

BEFORE THE
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
STATE OF CALIFORNIA

In the Matter of:

COMMISSIONER OF FINANCIAL PROTECTION
AND INNOVATION,

Complainant,

v.

JULIO GRANDA,

Respondent.

NMLS ID No. 1567460

OAH No. 2022030797

DECISION

The attached Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings, dated September 12, 2022, is hereby adopted by the Department of Financial Protection and Innovation as its Decision in the above-entitled matter, with technical and other minor changes on the attached Errata Sheet, pursuant to Government Code section 11517, subdivision (c)(2)(C).

This Decision shall become effective on January 20, 2023.

IT IS SO ORDERED THIS 5th day of January 2023.



[REDACTED]
[REDACTED]
[REDACTED]
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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.

JULIO GRANDA, Respondent.

NMLS ID No. 1567460

OAH No. 2022030797

PROPOSED DECISION

Julie Cabos-Owen, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on August 15, 2022. Clothilde V. Hewlett (Complainant), Commissioner (Commissioner) of Financial Protection and Innovation, was represented by Afsaneh Eghbaldari and Taylor Steinbacher, Counsel for the Department of Financial Protection and Innovation (Department). Julio Granda (Respondent) appeared and was represented by Steven Finley, Attorney at Law.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on August 15, 2022.

SUMMARY

The Commissioner seeks to revoke Respondent's mortgage loan originator license alleging that Respondent withheld information in his license applications regarding an unsatisfied civil judgment, regulatory action by the State of Oregon, a license application denial by the California Department of Real Estate, and tax liens. The Commissioner also alleges Respondent made material misstatements by claiming to be debt free when he had an unsatisfied judgment and an existing tax lien. Based on the alleged nondisclosure and material misrepresentation, the Commissioner asserts Respondent has not demonstrated 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 as a licensee. The Commissioner established all alleged grounds for revocation. Respondent submitted no evidence in mitigation or rehabilitation.

FACTUAL FINDINGS

Jurisdictional Matters

1. The Commissioner has jurisdiction over the licensing and regulation of persons and entities engaged in the business of making or brokering residential mortgage loans, including mortgage loan originators, under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.), and the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.). The Commissioner is authorized to

administer the CFL, CRMLA, and the rules and regulations promulgated in Title 10 of the California Code of Regulations.

2. Commissioner issued Respondent a mortgage loan originator (MLO) license on November 20, 2017.

3. On January 31, 2022, Complainant filed and subsequently served on Respondent an Accusation and Notice of Intention to revoke Respondent's MLO license.

4. On February 18, 2022, Respondent filed a Notice of Defense, and this matter was set for hearing.

MLO License Application

5. To become licensed by the Commissioner as an MLO, an individual must submit a uniform application form (Form MU4) through the Nationwide Mortgage Licensing System and Registry (NMLS). The NMLS contains a detailed set of instructions for filing license applications, including answering the Disclosure Questions, and a checklist of items to be completed and uploaded by the applicant, who is fully responsible for meeting all the requirements of the license. The Disclosure Questions in the Form MU4 must be answered truthfully and correctly. Further clarification in the Disclosure Explanations section is required for any "Yes" responses and certain "No" responses. When material changes occur, all MLO applicants and licensees are required to promptly update their responses by submitting an amended Form MU4.

6. On August 16, 2017, Respondent submitted an initial MLO license application to the Department by filing a Form MU4 through the NMLS.

7. Respondent disclosed a felony drug conviction and a bankruptcy filing in his initial MLO license application. Respondent disclosed that, on October 24, 1993, in the Justice Court of the State of São Paulo, Brazil, he was convicted of a felony drug trafficking crime and served a four-year sentence. Respondent also explained that he filed for bankruptcy "due to severe financial hardship because of the financial market meltdowns and was not able to meet certain financial obligations." (Exhibit 12, p. A186.) Respondent assured the Department, "I am now debt free, and this matter has been closed." (*Ibid.*)

8. The Commissioner approved Respondent's MLO license application on November 20, 2017.

9. From September 2017 through April 20, 2020, Respondent submitted 13 Form MU4 filings, including his initial license application. After 2020, the Department became aware that Respondent's responses to his Form MU4 disclosure questions may have been untruthful.

10. About May 2021, the Department notified Respondent that it was seeking clarification and additional information.

Failure to Disclose Civil Judgment and Misrepresentation

11. From August 2017 through April 20, 2020, Respondent submitted 13 Form MU4 filings, including his initial license application, in which he answered "No" to Question (D), which asks: "Do you have any unsatisfied judgments or liens against you?" (Exhibit 12, pp. A184, A194, A205, A217, A230, and A242; Exhibit 13, pp. A260 and A273; Exhibit 14, pp. A285, A298, and A311; Exhibit 15, pp. A324 and A338.)

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12. Respondent's answers to Question (D) were false. On July 28, 2016, the Small Claims Department of the Multnomah County, Oregon, Circuit Court entered a \$5,252 civil judgment against Respondent and in favor of United Finance Co. That judgment remains unsatisfied.

13. Respondent failed to disclose the unsatisfied judgment in his initial Form MU4, and he repeatedly failed to update the financial disclosure section in his amended and renewal Form MU4s to disclose the judgment. Instead, Respondent continued to assert he was debt free.

14. On August 13, 2021, over four years after submitting his initial license application, Respondent submitted an amended Form MU4, changing his answer to Question (D) to "Yes." (Exhibit 16, p. A351.) Respondent explained, "I've disputed this account/ debt with the creditor. I was sold a car that was a 'lemon.' I refuse to pay for a vehicle that was not operating correctly. I fought it in trial." (*Id.* at p. A354.)

15. On December 9, 2021, Respondent provided the Department with a December 6, 2021 settlement agreement letter from United Finance Co. The letter documented Respondent's unpaid account balance of \$7,750.48 and his agreement to pay United Finance Co. \$200 per month until the balance is paid in full.

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Failure to Disclose Oregon Orders

16. From September 10, 2018, through April 20, 2020, Respondent submitted six Form MU4 filings in which he answered "No" to Questions (K)(2) and (4), which ask:

Has any state or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever: [1] . . . [1]

(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)? [1] . . . [1]

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

(Exhibit 13, p. A273; Exhibit 14, pp. A286, A299, and A312; Exhibit 15, pp. A325 and A338-339.)

17. Respondent's answers to Questions (K)(2) and (K)(4) were false. On May 16, 2018, Respondent entered into a Consent to Entry of Order with the Oregon Department of Consumer and Business Services, Division of Financial Regulation (Oregon DFR). Pursuant to Respondent's signed consent, effective May 23, 2018, the Oregon DFR issued a Final Order to Cease and Desist, and Order Assessing a Civil Penalty (Oregon Orders) against Respondent and his company, JM Equity Group, LLC (JM Equity).

18. The Oregon Orders found that neither Respondent nor JM Equity were licensed as mortgage brokers or MLOs in Oregon. However, Respondent and JM Equity acted as mortgage brokers "by negotiating a mortgage loan with the

expectation of compensation" (Exhibit 22, p. A474), and Respondent acted as an MLO "by taking an application and negotiating terms for a residential mortgage." (*Ibid.*) The Oregon Orders concluded that Respondent and JM Equity violated Oregon's Mortgage Lender Law and ordered them to Cease and Desist from doing so.

19. The Oregon Orders assessed a civil penalty of \$2,500 against Respondent and JM Equity. However, the Oregon Orders suspended collection of that penalty for three years, with waiver of the penalty if Respondent and JM Equity committed no further violations during that period.

20. From September 2018 through April 2020, Respondent repeatedly failed to disclose the Oregon Orders in his Form MU4s.

21. On August 13, 2021, more than three years after the issuance of the Oregon Orders, Respondent filed an amended Form MU4 with the Department, changing his answers to Questions K(2) and (K)(4) to "Yes." In August 2021, Respondent provided the Department with a letter dated May 31, 2018, explaining the transaction prompting the Oregon Orders. He admitted charging the client a \$2,000 processing fee for the transaction, but asserted the client never paid him.

Failure to Disclose the DRE Denial of MLO License Endorsement

22. In 2021, Respondent submitted four Form MU4 filings in which he answered "No" to Question (K)(6), which asks:

Has any state or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever: . . . (6) denied or suspended your registration or license or application for licensure,

disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?

(Exhibit 16, pp. A352, A369, A384, and A398.)

23. Respondent's answers to Question (K)(6) were false. The California Department of Real Estate (DRE) had denied Respondent an MLO license endorsement in 2021.

24. On August 2, 2019, Respondent applied to the DRE for a real estate salesperson MLO license endorsement. On March 15, 2021, a DRE Special Investigator filed a Statement of Issues with the DRE alleging Respondent's application should be denied due to his failure to disclose the Oregon Orders and the 2016 small claims judgment.

25. Respondent requested an administrative hearing to contest the grounds for denial set forth in the Statement of Issues. On May 28, 2021, Respondent participated in a hearing before OAH. On September 8, 2021, the DRE adopted OAH's June 28, 2021 proposed decision denying Respondent's application for an MLO license endorsement.

26. From August 2021 through December 2021, Respondent repeatedly failed to disclose the DRE Statement of Issues or its final decision in his Form MU4s.

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Factor in Aggravation - Tax Liens

27. In December of 2006, the California Franchise Tax Board (CFTB) recorded a state tax lien against Respondent in the amount of \$3,000.58. Fifteen years later, on December 1, 2021, Respondent submitted an installment agreement request to the CFTB. On December 1, 2021, the CFTB issued a Notice of Expired State Tax Lien. Respondent failed to disclose this tax lien in any of his Form MU4s from 2017 to 2021.

28. In March of 2006, the CFTB recorded a state tax lien in the amount of \$14,714.35 against Respondent. The March 2006 lien was released in June 2010.

29. In May and November 2006, the Internal Revenue Service recorded tax liens against Respondent for tax periods 1998 to 2002, in the amounts of \$68,531.58 and \$81,604.67. The federal tax liens were released in September 2015.

30. On August 6, 2012, the Oregon Department of Revenue recorded a tax lien in the amount of \$5,719.19 against Respondent. The lien was released on August 6, 2014.

Respondent's Evidence

31. Respondent did not testify at hearing. He provided no evidence of mitigation or rehabilitation.

LEGAL CONCLUSIONS

1. As the party filing the charges, the Commissioner bears the burden of proof in this licensing disciplinary matter. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 789, fn. 9.)

2. Evidence Code section 115 provides, "Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence." An applicant for an MLO license is required to complete at least 20 hours of pre-licensing education approved by the NMLS. (Cal. Fin. Code, § 22109.2.) The education consists of, among other things, instruction on federal law and regulations, California law and regulations, and ethics, including fraud, consumer protection, and fair lending issues. An applicant for an MLO license is additionally required to pass a qualified written test. (Cal. Fin. Code, §22109.3.) Post-licensing, the holder of an MLO license is required to complete at least eight hours of continuing education annually. (Cal. Fin. Code, §§ 22109.4, 22109.5.) These requirements for MLO licensing eligibility and for continuing licensure are analogous to the rigorous education, training, and testing requirements to obtain a professional license. Therefore, Complainant bears the burden of establishing, by clear and convincing evidence, that cause exists to revoke Respondent's MLO license. (See *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856; *Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911.)

3. Financial Code section 22109.1 (part of the CFL) provides in pertinent part:

(a) The Commissioner shall deny an application for a mortgage loan originator license unless the Commissioner makes, at a minimum, the following findings:

[1] . . . [1]

(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 this division.

4. Financial Code section 22172, subdivision (a)(2), authorizes the Commissioner to “[d]eny, suspend, revoke, condition, or decline to renew a mortgage loan originator license if an applicant or licensee fails at any time to meet the requirements of Section 22109.1 . . . or withholds information or makes a material misstatement in an application for a license or license renewal.”

5. Financial Code section 22714 provides in pertinent part:

(a) The Commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

[1] . . . [1]

(3) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the Commissioner in refusing to issue the license originally.

6. Financial Code section 50141 (part of the CRMLA) provides in pertinent part:

(a) The Commissioner shall 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 this division.

7. Financial Code section 50513, subdivision (b)(2), authorizes the Commissioner to "[d]eny, suspend, revoke, condition, or decline to renew a mortgage loan originator license if an applicant or licensee fails at any time to meet the requirements of Section 50141 . . . or withholds information or makes a material misstatement in an application for a license or license renewal."

8. Financial Code section 50327 provides in pertinent part:

(a) The Commissioner may, after notice and a reasonable opportunity to be heard, deny, decline to renew, suspend, or revoke any license if the Commissioner finds that:

[¶] . . . [¶]

(2) Any fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the Commissioner in refusing to issue the license originally.

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9. California Code of Regulations, title 10, section 1422.6.2, provides in pertinent part:

(a) The Commissioner's finding required by section 22109.1, subdivision (c) of the [CFL] 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.

[¶] . . . [¶]

(c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:

(1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or (2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

10. California Code of Regulations, title 10, section 1950.122.5.2, provides in pertinent part:

(a) The Commissioner's finding required by subdivision (c) of Section 50141 of the [CRMLA] 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.

[¶] . . . [¶]

(c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes: (1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or (2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

11. Pursuant to the CFL and the CRMLA, the Commissioner may revoke an MLO license if the licensee withholds information or makes a material misstatement in an application for a license or license renewal. (Fin. Code, §§ 22172, subd. (a)(2), and 50513, subd. (b)(2).) In this case, Respondent repeatedly withheld information and made material misstatements in his Form MU4 filings as follows: from August 2017 through April 20, 2020, Respondent submitted 13 Form MU4 filings in which he repeatedly failed to disclose a 2016 civil judgment; from September 10, 2018, through April 20, 2020, Respondent submitted six Form MU4 filings in which he repeatedly failed to disclose the Oregon Orders; in 2021, Respondent submitted four Form MU4 filings in which he repeatedly failed to disclose the DRE regulatory action denying him an MLO license endorsement; and in all of his Form MU4 filings, Respondent claimed he was debt free when he had an unsatisfied judgement and existing tax lien. (Factual Findings 5 through 30.) As such, cause exists to revoke Respondent's MLO license pursuant to Financial Code sections 22172, subdivision (a)(2), and 50513, subdivision (b)(2).

12. Pursuant to the CFL and CRMLA, the Commissioner may revoke an MLO license if the Commissioner finds a fact or condition exists that reasonably would have warranted denial of the license originally. (Fin. Code, §§ 22714, subd. (a)(3), and 50327, subd. (a)(2).) In this case, Respondent has a history of multiple tax liens released many years after their recording, and he has an outstanding judgment and a tax lien, all of which reasonably would have warranted denial of his MLO license originally as evidencing a lack of financial responsibility. (Factual Findings 11 through 15, and 27 through 30.) As such, cause exists to revoke Respondent's MLO license pursuant to Financial Code sections 22714, subdivision (a)(3), and 50327, subdivision (a)(2).

13. Pursuant to the CFL and CRMLA, the Commissioner may revoke an MLO license if, at any time, the licensee 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 MLO will operate honestly, fairly, and efficiently. (Fin. Code §§ 22109.1, 22172, subd. (a)(2), 50141, and 50513, subd. (b)(2).) Respondent's repeated non-disclosure and material misstatements regarding his 2016 unsatisfied judgment, the Oregon Orders, and the DRE license denial, and his claims to be debt free despite the outstanding tax lien demonstrate a propensity for dishonesty and reflect unfavorably on his character. Additionally, Respondent's outstanding judgment and tax lien evidence a lack of financial responsibility. The totality of the evidence indicates Respondent lacks the necessary financial responsibility, character, and fitness to operate honestly, fairly, and efficiently. (Factual Findings 5 through 30.) As such cause exists to revoke Respondent's MLO license pursuant to Financial Code sections 22109.1, 22172, subd. (a)(2), 50141, and 50513, subd. (b)(2).

14. Complainant met her burden of proving, by clear and convincing evidence, cause for revocation of Respondent's MLO license. The evidence

demonstrated Respondent lacks the necessary financial responsibility, character, and fitness to operate honestly, fairly, and efficiently. Respondent provided no evidence in mitigation or rehabilitation. Consequently, revocation of Respondent's MLO license is warranted.

ORDER

Respondent Julio Granda's MLO license is hereby revoked.

DATE: 09/12/2022



JULIE CABOS-OWEN
Administrative Law Judge
Office of Administrative Hearings

ERRATA SHEET

(Changes to Proposed Decision – In the Matter of The Commissioner of Financial Protection and Innovation, Complainant vs. Julio Granda, Respondent)

- 1) On page 12 of the Proposed Decision, Paragraph Number 7 of Legal Conclusions, line 1, delete “(b)” insert instead “(a)”.
- 2) On page 14 of the Proposed Decision, Paragraph Number 11 of Legal Conclusions, line 4, delete “(b)” and insert instead “(a)”.
- 3) On page 14 of the Proposed Decision, Paragraph Number 11 of Legal Conclusions, line 15, delete “(b)” and insert instead “(a)”.
- 4) On page 15 of the Proposed Decision, Paragraph Number 13 of Legal Conclusions, line 5, delete “(b)” and insert instead “(a)”.
- 5) On page 15 of the Proposed Decision, Paragraph Number 13 of Legal Conclusions, line 14, delete “(b)” and insert instead “(a)”.