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11 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
12 OF THE STATE OF CALIFORNIA

14 In the Matter of:) NMLS ID 508524
15 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) STATEMENT OF ISSUES
16 Complainant,)
17 v.)
18 DANIEL NICOLAU,)
19 Respondent.)

21 The Commissioner of Business Oversight (“Commissioner” or “Complainant”) is informed
22 and believes, and based upon such information and belief, alleges and charges Respondent Daniel
23 Nicolau (“Respondent”) as follows:

24 I
25 INTRODUCTION

26 The proposed order seeks to deny the issuance of a mortgage loan originator license to
27 Respondent pursuant to Financial Code section 50141 in that Respondent has been convicted of
28 felony receipt of stolen property in violation of 18 United States Code section 2315.

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II

THE APPLICATION

1. On September 16, 2014, Respondent filed an application for a mortgage loan originator license with Complainant pursuant to the California Residential Mortgage Lending Act (“CRMLA”) (Fin. Code § 50000 et. seq.), in particular, Financial Code section 50140. The application was for employment as a mortgage loan originator with or working on behalf of Prime Source Mortgage, Inc. located at 5000 Birch Street, Newport Beach, California. The application was submitted to the Commissioner by filing a Form MU4 through the Nationwide Mortgage Licensing System (“NMLS”)
2. The Form MU4 at Question (F)(1) specifically asked: “Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony?” Respondent answered “Yes”.
3. Documents received by Complainant during the application process disclosed that Respondent had been convicted of receiving stolen property in violation of 18 United States Code section 2315. Respondent signed the Form MU4 swearing that the answers were true and complete to the best of Respondent’s knowledge.

III

CRIMINAL CONVICTION

4. The documentation and information obtained by the Commissioner during the application process revealed that on or about November 25, 1998, in the United States District Court for the Central District of California, case number CR98-1051, Respondent pled guilty to felony receipt of stolen property regarding a series of fraudulently leased personal computers from Dell Financial Services using numerous false identities. Respondent was subsequently convicted of felony receipt of stolen property in violation of 18 United States Code section 2315 and was sentenced to eleven and one-half months in prison, with supervised release thereafter for three years, and restitution in the amount of \$70,066.
5. In that case, the court imposed additional conditions on Respondent, including that he provide to the Probation Officer a signed release authorizing credit checks, an accurate financial

1 statement, sources and amounts of income and all expenses, and that he provide both federal and
2 state tax returns as requested. Respondent was also prohibited from obtaining or possessing any
3 driver’s license, Social Security number, birth certificate, passport or any other form of identification
4 without the prior approval of the Probation Officer and was prohibited from using any name other
5 than his true legal name. Further, Respondent was prohibited from applying for any loan or opening
6 any line of credit without prior approval of the Probation Officer and was required to maintain a
7 single, personal bank account into which all income, financial proceeds and gains were to be
8 deposited and from which all expenses shall be paid.

9 5. Financial Code section 50141 provides in relevant part:

10 (a) The commissioner shall deny an application for a mortgage loan
11 originator license unless the commissioner makes at a minimum the
12 following findings:

12 . . .

13 (2)(A) The applicant has not been convicted of, or pled guilty or nolo
14 contendere to, a felony in a domestic, foreign, or military court
15 during the seven-year period preceding the date of the application
16 for licensing and registration, or at any time preceding the date of
17 application, if such felony involved an act of fraud, dishonesty, a
18 breach of trust, or money laundering. Whether a particular crime is
19 classified as a felony shall be determined by the law of the jurisdiction
20 in which an individual is convicted.

21 6. Respondent’s above-mentioned felony conviction for receipt of stolen property requires the
22 Commissioner to deny Respondent’s application under Financial Code section 50141, subdivision
23 (a)(2)(A) because it is a felony involving an act of fraud, dishonesty, and/or breach of trust.

24 IV

25 CHARACTER OF THE RESPONDENT

26 7. Financial Code section 50141 further provides in relevant part:

27 (a) The commissioner shall deny an application for a mortgage loan
28 originator license unless the commissioner makes at a minimum the
29 following findings:

29

(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.

1 By having been convicted of the above-mentioned felony, Respondent has failed to
2 demonstrate such character and general fitness as to command the confidence of the community and
3 to warrant a determination that he will operate honestly, fairly, and efficiently as a mortgage loan
4 originator.

5 V

6 CONCLUSION

7 Complainant finds, by reason of the foregoing, that Respondent has been convicted of felony
8 receipt of stolen property, which constitutes a felony involving an act of fraud, dishonesty, and/or
9 breach of trust.

10 Complainant further finds, by reason of the foregoing, that Respondent has failed to
11 demonstrate such character and general fitness as to command the confidence of the community and
12 to warrant a determination that he will operate honestly, fairly, and efficiently as a mortgage loan
13 originator.

14 THEREFORE, Complainant is mandated under Financial Code section 50141 to deny
15 Respondent’s mortgage loan originator license application under the California Residential
16 Mortgage Lending Act.

17 WHEREFORE IT IS PRAYED that the mortgage loan originator application filed by
18 Respondent on September 16, 2014 be denied.

19 Dated: January 12, 2016
20 Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

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23 By _____
24 LINDSAY B. HERRICK
25 Counsel
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