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

12	In the Matter of:	)	OAH CASE NO. 2022050793
13)	
14	THE COMMISSIONER OF FINANCIAL	)	NMLS NO.: 2174666
15	PROTECTION AND INNOVATION,	)	FIRST AMENDED STATEMENT OF ISSUES
16	Complainant,)	
17	v.	)	Hearing Dates: September 20-21, 2022
18	ASHKAN DERAKHSHAN,	)	Hearing Time: 9:00 a.m.
19	Respondent.	)	Location: Los Angeles office of the
20		)	Office of Administrative
21		)	Hearings
22		)	Telephone or Videoconference
23)	
24		)	Judge: Unassigned
25)	

22 Clothilde V. Hewlett, the Commissioner of Financial Protection and Innovation
23 (Commissioner), is informed and believes, and based on such information and belief, alleges and
24 charges Respondent Ashkan Derakhshan (Derakhshan) as follows.

25 **I.**

26 **Jurisdiction**

27 1. The Commissioner has jurisdiction over the licensing and regulation of persons and
28 entities engaged in the business of making, brokering or servicing residential mortgage loans,

1 including mortgage loan originators, under the California Financing Law (CFL) (Cal. Fin.
2 Code § 22000, et seq.) and California Residential Mortgage Lending Act (CRMLA) (Cal. Fin. Code
3 § 50000, et seq.). The Commissioner is authorized to administer the CFL, CRMLA, and the rules
4 and regulations promulgated in Title 10 of the California Code of Regulations.

5 2. In July of 2021, Derakhshan applied for a mortgage loan originator (MLO) license
6 with the Commissioner by filing a uniform application form (Form MU4) through the Nationwide
7 Mortgage Licensing System & Registry (NMLS).

8 3. Under the provisions of Financial Code sections 22109.1, 22172, 50141, and 50513,
9 the Commissioner brings this action to deny Derakhshan's pending MLO license application
10 because Derakhshan has not demonstrated such financial responsibility, character, and general
11 fitness to command the confidence of the community and to warrant a determination that he will
12 operate honestly, fairly, and efficiently as an MLO.

13 II.

14 Statement of Facts

15 *2017 Department of Real Estate Revocation Proceedings*

16 4. Derakhshan was originally licensed by the Bureau of Real Estate (now the
17 Department of Real Estate or DRE) as a real estate salesperson on or about October 15, 2007, and
18 as a broker on or about August 27, 2012. On August 7, 2017, the DRE filed an Accusation against
19 Derakhshan in case number CalBRE No. H-40740 LA, seeking to revoke his DRE-issued licenses
20 due to various violations of the Real Estate Law (REL) and its related regulations.

21 5. The DRE's Accusation against Derakhshan proceeded to a hearing before the Office
22 of Administrative Hearings on January 3-4, 2018, with Administrative Judge Thomas Heller
23 presiding in case number OAH No. 201781115. Judge Heller issued a Proposed Decision in the
24 matter on February 2, 2018. The Proposed Decision found that the DRE had established five causes
25 for discipline by clear and convincing evidence, including:

26 (1) Derakhshan failed to maintain accurate trust fund records in violation of Cal.

27 Bus. & Prof. Code § 10145(g) and Cal. Code Regs. tit. 10, § 2831(a);

28 (2) Derakhshan failed to designate an account as a trust account in violation of

- 1 Cal. Bus. & Prof. Code § 10145(a)(1) and Cal. Code Regs. tit. 10, § 2832(a);
2 (3) Derakhshan comingled his own money with the property of others which was
3 received and held by him, in violation of Cal. Bus. & Prof. Code §§ 10176(e)
4 and 10145, as well as Cal. Code Regs. tit. 10, § 2832;
5 (4) Derakhshan willfully failed to maintain a definite place of business in
6 violation of Cal. Bus. & Prof. Code §§ 10162(a) and 10177(d), as well as Cal.
7 Code Regs. tit. 10, § 2715; and
8 (5) Derakhshan willfully failed to maintain and produce records in violation of
9 Cal. Bus. & Prof. Code §§ 10148(a) and 10177(d).

10 6. The Proposed Decision also noted that Derakhshan was a “poor candidate” for the
11 lesser penalty of a restricted license under the REL, stating that that Derakhshan’s “unchanged,
12 obstinate attitude would likely impede compliance with the terms of restriction and the [DRE’s]
13 oversight of his compliance with those terms, presenting a risk to the public and hindering his
14 rehabilitation.” Judge Heller concluded that, given Derakhshan’s conduct, “the public cannot be
15 protected by any level of discipline short of revocation.”

16 7. In addition to revoking Derakhshan’s license, the Proposed Decision also required
17 that Derakhshan must pay the DRE \$8,902.79 in audit, investigation, and prosecution costs. The
18 Proposed Decision required that Derakhshan pay those costs within 30 days of the effective date of
19 the Decision.

20 8. On February 22, 2018, the DRE adopted the Proposed Decision, noting that the
21 Decision would become effective on March 19, 2018. On March 19, 2018, Derakhshan petitioned
22 for reconsideration of the Decision. Finding no good cause to reconsider, the DRE denied
23 Derakhshan’s petition on March 23, 2018.

24 *Derakhshan Fails to Pay the Audit, Investigation, and Prosecution Costs*

25 9. As noted above, the Decision required Derakhshan to pay the DRE \$8,902.79 in
26 audit, investigation, and prosecution costs within 30 days of the effective date of the Decision.

27 10. As of the date of this pleading, Derakhshan has failed to pay those audit,
28 investigation, and prosecution costs to the DRE.

Derakhshan’s MLO Application

11. Derakhshan submitted an MLO application to the Commissioner in July of 2021.

12. In the section of the MU4 allowing applicants to explain affirmative answers to disclosure questions, in an explanation that Derakhshan titled “Outrageous Accusations,” he on multiple occasions characterized the previous OAH proceedings against him as a “kangaroo court” and brazenly claimed that the DRE’s lawyer in those proceedings “committ[ed] every unethical/fraudulent act to falsely and outrageously accuse me.”

III.

Failure to Meet Minimum Criteria for Licensure – Financial Responsibility, Character and General Fitness

13. The Commissioner must deny an application for an MLO license if the applicant fails to demonstrate 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. Cal. Fin. Code §§ 22109.1(a)(3), 22172(a)(2), 50141(a)(3), 50513(a)(2).

14. Moreover, sections 1422.6.2 and 1950.5.2 of title 10 of the California Code of Regulations both provide that an applicant for an MLO license may be precluded from obtaining a license where his personal history includes any “liens or judgments for fraud, misrepresentation, dishonest dealing, and/or *mishandling of trust funds*.” Cal. Code Regs. tit. 10, § 1422.6.2; §1950.122.5.2. (emphasis added).

15. As described above, Derakhshan’s REL licenses were revoked upon the DRE’s request and after notice and hearing in 2018. As a result of that 2018 hearing, Administrative Law Judge Heller found that Derakhshan had committed five separate violations of the REL. Three of these violations involved violations of trust fund handling laws, and the remaining two violations were found to be willful.

16. Judge Heller also held that Derakhshan could not continue to hold a license without presenting a danger to the public. Judge Heller further found that Derakhshan’s violations, coupled

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1 with his obstinate attitude, made the imposition of any penalty less than complete revocation of his
2 DRE licenses inappropriate. Derakhshan’s DRE licenses have not been reinstated since then.

3 17. Judge Heller’s assessment of Derakhshan’s attitude and character appear to be
4 consistent with filings submitted by Derakhshan in his MU4. For example, in response to MU4
5 Regulatory Action Questions (K)(5), (6), and (9), Derakhshan still refuses to accept OAH final
6 decision revoking his DRE licenses, characterizing previous administrative proceedings against him
7 as “a kangaroo court” and brazenly claiming that that the DRE’s attorney “committ[ed] every
8 unethical/fraudulent act to falsely and outrageously accuse me” during those proceedings.

9 18. Moreover, although Judge Heller’s Decision revoking Derakhshan’s license required
10 Derakhshan to pay the DRE audit, investigation, and prosecution costs of \$8,902.79 within 30 days
11 of the Decision’s effective date, after more than four years, and as of the date of this pleading, he
12 still has not paid those costs.

13 19. As noted above, sections 1422.6.2 and 1950.122.5.2 of title 10 of the California
14 Code of Regulations provide that an MLO applicant may be precluded from receiving a license
15 where his personal history includes any liens or judgments for mishandling of trust funds. Judge
16 Heller’s Decision revoking Derakhshan’s license found three violations of trust fund handling laws.

17 20. Accordingly, Derakhshan has not demonstrated such financial responsibility,
18 character, and general fitness as to command the confidence of the community and to warrant a
19 determination that he will operate honestly and truthfully as an MLO, as required by Financial Code
20 sections 22109.1(a)(3) and 50141(a)(3).

21 21. For these reasons, Derakhshan does not meet the minimum criteria for licensure
22 under the CFL and CRMLA, and the Commissioner must deny Derakhshan’s application for an
23 MLO license.

24 **IV.**
25 **Prayer**

26 For the reasons set forth above, the Commissioner finds that Ashkan Derakhshan has not
27 demonstrated the financial responsibility, character, and general fitness required under Financial

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Code sections 22109.1(a)(3) and 50141(a)(3). Accordingly, the Commissioner has grounds for denying Derakhshan’s MLO license application.

WHEREFORE IT IS PRAYED that the mortgage loan originator license application filed by Ashkan Derakhshan be denied.

Dated: July 28, 2022
Los Angeles, CA

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

By _____
Taylor Steinbacher
Senior Counsel
Enforcement Division