on the application. Respondent appealed the decision, arguing that the criminal convictions reflect a discrete and atypical period in his life fueled by a drug addiction now in remission and that his failure to disclose them was a clerical mistake. Respondent's evidence was not sufficient to meet his burden to demonstrate fitness for licensure. The Department's determination denying respondent's application is upheld.

FACTUAL FINDINGS

Respondent's Application

1. On May 28, 2019, respondent filed an application for a mortgage loan originator¹ (MLO) license with the Commissioner pursuant to the California Financing Law (CFL) (Fin. Code § 22000 et seq.) and the California Residential Mortgage Lending Act (CRMLA) (Fin. Code § 50000 et. seq.) The application was submitted to the

¹ A mortgage loan originator is "an individual who, for compensation or gain, or in the expectation of compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan." (Fin. Code, § 50003.5, subd. (a).)

Commissioner by filing Form MU4 as required by the Nationwide Mortgage Licensing System Registry.

2. Question (H)(1) on Form MU4 asks "Have you ever been convicted of or pled guilty or nolo contendere . . . (iv) theft or wrongful taking of property"

Montrenes answered "no" to this question. (See Exh. 2, p.10.)

3. Commission staff undertook an inquiry into respondent's background and determined that he may have a relevant criminal record. Based on staff inquiries and additional disclosures respondent made, Commission staff learned that respondent had sustained two disclosable criminal convictions.

Respondent's Criminal Record

4. a. On September 8, 2017, in the Superior Court of California, County of Los Angeles, case number 7BL05109, respondent pled nolo contendere to violating Penal Code sections 484, subdivision (a), and 490.2 (petty theft), a misdemeanor. The court suspended sentence and placed respondent on three years' summary probation on terms and conditions including serving one day in jail with credit for one day previously served and paying fines and fees totaling \$150.

b. The facts and circumstances underlying the September 2017 conviction were that respondent entered an Apple store and took headphones out of the store without paying for them.

5. a. On July 19, 2018, in the Superior Court of California, County of Orange, Newport Beach facility, case number 17HM09786, respondent pled guilty to violating Penal Code section 459.5 (shoplifting, less than \$950 value), a misdemeanor. The court suspended sentence and placed respondent on three years' summary probation on terms and conditions including paying fines and fees totaling \$200, and staying away from all Macy's department stores.

b. The facts and circumstances underlying respondent's July 2018 conviction were that respondent entered into a Macy's department store, took a shirt, and walked out of the store without paying for it.

Respondent's Evidence

6 a. Respondent testified at the hearing and stated that he developed a drug dependency in 2003 after suffering an injury while playing professional baseball. Although he attained sobriety, respondent relapsed in 2015. He was arrested for possession of illicit drugs in February 2019 and thereafter repeated drug addiction treatment. Respondent stated that he has been sober since February 28, 2019.

b. Respondent attributed his criminal acts to his drug addiction and family pressures from his father's illness.

c. Respondent maintained that, since 2004, he has held positions in the financial industry including two years as a licensed mortgage loan originator in 2006 and 2007. He stated that he never committed any acts of dishonesty or abused access to sensitive information during his tenure in these positions. Respondent did not submit any evidence corroborating his professional accomplishments or reputation.

d. Respondent also stated that he is an active volunteer with the Bullying Awareness Resistance Education (BARE) organization. There, he counsels teen-aged athletes in accepting responsibility for their behavior and keeping their focus on productive life goals. Respondent submitted a letter from the organization's executive director, Deborah Reisdorph, confirming his involvement in the program. (See Exh. B.)

e. Respondent stated that his failure to disclose the criminal convictions on his application was simply a mistake. Thinking he was answering the question just above question (H)(1), which asked whether any felony charges were pending against the applicant, he responded in the negative, since that was the case.

7. a. Respondent submitted two letters of support for his application. The first is from Mike Gillespie, respondent's college baseball coach. Mr. Gillespie wrote, in part:

This recommendation is not re (sic) [respondent's] prowess as an intercollegiate athlete, but it is my hope, rather, to speak to his strong personal qualities of work ethic, determination, persistence, integrity, character, and personal values. [Respondent] consistently showed uncommon commitment to his development as a pitcher and the strongest of work ethic.

(Exh. A.)

Mr. Gillespie's letter does not evidence knowledge of respondent's criminal record or his failure to disclose it on his application.

b. Respondent's second letter of support is from respondent's Alcoholics Anonymous (AA) sponsor, Michael Dronge. Mr. Dronge's letter corroborated respondent's representation about achieving sobriety in February of 2019 and noted that "Respondent has been attending AA meetings at least once a day and in most cases twice a day. He has worked his 12 steps and is currently sponsoring three young men himself." (Exh. C.) Mr. Dronge's letter also expressly states that he is aware of respondent's criminal record and his failure to disclose it on the Form MU4.

c. Respondent did not submit any evidence of attendance at AA meetings or documentation of reaching milestones in his recovery beyond Mr. Dronge's letter, which was neither signed nor dated.

LEGAL CONCLUSIONS

1. Respondent bears the burden of proving that he meets the qualifications for the license he seeks. (See *Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1221.) The applicable standard of proof is preponderance of the evidence. (See Evid. Code, § 115.)

2. a. Minimum licensing requirements require the Commissioner to deny an MLO license unless 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 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this division." (Fin. Code, § 22109.1, subd. (a)(3) (relating to the CFL, and 50141, subd. (a)(3) (relating to the CRMLA.)

b. The Commissioner's finding that an applicant meets the minimum threshold licensure requirements "relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the role of a mortgage loan originator." (Cal. Code Regs., tit. 10, § 1422.6.2 (relating to the CFL) and 1950.122.5.2 (relating to the CRMLA).

3. Respondent's acts of theft, ostensibly the result of a now-controlled drug addiction (see Factual Finding 5), raise troubling questions of character, judgment, and accountability. Even crediting the challenges of addiction, respondent did not establish how his condition resulted in, or explain stealing relatively inconsequential items such as a shirt and a pair of headphones. The more convincing explanation is complainant's position that the convictions represent a propensity for dishonesty and a disrespect for the law, characteristics that are incompatible with licensed professionals in the financial industries.

4. Complainant also cited respondent's failure to disclose his criminal history as grounds to deny respondent the license. Under Financial Code section 50513, subd. (a)(2), the Commissioner may deny an MLO license when an applicant "withholds information or makes a material misstatement in an application." Here, respondent's assertion that his failure to disclose was a mistake (Factual Finding 6d) is not convincing. On the contrary, question (H)(1) is straightforward. His convictions are for theft, clearly directly relevant and requiring an answer in the affirmative. Instead, respondent replied "no," an untruth and another instance of dishonesty and lack of integrity.


5. a. Respondent presented with some positive indicia of rehabilitation, including corroboration by his sponsor, establishing his addiction recovery; however, the evidence is relatively thin and his stages of sobriety are not documented beyond a the undated and unsigned letter from his sponsor. (Factual Finding 7b & 7c.) Even if respondent's contentions are fully credited, his stated sobriety date is less than a year ago. (Factual Finding 6a.) Such a recent change in behavior cannot establish successful rehabilitation.

b. Mr. Gillespie's letter of support and the letter from BARE's executive director, Deborah Reisdorph, do not provide support for establishing respondent's fitness for professional licensure, particularly in the financial industry. Character reference letters are most helpful when written by persons who have known the applicant in a context similar to the one at issue. Moreover, they are most helpful when they are written with knowledge of the misconduct resulting in the initial license denial. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1053.) Neither Mr. Gillespie nor Ms. Reisdorph appear to know respondent in a professional capacity and neither note knowledge of his underlying misconduct.

ORDER

Respondent Patrick Gregory Montrenes's application for a mortgage loan originator license is denied.

DATE: December 27, 2019

DocuSigned by:

DEENA R. GHALY

Administrative Law Judge
Office of Administrative Hearings