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8 Attorneys for Complainant

9
10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:)
) NMLS NO.: 1984848
13 THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,)
14) CONSENT ORDER
15 Complainant,)
16 v.)
)
17 NICOLE MARIE HUGUES,)
)
18 Respondent.)

19 This Consent Order is entered into between Respondent Nicole Marie Hugues (Hugues), and
20 Complainant, the Commissioner of Financial Protection and Innovation (Commissioner)
21 (collectively, the Parties), and is made with respect to the following facts:

22 I.

23 Recitals

24
25 A. The Commissioner has jurisdiction over the licensing and regulation of persons
26 engaged in the business of making, servicing, or brokering residential mortgage loans, including
27 mortgage loan originators, under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.) and
28 the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.).

1 B. To become licensed by the Commissioner as a mortgage loan originator (MLO), an
2 individual must submit a uniform application form (MU4) through the Nationwide Mortgage
3 Licensing System & Registry (NMLS).¹ The NMLS contains a detailed set of instructions for filing
4 license applications, including a checklist of items to be completed by the applicant, who is fully
5 responsible for all the requirements of the license.

6 C. On or around December 3, 2020, Hugues applied for a MLO license and submitted a
7 Form MU4 (Application) on NMLS.

8 D. Financial Code sections 22109.1, subdivision (a)(3), and 50141, subdivision (a)(3), state
9 that the Commissioner shall deny a MLO application unless the Commissioner finds that:

10 The applicant has demonstrated such financial responsibility, character, and
11 general fitness as to command the confidence of the community and to
12 warrant a determination that the mortgage loan originator will operate
13 honestly, fairly, and efficiently within the purposes of this division.

13 E. Hugues responded “No” to Criminal Disclosure Question H (1): “Have you ever been
14 convicted of or pled guilty or nolo contendere (‘no contest’) in a domestic, or military court or
15 conspiring to commit a misdemeanor involving . . . (iii) fraud . . . (iv) theft or wrongful taking of
16 property . . . (vii) forgery [?]”

17 F. The Commissioner conducts independent investigations of the MLO applications filed
18 with the Department. Hugues’ background check disclosed the following misdemeanor convictions:
19 intent to defraud (6/17/03), larceny (2/13/06), theft (11/24/08), theft (12/3/08), and identity theft
20 (1/6/12).

21 G. On or around February 5, 2021, Program placed a license item on NMLS for Hugues to
22 amend her MLO Application. Program also spoke to Hugues by telephone and told her that her
23 convictions must be disclosed and to provide the applicable court documents on NMLS.

24 H. On or around March 8, 2021, Hugues filed an amended Application and changed her
25 “No” response to “Yes” to Criminal Disclosure Question H (1). Hugues uploaded court records and
26 provided explanations for her convictions: intent to defraud (6/17/03), larceny (2/13/06), theft
27 _____

28 ¹ NMLS stands for Nationwide Multistate Licensing System & Registry and is the system of record for non-depository, financial services licensing or registration in participating agencies, including the District of Columbia and U.S. Territories of Puerto Rico, the U.S. Virgin Islands, and Guam. In these jurisdictions, NMLS is the official system for companies and individuals seeking to apply for, amend, renew, and surrender licenses authorities managed through NMLS.

1 (11/24/08), and theft (12/3/08). Court documents showed that Hugues had these misdemeanor
2 convictions expunged.

3 I. On or around May 6, 2021, Hugues filed an amended Application and uploaded court
4 records for her 2012 identity theft conviction on NMLS. That same day, Hugues filed a petition for
5 dismissal and the court expunged this misdemeanor conviction.

6 J. Hugues is sponsored by Centurywide Group, Inc., a CFL licensee and she does not
7 have any outstanding bankruptcies, judgements, or liens.

8 K. The Commissioner finds that entering into this Consent Order is in the public interest
9 and consistent with the purposes fairly intended by the policy and provisions of the CFL and CRMLA.

10 L. NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
11 set forth herein, the Parties agree as follows:

12 **II.**

13 **Terms and Conditions**

14 1. Purpose. This Consent Order resolves the issues before the Commissioner in a manner
15 that avoids the expense of a hearing and other possible court proceedings, protects consumers, is in the
16 public interest, and is consistent with the purposes and provisions of the CFL and CRMLA.

17 2. Approval of MLO Application. The Commissioner hereby acknowledges that
18 Hugues' MLO application is ready to be approved as a restricted license, and the Commissioner
19 hereby agrees to approve it concurrently with the execution of the Consent Order.

20 3. Reporting Requirement. During the 36-month period from the effective date of the
21 Consent Order, Hugues shall report to the Commissioner within 30 days any disciplinary
22 investigations or actions against her by any licensing agencies, any criminal investigations,
23 prosecutions, convictions, or any civil judgments against Hugues. Traffic citations shall be excluded.

24 4. Revocation of License. Hugues agrees that for the 36-month period from the effective
25 date of the Consent Order, should the Commissioner make a finding that Hugues has violated or is
26 violating any provision of the CFL, the CRMLA, or any rule, regulation, or law under the
27 jurisdiction of the Commissioner, the state of California, the United States of America, and every
28 state and foreign government (and political subdivision thereof), the Commissioner may, in her

1 discretion, automatically revoke any license held by or deny any pending application(s) of Hugues.
2 Hugues hereby waives any notice and hearing rights to contest such revocation or denial(s) which
3 may be afforded to her under the CFL, CRMLA, APA, CCP, or any other provision of law in
4 connection with this matter. Hugues further expressly waives any requirement for the filing of an
5 accusation under Government Code section 11415.60, subdivision (b), in connection with the
6 Commissioner's revocation of her license under this paragraph.

7 5. Continuing Education. Hugues agrees to annually take at least 12 hours of continuing
8 education offered by a NMLS approved vendor for the next 36 months and agrees to submit proof of
9 compliance to the Commissioner. The first report is due on April 1, 2023. The second report is due on
10 April 1, 2024. The third report is due on April 1, 2025. Should the reporting deadline fall on a
11 Saturday, Sunday, or state holiday, the report must be received by the Commissioner's agent by the
12 following business day. Proof of compliance shall be submitted annually to Senior Counsel
13 Vanessa T. Lu, Vanessa.Lu@dfpi.ca.gov, and Financial Institutions Manager Geraldine Young,
14 Geraldine.Young@dfpi.ca.gov.

15 6. Reimbursement of Litigation Costs. Hugues shall reimburse the Commissioner for
16 litigation costs incurred and shall pay \$2,500 to the Commissioner no later than 30 days after the
17 effective date of this Consent Order as defined in paragraph 27. The litigation costs must be made
18 payable in the form of a cashier's check to the Department of Financial Protection and Innovation, and
19 to the attention of Accounting – Litigation, at the Department Financial Protection and Innovation,
20 2101 Arena Boulevard, Sacramento, California 95814. Notice of the payment must be sent
21 concurrently to Senior Counsel, Vanessa T. Lu at Vanessa.Lu@dfpi.ca.gov.

22 7. Waiver of Hearing Rights. Hugues acknowledges that the Commissioner is ready,
23 willing and able to proceed with the administrative enforcement action described above in Paragraphs
24 A-L, and Hugues hereby waives the right to a hearing, and to any reconsideration, appeal, or other
25 right to review which may be afforded pursuant to the CFL; the California Administrative Procedure
26 Act, the California Code of Civil Procedure, or any other provision of law; and by waiving such rights,
27 Hugues effectively consents to this Consent Order becoming final.

28 8. Consent Order Coverage. The parties further acknowledge that this Consent Order is
intended to constitute a full, final, and complete resolution of the matter set forth herein.

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2 9. Failure to Comply with Consent Order. Hugues agrees that if she fails to comply with
3 the terms of this Consent Order, the Commissioner may, in addition to all other available remedies it
4 may invoke under the CRMLA and CFL, summarily suspend/revoke the MLO license of Hugues until
5 Hugues is in compliance. Hugues waives any notice and hearing rights to contest such summary
6 suspensions which may be afforded under the CFL, CRMLA, the California Administrative Procedure
7 Act, the California Code of Civil Procedure, or any other provision of law in connection therewith.

8 10. Information Willfully Withheld or Misrepresented. This Consent Order may be revoked
9 and the Commissioner may pursue any and all remedies available under law against Hugues if the
10 Commissioner discovers that Hugues knowingly or willfully withheld or misrepresented information
11 used for and relied upon in this Consent Order.

12 11. Future Actions by Commissioner. The Commissioner reserves the right to bring any
13 future actions against Hugues, or any of its partners, owners, officers, shareholders, directors,
14 employees or successors for any and all unknown violations of the CFL and CRMLA.

15 12. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's
16 ability to assist a government agency (whether city, county, state, or federal) with any administrative,
17 civil or criminal action brought by that agency against Hugues or any other person based upon any of
18 the activities alleged in this matter or otherwise.

19 13. Headings. The headings to the paragraphs of this Consent Order are inserted for
20 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
21 the provisions hereof.

22 14. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
23 interest.

24 15. Reliance. Each of the parties represents, warrants, and agrees that in executing this
25 Consent Order it has relied solely on the statements set forth herein and the advice of its own counsel.
26 Each of the parties further represents, warrants, and agrees that in executing this Consent Order no
27 reliance on any statement, representation, or promise of any other party, or any other person or entity
28 not expressly set forth herein, or upon the failure of any party or any other person or entity to make
any statement, representation or disclosure of anything whatsoever. The parties have included

1 this clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute
2 this Consent Order; and (2) to preclude the introduction of parol evidence to vary, interpret,
3 supplement, or contradict the terms of this Consent Order.

4 16. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
5 this Consent Order will be valid or binding unless it is in writing and signed by each of the parties. The
6 waiver of any provision of this Consent Order will not be deemed a waiver of any other provision. No
7 waiver by either party of any breach of, or of compliance with, any condition or provision of this
8 Consent Order by the other party will be considered a waiver of any other condition or provision or of
9 the same condition or provision at another time.

10 17. Governing Law. This Consent Order will be governed by and construed in accordance
11 with California law. Each of the parties hereto consents to the jurisdiction of such court, and hereby
12 irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the
13 maintenance of such action or proceeding in such court.

14 18. Counterparts. This Consent Order may be executed in one or more separate
15 counterparts, each of which when, so executed, shall be deemed an original. Such counterparts shall
16 together constitute a single document.

17 19. Effect Upon Future Proceedings. If Hugues applies for any license, permit or
18 qualification under the Commissioner's current or future jurisdiction, or is the subject of any future
19 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be
20 admitted for the purpose of such application(s) or enforcement proceedings(s).

21 20. Voluntary Agreement. Hugues enters into this Consent Order voluntarily and without
22 coercion and acknowledges that no promises, threats or assurances have been made by the
23 Commissioner or any officer, or agent thereof, about this Consent Order. The parties each represent
24 and acknowledge that he, she, or it is executing this Consent Order completely voluntarily and without
25 any duress or undue influence of any kind from any source.

26 21. No Presumption Against Drafting Party. Each party acknowledges that it has had the
27 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the parties
28 intend that no presumption for or against the drafting party will apply in construing any part of this

1 Consent Order. The parties waive the benefit of Civil Code section 1654 as amended or corresponding
2 provisions of any successor statute, which provide that in cases of uncertainty, language of a contract
3 should be interpreted most strongly against the party that caused the uncertainty to exist.

4 22. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
5 has received independent advice from its attorney(s) and/or representatives with respect to the
6 advisability of executing this Consent Order.

7 23. Full Integration. This Consent Order is the final written expression and the complete
8 and exclusive statement of all agreements, conditions, promises, representations, and covenants
9 between the parties with respect to the subject matter hereof, and supersedes all prior or
10 contemporaneous agreements, negotiations, representations, understandings, and discussions between
11 and among the parties, their respective representatives, and any other person or entity, with respect to
12 the subject matter covered by the Consent Order.

13 24. Notice. Any notices required under the Consent Order shall be provided to each party at
14 the following addresses:

15 To Respondent: Nicole Marie Hugues
16 [Redacted]
17 [Redacted]

18 To the Commissioner: Vanessa T. Lu, Senior Counsel
19 Department of Financial Protection and Innovation
20 1455 Frazee Road, Suite 315
21 San Diego, California 92108
22 Vanessa.Lu@dfpi.ca.gov

23 25. Signatures. A fax or electronic mail signature shall be deemed the same as an original
24 signature.

25 26. Public Record. Hugues hereby acknowledges that this Consent Order is and will be a
26 matter of public record.

27 27. Effective Date. This Consent Order shall become final and effective when signed by
28 all parties and delivered by the Commissioner’s agent via e-mail to Hugues at
[Redacted]

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28. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Consent Order and undertake the obligations set forth herein.

IN WITNESS WHEREOF, the parties hereto have approved and executed the Consent Order on the dates set forth opposite their respective signatures.

Dated: March 15, 2022

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: March 15, 2022

By _____
NICOLE MARIE HUGUES
An Individual Respondent