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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Statement of Issues of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. NICHOLAS LEE HAIDER, Respondent.	File No.: STATEMENT OF ISSUES

The Complainant is informed and believes, and based upon such information and belief, alleges and charges Respondent as follows:

I

INTRODUCTION

The proposed order seeks to deny the issuance of a mortgage loan originator license to NICHOLAS LEE HAIDER ("Respondent") pursuant to Financial Code section 50141 in that Respondent has been convicted of two felonies involving an act of fraud, dishonesty, or a breach of trust, or money laundering. Furthermore, he has made a false statement in his application submitted to the Commissioner.

State of California – Department of Corporations

II

THE APPLICATION

On August 26, 2010, Respondent filed an application for a mortgage loan originator license with the California Corporations Commissioner ("Complainant" or "Commissioner") pursuant to the California Residential Mortgage Lending Act ("CRMLA")(Financial Code sections 50000 et. seq.), in particular, Financial Code section 50140. The application was for employment with or working on behalf of Hunter Financial Group as a mortgage loan originator, which employer has its principal place of business located at 1711 W. Greentree Drive, Tempe, Arizona. The application was submitted to the Commissioner by filing Form MU4 through the Nationwide Mortgage Licensing System ("NMLS")

Form MU4 at Question 8. (D)(1) specifically asked: "Have you been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any felony? Respondent answered "no".

Documents received by the Department of Corporations during the application process disclosed that Respondent had been convicted of 1) Theft by Control and/or by Controlling Stolen Property with a Value of $2,000 or More But Less Than $3,000, a Class 4 felony; 2) Burglary in the Third Degree, a class 4 felony, both on June 16, 1998. Respondent signed the Form MU4 swearing that the answers were true and complete to the best of Respondent's knowledge.

III

CRIMINAL CONVICTION

The documentation obtained by the Commissioner during the application process revealed that Respondent, on or about June 16, 1998, in the Superior Court of Arizona, Pima County, had been convicted of violating:

1) Theft by Control and/or by Controlling Stolen Property with a Value of $2,000 or More But Less Than $3,000, a Class 4 felony, in violation of A.R.S. 13-1802;

2) Burglary in the Third Degree, a class 4 felony, in violation of A.R.S. 13-1506.

Financial Code section 50141 provides in relevant part:

> (a) The commissioner shall deny an application for a mortgage loan originator license unless the commissioner makes at a minimum the following findings:
>
> . . .
>
> (2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for licensing and registration, or at any time preceding the date of application, if such felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. . . .

IV

FALSE STATEMENT IN THE APPLICATION

When Respondent originally completed Form MU4, Question 8. (D)(1) specifically asked: "Have you been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any felony? Respondent answered "no" to this question. As described above, documentation subsequently obtained by the Commissioner disclosed that Respondent had been convicted of 1) Theft by Control and/or by Controlling Stolen Property with a Value of $2,000 or More But Less Than $3,000, a Class 4 felony; 2) Burglary in the Third Degree, a class 4 felony, both on June 16, 1998.

Financial Code section 50126 provides in relevant part:

> (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny an application for any of the following reasons:
> (1) A false statement of a material fact has been made in the application.

Respondent's "no" response to Question 8 (D)(1) was a false statement of a material fact.

V

CHARACTER OF THE RESPONDENT

Financial Code section 50141 further provides in relevant part:

> (a) The commissioner shall deny an application for a mortgage loan

State of California – Department of Corporations

> 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.

By having been convicted of the above-mentioned felonies, by failing to disclose his felony record, and thereby making a false statement of material fact on his application, Respondent has failed to demonstrate such 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 mortgage loan originator.

VI

CONCLUSION

Complainant finds, by reason of the foregoing, that Respondent has been convicted of: 1) Theft by Control and/or by Controlling Stolen Property with a Value of $2,000 or More But Less Than $3,000, a Class 4 felony, in violation of A.R.S. 13-1802; 2) Burglary in the Third Degree, a class 4 felony, in violation of A.R.S. 13-1506, both of which constitute felonies involving an act of dishonesty.

Complainant further finds, by reason of the foregoing, that Respondent has made a false statement of material fact in his application for mortgage loan originator, and furthermore has thereby failed to demonstrate such 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 mortgage loan originator.

THEREFORE, Complainant asserts that he is mandated under Financial Code section 50141 to deny Respondent's mortgage loan originator license application under the California Residential Mortgage Lending Act. Complainant further asserts that he is empowered under Financial Code section 50126 to deny same.

State of California – Department of Corporations

WHEREFORE IT IS PRAYED that the mortgage loan originator application filed by Respondent on August 26, 2010 be denied.

Dated: May 16, 2011

San Francisco, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
DOUGLAS M. GOODING
Senior Corporations Counsel

State of California – Department of Corporations