

BEFORE THE  
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
STATE OF CALIFORNIA

In the Matter of:

COMMISSIONER OF FINANCIAL PROTECTION  
AND INNOVATION,

Complainant,

v.

ALIN MANUEL YBARRA,

Respondent.

NMLS No.: 1119649

Sponsor File No.: 60DB0-44713

OAH No. 2020100623

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Commissioner of Financial Protection and Innovation as the Decision in the above-entitled matter with the following technical change under subdivision (c)(2)(C) of Government Code section 11517. In paragraph 2 on page 2 of the Proposed Decision, "Financial Code section 22109" is edited to be "Financial Code section 22109.1."

This Decision shall become effective on June 15, 2021.

IT IS SO ORDERED THIS 16 day of May.



MANUEL P. ALVAREZ

Commissioner of Financial Protection and Innovation

**BEFORE THE  
DEPARTMENT OF FINANCIAL PROTECTION AND  
INNOVATION<sup>1</sup>  
STATE OF CALIFORNIA**

**In the Matter of:**

**COMMISSIONER OF THE DEPARTMENT OF FINANCIAL  
PROTECTION AND INNOVATION, Complainant**

**vs.**

**ALIN MANUEL YBARRA, Respondent**

**NMLS No. 11119649**

**SPONSOR FILE No. 60DBO-44713**

**OAH No. 2020100623**

**PROPOSED DECISION**

Jennifer M. Russell, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by telephonic/videoconference on February 22, 2021.

Judy L. Hartley, Senior Counsel, and Alicia Armand, Counsel, represented complainant the Commissioner of the Department of Financial Protection and

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<sup>11</sup> Previously known as the Department of Business Oversight.

Innovation (Department). Respondent Alin Manuel Ybarra did not appear nor did any representative on his behalf.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision at the conclusion of the hearing.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On February 14, 2020, respondent submitted a Form MU4, an application for licensure as a Mortgage Loan Originator (February 2020 MLO application), through the Nationwide Mortgage Licensing System (NMLS system), to the Department.

2. On July 2, 2020, pursuant to Financial Code section 22109, Ms. Hartley, representing complainant in an official capacity, filed a Notice of Intention to Issue Order Denying Mortgage Loan Originator License Application (Notice of Intention). A Statement of Issues setting forth the reason for the intended order is attached to and incorporated by reference into the Notice of Intention.

3. On July 22, 2020, respondent's attorney of record filed a Notice of Defense.

4. On October 26, 2020, the Department served respondent's attorney of record with a Notice of Hearing containing information about the scheduled February 22, 2021, 9:00 a.m. hearing in this matter.

5. On December 29, 2020, OAH served both parties with a Notice and Order of Videoconference or Telephone Hearing with information for accessing the scheduled February 22, 2021, 9:00 a.m. hearing in this matter.

6. All jurisdictional requirements are satisfied.

7. The hearing proceeded pursuant to Government Code section 11520, subdivision (a), which, in pertinent part, provides, "If the respondent . . . fails . . . to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent[.]"

## **Respondent's Background**

### **BANKRUPTCY**

8. On April 12, 2011, respondent filed a petition for Chapter 7 bankruptcy in the United States Bankruptcy Court, Central District of California, in case number 8:11-bk-15182-ES.

9. On October 24, 2019, respondent filed a petition for Chapter 7 bankruptcy in the United States Bankruptcy Court, Central District of California, in case number 8:11-bk-14167-ES.

### **JUDGEMENTS OR LIENS**

10. Respondent owed an unspecified amount of delinquent taxes to the California Franchise Tax Board (FTB). On August 14, 2015, respondent entered an Installment Agreement with the FTB, in which respondent authorizes monthly



electronic fund transfer payments in the amount of \$1,000 from his bank account, beginning September 20, 2015.

11. By letter dated September 11, 2020, the FTB informed respondent of the following: "All tax liabilities were discharged in the Bankruptcy process. 2 liens in Orange County were also releasable during the Bankruptcy process. Currently there is no tax liability for debtor." (Exh. 10 at p. DFPI 0168.)

### **REGULATORY ACTION**

12. As president of Coast 2 Coast Home Services, Inc. (Coast 2 Coast), a California entity respondent previously owned, respondent offered residential mortgage loan modification services, between January 1, 2016, and January 15, 2018, to at least 48 Washington consumers for property located in Washington State. Respondent represented to the consumers both he and Coast 2 Coast were licensed by the State of Washington Department of Financial Institutions (SWDFI) to provide those services. Respondent, acting through Coast 2 Coast, collected fees from consumers totaling at least \$57,700.85. Neither respondent nor Coast 2 Coast was licensed by SWDFI to conduct business as a mortgage broker or loan originator. Based on a consumer complaint, SWDFI commenced an investigation. Respondent submitted false statements to investigators.

13. Consequently, on March 26, 2018, in the regulatory matter titled *Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Require Affirmative Action, Prohibit From Industry, Order Refunds, Impose Fine, Collect Investigation Fee, and Recover Costs and Expenses (Statement of Charges)*, case number C-18-2388-18-SC01, the SWDFI Division of Consumer Services entered a Consent Order imposing sanctions on respondent and Coast 2 Coast for a two-count

violation of RCW 19.146.200(1) for engaging in the business of (a) a mortgage broker for Washington residents or property and (b) a loan originator without first obtaining licensure; a violation of RCW 19.146.0201(2), (3), and (8) for engaging in unfair or deceptive practices, obtaining property by fraud or misrepresentation, and negligently making a false statement or knowingly and willfully making an omission of material fact in connection with an investigation; and a violation of RCW 19.146.235(2) for failing to comply with the SWDFI investigative authority.

14. The March 26, 2018 Consent Order was subsequently amended in accordance with an Agreed Order Amending Consent Order, entered on August 15, 2019, which prohibits respondent and Coast 2 Coast from practicing mortgage brokering in any capacity and from applying for any license under any name for a period of five years; mandates respondent to pay fines totaling \$144,000 (with payment of \$134,000 stayed if full compliance with the consent order); mandates respondent to pay restitution to Washington consumers totaling \$74,650.85; and requires respondent to pay investigation fees totaling \$2,150.40.

### **Respondent's February 2020 MLO Application and Subsequent Amendments**

15. On February 13, 2020, respondent certified his February 2020 MLO application under penalty of perjury and represented the information provided in the application is true and correct. (See Exh. 2.) The application includes disclosure questions, several of which respondent answered in the affirmative. Respondent answered "Yes" to filing a personal bankruptcy petition within the last 10 years (*id.* at p. DFPI 0033), to having unsatisfied judgements or liens (*id.*), and, based on his activities occurring while he exercised control over an organization, that a regulatory agency revoked his license or registration and barred him from association with or

engaging in any financial services-related business (*id.* at p. DFPI 0034). Respondent provided explanations attributing his 2011 bankruptcy to losing his job and inability to continue paying his obligations (*id.* at p. DFPI 0036), his tax liens to hardship resulting from not working and lacking the means to pay his taxes (*id.* at p. DFPI 0035), and his regulatory violation to his reliance on legal counsel's advice regarding mortgage assistance relief services as well as his failure to stay abreast with regulatory developments in Washington State (*id.* at p. DFPI 0040). Respondent provided documentation limited to an FTB Installment Agreement-Electronic Funds Transfer (EFT) Approval notice dated August 14, 2015 (*id.* at p. DFPI 0039). Respondent provided no documentation in connection with his bankruptcy or the regulatory action taken against him to the Department.

16. Meircee Boulahroud, Special Administrator for Mortgage Licensing, with responsibility for managing the Department's MLO program, reviewed respondent's February 2020 MLO application. At the administrative hearing, Ms. Boulahroud explained how the Department resorted to retrieving the SWDFI *Statement of Charges*, March 26, 2018 Consent Order, and August 15, 2019 Agreed Order Amending Consent Order from the NMLS system where they were posted by Washington State regulators. Ms. Boulahroud's corroborated testimony establishes respondent amended his February 2020 MLO application, on March 11, 2020, May 15, 2020, June 3, 2020, June 10, 2020, and June 13, 2020, without providing the Department with any of the relevant information or documentation in connection with his bankruptcy or the Washington State regulatory action against him.

17. It was not until after the Department filed the July 2, 2020 Notice of Intention, that on October 6, 2020, respondent filed another amended MLO application attaching an Official Form 101 Voluntary Petition for Individuals Filing for

Bankruptcy (Form 101) (Exh. 10 at p. DFPI 0169), which discloses the prior May 12, 2011 and October 24, 2019 bankruptcy petitions set forth in Factual Findings 8 and 9. Ms. Boulahroud noted legal counsel representing respondent in the bankruptcy court signed the Form 101 on February 12, 2020, two days prior to respondent's submission of his original February 2020 MLO application to the Department. Ms. Boulahroud maintained respondent had access to the Form 101 and was able to but did not provide it to the Department as an attachment to his February 2020 MLO application or subsequent amendments occurring prior to October 6, 2020.

18. In the October 6, 2020 amendment, respondent also provided the Department with a copy of the September 11, 2020 FTB letter notifying him all his tax liabilities were discharged in bankruptcy (*id.* at p. DFPI 0168.). (See Factual Finding 11.) Relatedly, respondent changed his previous affirmative response to the disclosure question whether he had any unsatisfied judgments or liens to "No" (*id.* at p. DFPI 0161).

19. Respondent also revised his responses to disclosure questions relating to any regulatory action against him. Respondent changed his previous affirmative responses to questions whether any regulatory agency revoked his registration or license and whether he was barred from association with or engaging in any financial services-related business to "No" (*id.* at p. DFPI 0162). Respondent changed his previous negative responses to questions whether any regulatory agency or self-regulatory organization found he had been involved in a violation of a financial services-related business regulation or statute, found he caused the revocation of a financial services-related business' authorization, and entered an order against him in connection with a financial services-related activity to "Yes" (*id.*).

20. It is not established, as alleged in parts III and VI of the Statement of Issues, respondent's tax lien is not paid in full.

21. It is established, as alleged in parts V and VII of the Statement of Issues, respondent omitted from his February 2020 MLO application material information explaining the allegations about and investigation of his misconduct engaging in unlicensed activities, misrepresentations, and false statements, which resulted in SWDFI's regulatory action against him.

### **Factors in Aggravation, Mitigation, and Rehabilitation**

22. No evidence of respondent's rehabilitation was offered at the administrative hearing.

### **LEGAL CONCLUSIONS**

1. Respondent bears the burden of establishing his eligibility for MLO licensure by a preponderance of the evidence. (Gov. Code, § 11504; *Coffin v. Alcoholic Beverage Control Appeals Bd.* (2006) 139 Cal.App.4th 471,476.)

2. California Financial Code section 22109.1, subdivision (a), authorizes the commissioner to "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 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of [the California Financing Law, Cal. Fin. Code, § 22000 et seq.]."



3. The underlying purposes and policies of the California Financing Law include the protection of borrowers against unfair practices by unscrupulous lenders and the protection of property owners from deceptive and misleading practices. (See Cal. Fin. Code, § 22001.)

4. Respondent has a history of misconduct demonstrating his irresponsibility when engaged in regulated financial activity as shown by the adverse regulatory action Washington State regulators have taken to prohibit him from practicing mortgage brokering in any capacity and from applying for licensure under any name for a period of five years. Respondent also has a history of uncooperativeness with regulators discharging their duties to protect the public from unfair practices and unscrupulous individuals as shown by his failure to comply with SWDFI investigators. Respondent's history does not engender confidence he will operate honestly, fairly, and efficiently consistent the purposes of the California Financing Law.

5. In aggravation and as an independent cause for license denial, respondent has failed to comply with the Department's requirements for his submission of information and documents with his February 2020 MLO application. Notwithstanding multiple subsequent amendments, respondent failed to provide the Department with information specifying his misconduct underlying the SWDFI *Statement of Charges*, March 26, 2018 Consent Order, and August 15, 2019 Agreed Order Amending Consent Order. That omission renders the information contained in respondent's February 2020 MLO application false, misleading, and dishonest.

6. As stated in *Gee v. California State Personnel Bd.* (1970) 5 Cal.App.3d 713, "'Dishonesty' connotes a disposition to deceive. (Citation.) It . . . denotes an absence of integrity; a disposition to cheat, deceive or defraud[.]" (*Id.* at 718-719.) Courts

understand integrity to mean "'soundness of moral principle and character, as shown by a person's dealings with others, in the making and performance of contracts, in fidelity and honesty in the discharge of trusts. In short, it is used as a synonym for probity, honesty, and uprightness in business relations with others.'" (See *In re Estate of Gordon* (1904) 142 Cal. 125, 132 quoting, *In re Bauquier* [(1891)] 88 Cal. 307.)

7. Honesty, truthfulness, and integrity are important qualifications to perform the functions and duties of a mortgage loan originator consistent with the policies and purposes of the California Financing Law. The Department's assessment of whether an applicant for MLO licensure presents with honesty, truthfulness, and integrity begins with the application process, and true and correct information is necessary for the Department to determine whether the public will be adversely affected by a grant of licensure. Respondent's omission of information and documentation relating to his misconduct in Washington State from his February 2020 MLO application impeded the Department's efforts to conduct a thorough review of his background followed by assessment of his fitness for licensure consistent with the policies and purposes of the California Financing Law. Respondent's omission augurs his lack of integrity to assume the duties and functions of a mortgage loan originator. No persuasive evidence establishing otherwise was offered at the administrative hearing.

8. Respondent has failed to meet his burden of establishing by a preponderance of evidence his fitness for licensure as a mortgage loan originator.

9. Cause exists pursuant to California Financial Code section 22109.1 to deny respondent's February 2020 MLO application, in that respondent has not demonstrated the financial responsibility, character, and general fitness that command the confidence of the community and warrant a determination that as a mortgage loan

originator he will operate honestly, fairly, and efficiently within the purposes of the California Financing Law. (Legal Conclusions 1 through 8.)

## **ORDER**

The application of Alin Manuel Ybarra for a mortgage loan originator license is denied.

DATE: 03/16/2021

  
Jennifer M. Russell (Mar 16, 2021 14:58 PDT)  
**JENNIFER M. RUSSELL**

Administrative Law Judge

Office of Administrative Hearings