

BEFORE THE  
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
STATE OF CALIFORNIA

In the Matter of:

COMMISSIONER OF FINANCIAL PROTECTION  
AND INNOVATION,

Complainant,

v.

JONATHAN BENNETT,

Respondent.

Agency No. 169793

OAH No. 2022020164

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Department of Financial Protection and Innovation, with the following technical or other minor changes, as its Decision in the above-entitled matter.

- a. Factual Findings, #12, line 1, p.S: amend 2022 to 2011
- b. Factual Findings, #30, line 3, p. 9: add "from" before OAH
- c. Factual Findings, #31, line 1, p. 9: add "on" before "behalf"
- d. Factual Findings, #56, line 2, p. 15: amend misrepresentation to misrepresentations
- e. Legal Conclusions, #3, line 1, p. 20: amend subdivision (c) to subdivision (a)(3)

This Decision shall become effective on December 5, 2022.

IT IS SO ORDERED THIS 4th day of November, 2022.

  
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CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation



**BEFORE THE  
DEPARTMENT OF FINANCIAL PROTECTION  
AND INNOVATION  
STATE OF CALIFORNIA**

**In the Matter of:**

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

**Complainant,**

**v.**

**JONATHAN BENNETT, Respondent.**

**Agency Case No. 1584944**

**OAH No. 2022020164**

**PROPOSED DECISION**

Irina Tentser, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on June 21, June 29, and July 8, 2022.

Jari Binder, Counsel, and Joanne Ross, Senior Counsel, represented Complainant.

Patrick Thomas Santos, Attorney represented Jonathan Bennett (Respondent).

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on July 8, 2022.

## **SUMMARY**

Respondent applied to the Commissioner of the Department of Financial Protection and Innovation (Commissioner) for a mortgage loan originator (MLO) license. The Commissioner seeks to deny the issuance of Respondent's license on a number of legal bases stemming from: a 2012 civil judgment entered against Respondent; the revocation of other licenses held by Respondent with the State of California which were revoked due to his misconduct; and Respondent's material misstatements in his MLO application, which were not corrected by Respondent as of the date of hearing in this matter.

As a result, the Commissioner did not find Respondent had the requisite responsibility, character, and general fitness to command and warrant a determination that Respondent would operate honestly, fairly, and efficiently within the purposes of the MLO licensing laws, as required under Financial Code sections 22109.1 and 50141, and California Code of Regulations, title 10, section 1422.6.2.

In addition, the Commissioner seeks to deny Respondent's MLO Application pursuant to Financial Code sections 22172 and 50513 based on Respondent's withholding of information and/or material misstatement in his MLO Application.

Respondent presented evidence in mitigation and rehabilitation at hearing . He either disputed, minimized, or deflected his responsibility for and the accuracy of prior regulatory actions and the civil action and judgment against him. Respondent asserts

the Commissioner is incorrect in DFPI's assessment that he does not qualify for an MLO license and Respondent is entitled to have his MLO Application granted.

However, the evidence proves that the Commissioner may deny Respondent's application based on the disciplinary actions and the civil judgment against Respondent. Further, Respondent's application contains false statements denying disciplinary actions and the civil judgment. Respondent did not correct the misrepresentations in his application until this hearing commenced, and Respondent presented no convincing evidence of rehabilitation from his misconduct. Therefore, on this record, Respondent's application for his MLO license will be denied.

## **FACTUAL FINDINGS**

### **Jurisdiction and Background**

1. On March 11, 2019, Respondent filed an MLO Application to obtain an MLO license from the Commissioner of the Department of Financial Protection and Innovation (Department or DFPI).

2. On December 6, 2021, Jari M. Binder, acting solely in her official capacity as counsel for the Department, executed the Statement of Issues In Support of Notice Of Intention to Issue Order Denying Mortgage Loan Originator Application on behalf of complainant Clothilde v. Hewlett, Commissioner of Financial Protection and Innovation for DFPI (Commissioner or Complainant), State of California.

3. On February 24, 2022, the Amended Statement of Issues (Amended SOI) (the operative pleading) was executed by Ms. Binder on behalf of Complainant.

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4. Respondent timely filed a Notice of Defense in which he requested a hearing to present his defense or matters in mitigation or extenuation to the allegations in the Amended SOI. This hearing resulted.

## **Background**

5. As relevant to this proceeding, the Commissioner licenses and regulates mortgage loan originators under California Financial law (CFI) (Fin. Code, § 22000 et seq.). The Commissioner also licenses and regulates mortgage loan originators under the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.).

6. An individual must submit a uniform application form (known as a MU2 or MU4 Form) through the Nationwide Multistate Licensing System & Registry (NMIS) to become licensed as an MIO. An applicant is fully responsible for all requirements of the license. A checklist of items to be completed by the applicant is contained in the NMIS set of instructions for filing license applications.

7. An MIO license shall be denied by the Commissioner unless the Commissioner makes minimum findings that: the applicant demonstrates such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently within the purposes of the MIO licensing laws.

8. The Commissioner did not find Respondent had the responsibility, character, and general fitness to command the confidence of the community and to warrant a determination Respondent will operate honestly, fairly, and efficiently within the purposes of the MIO licensing laws, pursuant to Financial Code (Code) sections 22109.1 and 50141, and California Code of Regulations (Regulations), title 10, section 1422.6.2.

9. Further, the Commissioner has discretion and may deny the issuance of an MLO license if the applicant withholds information or makes a material misstatement in his MLO Application pursuant to Code sections 22172 and 50513. The Commissioner also seeks to deny Respondent's MLO Application based on Respondent's material misstatements and withholding of information, in his MLO Application.

## **2012 Civil Judgment**

10. On August 26, 2011, a verified first amended complaint was filed in Los Angeles County Superior Court in the matter of *Vasseghi v. Sam Myers, et al.*, (Case No. 8C466267}, naming Respondent as a defendant in financial misconduct claims including fraud, break of oral contract, conversion, injunctive relief, breach of fiduciary duty, and unfair competition.

11. The complaint in Case No. 8C466267 alleged Respondent made false representations to obtain Plaintiff's investment and attempted to unilaterally close a joint bank account containing Plaintiff's funds. In addition, the complaint alleged Respondent breached his fiduciary duty by: embezzling and diverting payments for personal use, failing to account for payment received, closing a bank account after withdrawing funds, preventing shareholders from having access to corporate documents, information, and records, and falsifying Plaintiff's signature.

12. On October 4, 2022, Respondent's counsel was served with Request for Entry of Default in Case No. 8C466267.

13. April 2, 2012, Respondent was served with the Request for Default in Case No. 8C466267.

14. On May 8, 2012, a hearing was held on Plaintiff's application for default judgment in Case No. BC466267. Respondent did not appear at the hearing.

15. June 20, 2012, the Los Angeles County Superior Court entered a Default Judgment (judgment) in Case No. BC466267 against Respondent (also known as Jonathan Azarakshshi) and his co-defendant, Sam Myers, aka Kourosh Azarakshshi (Respondent's father), in the amount of \$ 451,920.

16. In its Order entering the judgment, the Court found as follows:

It appearing from the records in the above-entitled action that the Summons and Complaint have been served upon Defendants named below, and it further appearing from the Declaration of Counsel for Plaintiff, and other evidence as required by applicable sections of the Code of Civil Procedure and Rules of Court that each of the below Defendants has failed to plead, or otherwise defend in said action as directed in aforesaid Summons/Complaint, and as provided in the Code of Civil Procedure .

(Exhibit 10, p. DFOI0000171.)

17. Respondent did not appeal the judgment to any court of competent jurisdiction. The judgment is final.

18. On May 3, 2014, Respondent paid Plaintiff's counsel \$40,000 to satisfy the judgment. (Exhibit I.) On June 20, 2014, Mr. Myers satisfied the judgment in full when the judgment creditor accepted payment or performance other than that specified in the judgment in full satisfaction of the judgment. (Exhibit J.)

## 2015 Department of Real Estate (DRE) Regulatory Action

19. Respondent is the sole owner, officer and director of Pacific Equity Business Corporation (Pacific Equity). Pacific Equity was previously licensed by the DRE. Mr. Myers was Pacific Equity's real estate broker.

20. On May 14, 2015, an Accusation was issued against Mr. Myers and Pacific Equity, action number H-39834 LA, subjecting their real estate licenses to disciplinary action for misappropriation of client funds in violation of Business and Professions Code sections 10145, subdivision (a), 10176, subdivision (i), and 10177, subdivision (d). (Exhibit 10, p. DFPI000173.) (DRE Action)

21. On August 19, 2015, a hearing was held before OAH in the DRE Action before an administrative law judge on the Accusation. Mr. Myers appeared on behalf of himself and Pacific Equity, as its designated officer. Respondent did not appear at the hearing. (Exhibit 10, p. DFPI000178.)

22. On September 4, 2015, a Proposed Decision was issued in the matter ordering the revocation of both Pacific Equity's and Mr. Myer's real estate licenses and assessing penalties in the amount of \$3,288.80. (Exhibit 10, p. DFPI000178.)

23. The decision was based on findings including that Pacific Equity failed to comply with statutory requirements to maintain a trust account and failed to return an earnest money deposit. Specifically, a customer entrusted his money to Respondent's company, Pacific Equity, for Pacific Equity to keep in an escrow account. Instead, Pacific Equity's broker, Mr. Myers, took the customer's money. (Exhibit 10, p. DFPI000180.) Mr. Myers subsequently gave the customer a check for \$10,000 from an account that had insufficient funds and was ultimately closed. The DRE found that in



trying to retrieve his money, the customer contacted Pacific Equity to attempt to get his money back and received no response from Pacific Equity. (*Ibid*)

24. The customer filed a civil judgment against Mr. Myers and Pacific Equity. (Exhibit 10, p. DFPI000180.) On April 30, 2014, the customer won a civil judgment against both Pacific Equity and Mr. Myers. The customer eventually satisfied the judgment through a bank *levy* in 2015.

25. By Decision dated September 25, 2015, effective November 3, 2015, the DRE revoked Pacific Equity's and Mr. Myers' real estate licenses. (Exhibit 10, p. DFPI000185.) The DRE cited protection of the public when it revoked Pacific Equity's license.

26. No appeal of the Decision was filed by Pacific Equity to a court of competent jurisdiction. The Decision is final.

## **2019 Regulatory Action by the Department**

27. Pacific Equity is a finance lender which was previously licensed by the Commissioner (CFL license No. 603-L032), pursuant to the CFL.

28. On January 22, 2018, Pacific Equity, acting through its principal Respondent, filed an amendment to its existing license with the Commissioner and did not disclose the DRE Action on its amendment application, though required by Regulations, section 1422.

29. Based on Respondent's failure to disclose the DRE Action against Pacific Equity on Pacific Equity's amendment application, the Department filed an Accusation to revoke Pacific Equity's CFL license (CFL Accusation). (Exhibit 16.) When he submitted the amendment application, Respondent filed the requisite form with respect to his

company, Pacific Equity 's CFL license, and Respondent attested to their accuracy. However, the forms were inaccurate because they did not disclose the DRE license revocation. The Department also sought revocation of Pacific Equity's finance lender license based on its finding that Respondent 's acts of dishonesty and misuse of client funds found in the DRE Action were substantially related to the activity regulated by the CFL and constituted grounds for the revocation of Pacific Equity's CFL license.

30. Respondent was properly served with the CFL Accusation and filed a Notice of Defense requesting an administrative hearing on Pacific Equity's behalf. (Exhibits 17 and 18.) Respondent was provided with notice OAH that a continuance could be sought for good cause. (Exhibit P, p. 81761.)

31. On December 10, 2019, no appearance was made by or behalf of Pacific Equity at the administrative hearing in the matter. (Exhibit 18.)

32. Neither Pacific Equity, nor Respondent, nor anyone acting on their behalf requested a continuance of the matter prior to the December 10, 2019 hearing. The hearing proceeded as a default pursuant to Government Code section 11520, based on Pacific Equity's failure to appear, before an OAH administrative law judge.

33. By proposed decision, the administrative law judge issued a ruling revoking Pacific Equity's CFL license, and the Commissioner adopted the administrative judge's ruling. (Exhibit 18.)

34. On or about June 8, 2020, Pacific Equity, through Respondent's counsel in this matter, filed a Petition for Reconsideration, Or Any Alternative Relief with OAH. (Exhibit P.)

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35. As part of the Petition, Respondent submitted a declaration in which he admitted not attending the December 10, 2019 hearing and failing to notify "anyone I would not the [sic attending and/or seeking a continuance for good cause." (Exhibit N.) Respondent attributed his failure to attend the hearing on his father's December 4, 2019 hospitalization for several days. (/d) It was not established at the hearing in this matter that Respondent's father was hospitalized on the date of hearing, December 10, 2019.

36. In the Petition, Pacific Equity admitted it had failed, as of the date of the Petition, to disclose the DRE Action to the Department in an amended MUI application submission as previously suggested by the Department's Senior Examiner, ██████████

- which led to the recommendation that the Department initiate a revocation action. (Exhibit P, p. B1764.)

37. On July 14, 2020, Pacific Equity filed a verified Petition for Administrative Mandamus pursuant to Government Code section 11523 with the Los Angeles Superior Court, requesting the Superior Court compel the Commissioner to reconsider the decision to revoke Pacific Equity's finance lender's license. (Exhibit Q.)

38. On June 3, 2021, a hearing was conducted on the writ of mandamus with Respondent's counsel appearing on behalf of Pacific Equity . On July 8, 2021, the court denied the writ of mandamus. (Exhibit 10, p. DFPI000188.)

39. The decision 2019 by the Department revoking Pacific Equity's CFL license is final.

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## **March 14, 2019 Department Desist and Refrain Order**

40. At relevant times, Respondent was the president of Pacific Equity Food and Beverage Inc., doing business as Attibassi (Pacific Equity Inc.).

41. On March 14, 2019, the Department issued a Desist and Refrain Order (2019 Desist and Refrain Order) against Pacific Equity Inc. (Exhibit 15.)

42. After multiple unsuccessful attempts to serve Respondent, the 2019 Cease and Desist Order was served on Respondent on June 7, 2019.

43. Respondent did not request a hearing to appeal the 2019 Desist and Refrain Order. It is now final.

44. The Desist and Refrain Order was based on Pacific Equity Inc. offering franchises in California in 2015 which were subject to registration under the Franchise Investment Law (FIL), without the offers being registered or exempt, in violation of Corporations Code section 31110. In addition, in 2015 and 2016 and in connection with the offers and sales of the franchises, Pacific Equity made untrue statements of material facts or omitted to state a material fact, in violation of Corporations Code section 31201.

45. As established by the finding of the Desist and Refrain Order, Pacific Equity's Inc.'s material misrepresentations and omissions included but were not limited to: overstating the profitability of the franchise; understating initial investment costs and expenses relating to consumables and equipment pricing; and exaggerating the success of the Attibassi franchise business model in California. Pacific Equity Inc. also promised a prospective franchisee a commercial loan to purchase a franchise in

California, and after selling the franchise, Pacific Equity Inc. failed to provide the loan to the franchisee.

46. As of the date of hearing in this matter, Respondent has not complied with portions of the Desist and Refrain Order, including the payment of penalties.

### **Respondent's Materially Incorrect MLO Application**

47. On March 11, 2019, Respondent filed his MLO Application with the Commissioner (NMLS file number 1584944) by submitting a Form MU4 through the NMLS pursuant to Financial Code sections 22109.6 and 50140. (Exhibit 25.) Respondent attested to the truthfulness of his full application. (*Id* at p. DFPI000331.)

48. On April 2, 2019, Respondent filed an amendment to his MLO Application by authorizing \_\_\_\_\_ of Premier Mortgage Resource, LLC, to file the amendment on his behalf. (Exhibit 26.) Respondent, as the "Applicant" is responsible for the accuracy of the information submitted in his MLO Application. As the application's Attestation states, "[I]f [Respondent] has made a false statement of a material fact in this application or in any documentation provided to support [*sicj*] the foregoing application, then the foregoing application may be denied [*sicj*]" (*Id* at p. DFPI000342.)

49. On March 10, 2021, Respondent filed an amendment to his MLO Application. (Exhibit 27.) Respondent attested to the truthfulness of his full application. (*Id* at p. DFPI000351-DFPI000352.)

50. On March 15, 2021, Respondent filed an amendment to his MLO Application. (Exhibit 28.) Respondent attested to the truthfulness of his full application. (*Id* at p. DFPI000363 -DFPI000364.)

51. . In the original Form MU4 filed in March 2019 and the subsequent updates through March 15, 2021, Respondent answered "No" to Form MU4 Regulatory Action Disclosure Question (M). Question (M) asks:

(B) Based upon activities that occurred while you exercised control over an organization, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever taken any of the actions listed in (K) through (L) above against any organization?

(Exhibit 25, p. A326.)

52. Regulatory Action Disclosure Question K(1) through K(9) of Form MU4 states, in relevant part.

(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?

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

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

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

(5) revoked your registration or license? [11] ... [11]

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

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

(Exhibit 25, pp. A325-A326.)

53. On December 21, 2021, Respondent's counsel advised Respondent, in an e-mail correspondence titled, "RE: MU4 Answers & Responses," that Respondent needed to change his answers from "No" to "Yes" in the Financial Disclosure, Regulatory Action, and Customer Arbitration/Civil Litigation Disclosure portions of his MOU Application. (Exhibit T.) Respondent was notified he needed to change his answers in Financial Disclosures, sections (D) and (J)(1)(b), Regulatory Action, sections (K)(2), (K)(3), and **(K)(4)**, and Customer Arbitration/Civil Litigation Disclosure, (2). (*Id*) Respondent's counsel further notified Respondent he needed to not only change his responses but include documents in "the explanation form" of Respondent's MOU Application as follows: "the attached stipulated judgment," "the attached DRE action, Antibassi cease and desist order, and the most recent decision and order regarding the Sam Myers incident and non- disclosure from last couple years," "the other default and judgments attached to this email." (*Ibid*)

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54. On February 27, 2022, Respondent filed an amendment to his MLO Application. (Exhibit 29.) Respondent attested to the truthfulness of his full application. (*Id* at p. DFPI000351-DFPI000352.) Despite being advised by his counsel that his MLO Application needed to be changed to include prior regulatory and civil actions against him and his companies, Respondent again failed to disclose that information on his MLO Application.

55. After February 27, 2022, there is no record of any amendment to his MOU Application filed by or on behalf of Respondent prior to the commencement of the hearing in this matter to disclose the regulatory actions taken against Pacific Equity and Pacific Equity Inc. based on activities that occurred while Respondent exercised control or civil judgment(s) against Respondent.

56. Based on Factual Findings 47 through 55, it was established Respondent made material misrepresentation and withheld information on his MLO Application by failing to disclose the DRE Action, CFL license revocation, and Desist and Refrain Order issued against Respondent's company.

57. On June 29, 2022, more than six months after being advised by his counsel that his responses on his MOU Application were inaccurate and needed to be changed and after the hearing in this matter commenced, Respondent filed an amendment to his MLO Application. (Exhibit 31.) Respondent attested to the truthfulness of his full application. (*Id* at p. A402-A403.)

58. In the June 29, 2022 MOU Application amendment, Respondent changed his responses from "No" to "Yes" in the Civil Judicial Disclosure ((J)(1)(b)), Regulatory Action ((K)(2), (K)(3), and (K)(4)), and Customer Arbitration/Civil Litigation Disclosure ((P)(2)), sections. (Exhibit 31.) Respondent included supporting files but failed to



provide detailed event explanation, other than a reference to the attachment, as required, for the supporting documents. (*Id*)

## **Respondent's Evidence in Mitigation and Rehabilitation**

59. Respondent testified at hearing in support of his MLO license application. Respondent took no meaningful personal responsibility for the civil and regulatory actions against him or his companies. In addition, Respondent deflected responsibility for the material misrepresentations and omissions in his MOU Application and subsequent amendments. He attempted to shift the obligation to provide accurate and complete answers on his MLO Application onto the Department. Respondent perceives himself as a victim. He is either unable or unwilling to accept that it is his responsibility, as the license applicant, to provide accurate information to the Department on his MLO Application. Respondent provided no reasonable basis for failing to take reasonable steps, such as contacting the Department in response to line item communications sent to his email of record, to clarify if he had any questions about what information he was required to disclose on his MLO Application.

60. Respondent testified that after he received the December 2021 instruction from his counsel to correct his MLO Application, he submitted an amended application to the company he worked for instructing them to submit an amendment on his behalf and that the company failed to do so without his knowledge. Respondent's self-serving testimony is uncorroborated by credible evidence and is not credited. The Department has no record of any amendment to Respondent's MLO Application between February 27, 2022 and June 29, 2022.

61. Respondent argued that all of the accusations and allegations against him were false. Respondent further asserted he did not take part in any of the

proceedings in which conclusions were reached because they were taken in default against him. Respondent insisted that because he did not have an attorney and lacked understanding of how to participate in any proceeding in which conclusions were reached against him and his companies, the conclusions reached in those actions should not form a basis to deny his MLO Application. Respondent's argument on this point is unpersuasive. The evidence established Respondent is an experienced businessperson who holds both a California DRE real estate salesperson license and MLO endorsement and a Florida MLO license. His claims of ignorance of the law are not well-taken. No credible evidence was presented to support Respondent's counsel's closing argument that Respondent's English language abilities hindered his ability to provide accurate information on his MLO Application.

62. Respondent testified he could not be held personally accountable for Mr. Myers actions in the DRE Action because he was totally ignorant and innocent of those actions. Mr. Myers testified at hearing to corroborate Respondent's claims of ignorance. Mr. Myers hearing testimony, however, was vague and unreliable. For example, Mr. Myers admitted he could not recall many of the statements in his June 2020 declaration in which he attested to Respondent's ignorance of the \$10,000 money deposit that led to Mr. Myers and Pacific Equity's license revocations in the DRE Action. (Exhibit 0.) In addition, Mr. Myers testimony was clearly biased towards his son, Respondent, and is not credited.

63. Even if the assertion that Respondent was ignorant of the actions that led to his company, Pacific Equity's, license revocation, is credited, Respondent's claims of ignorance are immaterial. As the owner of Pacific Equity, Respondent is responsible for all licensed activities performed by the company, including the company's failure to maintain a client trust account. Further, the DRE Action is final and this court has no

jurisdiction to re-litigate the matter or any of the other civil judgments and regulatory actions against Respondent which forms the basis for the Commissioner's intent to deny his MLO Application.

64. Respondent's arguments that because prior regulatory and civil actions were taken against Respondent and his companies in default mitigates those regulatory actions and civil judgment is unpersuasive. The record is clear that the courts of competent jurisdiction found that jurisdictional requirements were met in those prior actions and Respondent provided no reasonable basis for failing to participate in any of the actions at the hearing in this matter. Respondent's failure to appear at or participate in those hearings does not mitigate against his underlying violations and misconduct which provided cause for the prior discipline and judgement.

65. Respondent provided no convincing evidence that governmental attorneys misrepresented to Respondent his ability to participate and ability to retain an attorney. (Exhibit 3.) Further, the evidence did not establish, as asserted by Respondent, that governmental agents provided false testimony as to Respondent. (*Id*)

66. Respondent's assertion that "personal gripes of Complaining Parties" formed the basis of the 2019 Desist and Refrain Order is unsupported by credible evidence. (Exhibit 3.)

67. Respondent testified he inadvertently omitted information on his MLO Application, arguing that the application as worded is confusing and the Department failed to apprise him of necessary information so that he could correct his application . Respondent's testimony on this point is both factually and legally unpersuasive.

Respondent is solely responsible for providing accurate information on his MLO Application. His attempt to deflect responsibility onto the Department for the accuracy of his MLO Application contents is not well-taken and exhibits Respondent's fundamental inability to be forthcoming in the information he provided to the Department during his MLO Application process.

68. Respondent failed to present credible evidence at hearing corroborating his claims that he demonstrates the requisite financial responsibility, character, and general fitness so as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently within the purposes of the MLO licensing law.

## LEGAL CONCLUSIONS

### Standard and Burden of Proof

1. Respondent bears the burden of proving that he meets all prerequisites for the requested license. (*Martin v. Alcoholic Beverage Control Appeals Bd* (1959) 52 Cal.2d 259, 265-266.) The standard of proof requires proof by a preponderance of the evidence. (Evid. Code, § 115.) "Preponderance of the evidence" has been defined as 'evidence that has more convincing force than that opposed to it.' [Citation.]" (*People ex rel. Brown v. Tri-Union Seafoods, LLC*(2009) 171 Cal.App.4th 1549, 1567.)

2. The Commissioner shall deny a mortgage loan originator license unless the Commissioner finds that the applicant has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community to warrant a determination that the mortgage loan originator will operate

honestly, fairly, and efficiently within the purposes of the applicable law. (Fin. Code, §§ 22109.1, subd. (a)(3), 50141, subd. (a)(3).)

3. Pursuant to Financial Code section 22109.1, subdivision (c), and Regulations, section 1422.6.2, subd. (a), the Commissioner required findings relate 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.

4. A mortgage loan originator license application may also be denied by the Commissioner if the applicant's personal history includes liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of funds. (Cal. Code Regs., tit. 10, § 1422.6.2, subd. (c)(1).)

5. In addition, the Commissioner may deny an MLO license application if an applicant withholds information or makes a material misstatement in an application for a license. (Fin. Code, §§ 22172, subd. (a)(2), 50513, subd. (a)(2).)

## **Causes For Denial**

### **FALSE STATEMENTS OF MATERIAL FACT IN MLO APPLICATION**

6. Cause exists to deny Respondent's MLO Application pursuant to Financial Code section 22172, subdivision (a)(2), and 50513, subdivision (a)(2). The evidence established that Respondent's MLO Application and subsequent amendments to the MLO Application through the February 27, 2022, contained false statements of material fact. Based on Factual Findings 47 through 58, the evidence established Respondent was aware of the requirements and falsehoods in his MLO Application and subsequent amendments. Despite such knowledge, Respondent chose to withhold the

information of the 2015 DRE and the 2019 CFL Revocation in the initial MLO Application, and the 2019 Desist and Refrain Order in amendments to the MLO Application, which were all issued against his companies.

7. The fact that Respondent amended his MLO Application on June 29, 2022, to include reference to the foregoing regulatory actions does not mitigate Respondent's prior false statements on his MLO Application and subsequent amendments.

8. Cause exists to deny Respondent's MLO Application because Respondent has not demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination Respondent will operate honestly, fairly, and efficiently within the purposes of the CFL and CRMLA, as required by Financial Code sections 22109.1, subdivision (a)(3), and 50141, subdivision (a)(3), based on Factual Findings 10 through 68.

## **Disposition**

9. All matters in rehabilitation and mitigation have been considered. Respondent presented no convincing evidence of the requisite licensee's qualities such that the public would be protected by Respondent's licensure by the Commissioner.

10. To the contrary, Respondent continues to deflect responsibility and fails to acknowledge his responsibility for the falsehoods in his MLO Application. Instead, Respondent blames the Department, without credible evidence, for Respondent's failure to be forthcoming. There is no credible evidence to support Respondent's contention Department regulatory staff are motivated by personal animosity against him. Rather, the evidence established that the Department is carrying out its mandate to protect the public by evaluating Respondent's MLO Application according to its

guidelines and principles. The facts and the ultimate goal of public protection militate in favor of denial of Respondent's MLO Application.

**ORDER**

Respondent Jonathan Bennett's application for a mortgage loan originator license is DENIED.

DATE: **08/01/2022**



**IRINA TENTSER**

Administrative Law Judge

Office of Administrative Hearings