

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN ROONEY
Assistant Chief Counsel
3 KENNY V. NGUYEN (State Bar No. 233385)
Senior Counsel
4 Department of Business Oversight
1515 K Street, Suite 200
5 Sacramento, California 95814
Telephone: (916) 322-8782
6 Facsimile: (916) 445-6985

7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:) NMLS ID. 319790
12)
13 THE COMMISSIONER OF BUSINESS) FIRST AMENDED ACCUSATION IN
OVERSIGHT,) SUPPORT OF ORDER REVOKING
14) MORTGAGE LOAN ORIGINATOR LICENSE
Complainant,) OF BRIAN JOSEPH DECKER
15)
16 v.)
17 BRIAN JOSEPH DECKER,)
18 Respondent.)

19 The Commissioner of Business Oversight (Commissioner) finds against the Respondent
20 Brian Joseph Decker (Decker) as follows:

21 **I.**

22 **Introduction**

23 The Commissioner seeks to revoke Decker’s mortgage loan originator (MLO) license
24 pursuant to Financial Code section 50513 because Decker failed to promptly disclose in his license
25 renewal application information regarding a civil lawsuit seeking to enjoin him from conducting
26 business in financial services. In addition, revocation is necessary because Decker cannot
27 demonstrate that he has “such financial responsibility, character, and general fitness or to command
28 the confidence of the community” or that he “will operate honestly, fairly, and efficiently within the
purpose of this division.”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.

Statement of Facts

A. MLO Licensure with DBO

1. On June 8, 2010, Decker filed an application for a mortgage loan originator license with the Commissioner pursuant to the California Financing Law (CFL) (Fin. Code, § 22000 et seq.), in particular, Financial Code section 22105.1. The application was for employment as a mortgage loan originator and was submitted to the Commissioner when Decker completed and filed a Form MU4 through the Nationwide Mortgage Licensing System & Registry (NMLS).

2. In submitting his application, Decker was required to sign an oath and attestation agreeing “to keep the information contained in this [MU4] form current and to file accurate supplementary information on a timely basis....”

3. Based on the information provided in his application and his agreement to keep the information current or to supplement, Decker was issued an MLO license on August 11, 2010.

4. As a prerequisite to having the MLO license, Decker was required to have a sponsoring entity, which he satisfied through his employer, City First Mortgage Services, LLC (NMLS ID. 3117). He later left City First Mortgage Services, LLC and was employed by Mount Olympus Mortgage Company, Inc. (MOMCo) (NMLS ID. 166794), which then became his sponsoring entity on April 30, 2014.

B. Failure to Obtain Borrowers’ Consent Prior to Sharing Their Confidential Financial Information with Others

5. Beginning as early as April 2014, Decker began making arrangements to move from MOMCo to a different employer - Guaranteed Rate, Inc. (Guaranteed) (NMLS ID. 2611). In exchange for compensation by Guaranteed, Decker surreptitiously and without MOMCo’s knowledge or consent, arranged to transfer MOMCo’s confidential and proprietary information to Guaranteed before leaving MOMCo. In May 2014, Decker initiated and abetted the transfer of MOMCo’s confidential and proprietary information, including MOMCo borrowers’ tax returns and loan applications containing borrower social security numbers, home addresses, and debt information, to Guaranteed, in violation of MOMCo’s written policies, which Decker signed and

1 agreed to abide by.

2 6. During the transfer of files, Decker failed to obtain the consent of many customers prior to
3 sharing their confidential financial information with Guaranteed.

4 **C. Failure to Timely Disclose Lawsuit**

5 7. On or about June 5, 2014, MOMCo terminated Decker’s employment. On or about June
6 19, 2014, MOMCo initiated a civil lawsuit against Decker in Orange County Superior Court
7 (Case No. 30-2014-00729438-CU-BT-CJC). The complaint in the lawsuit alleged that Decker,
8 working with other MOMCo employees “conspired with Guaranteed, during the course of
9 several months, to carry out a scheme to defraud MOMCo of its confidential and proprietary
10 information” and “misappropriated MOMCo’s confidential and proprietary information and
11 directed MOMCo customers to Guaranteed in violation of their respective agreements with
12 MOMCo, as well as California common law and statutory laws.” Furthermore, the complaint
13 alleged and included a prayer for relief that sought a court issued “injunction restraining and
14 enjoining [Decker] ... from disclosing or utilizing any confidential, proprietary and trade secret
15 protected information obtained from MOMCo including, but not limited to, the identity of
16 MOMCo’s customers and their preferences for MOMCo’s loan origination services.” In other
17 words, the lawsuit brought by MOMCo sought injunctive relief that prohibited Decker from
18 engaging in lending services for borrowers whose files and identities Decker had taken from
19 MOMCo without MOMCo’s consent.

20 8. Decker was served with the summons and complaint by substituted service at his
21 residence on or about June 30, 2014. Despite having been made aware that he was named in a
22 civil action related to financial services where the plaintiff was seeking to enjoin him in
23 connection with financial services-related activity, Decker did not amend his MU4 application
24 to disclose this information. Decker amended his MU4 application several times during the
25 pendency of the lawsuit, but his response was still “no” to Civil Disclosure question (J)(2) on
26 the MU4 application, which specifically asked:

27 (J)(2) Is there a pending financial services-related civil action in which
28 you are named for any alleged violation described in (J)(1)?

Question (J)(1) on the MU4 application asked:

1 (J)(1) Has any domestic or foreign court ever: (a) enjoined you in
2 connection with any financial services-related activity?

3 9. Until December 19, 2017, Decker did not disclose in any of his MU4 applications that he
4 was the subject of a lawsuit where the plaintiff sought to enjoin him in connection with financial
5 services-related activity.

6 **D. Unauthorized Taking of Borrower Data and Transfer to Competitor**

7 10. At the beginning of his employment with MOMCo, on or about November 1, 2013, Decker
8 signed a General Standards of Conduct Policy with MOMCo whereby he agreed to abide by
9 MOMCo’s policy not to refer business to a direct competitor of MOMCo.

10 11. On or about November 1, 2013, Decker signed an employee Confidentiality Agreement with
11 MOMCo wherein he agreed not to disclose, use or transfer MOMCo’s confidential customer lists
12 without MOMCo’s express consent.

13 12. Despite agreeing to the terms of the Confidentiality Agreement and Standards of Conduct
14 Policy, Decker referred loans to Guaranteed while he was employed at MOMCo, in exchange for
15 promised compensation by Guaranteed. Beginning in April of 2014, Decker sent customer
16 information from MOMCo to Guaranteed. He did this without MOMCo’s consent.

17 **E. Violating Employer Loyalty and Exclusivity Agreement**

18 13. On or about April 1, 2014, Decker signed a Branch Manager Employment Agreement with
19 MOMCo whereby he agreed, among other things, to (1) offer only MOMCo and MOMCo
20 sponsored products and services through his branch office; (2) to not engage in any other business
21 similar to MOMCo’s business; (3) to not maintain relationships with other lenders; and (4) to not
22 solicit customers or submit loan files to any other lender other than MOMCo.

23 14. Despite agreeing to the terms of the Branch Manager Employment Agreement, Decker, in
24 exchange for promised compensation, referred loans to Guaranteed while he was employed at
25 MOMCo, without MOMCo’s consent. In at least one instance Decker represented that he worked
26 for Guaranteed despite still being employed by MOMCo at the time.

27 ///

28 ///

1 **F. Disguising Personal Loans as “Gifts” to Customers to Qualify Them for Mortgages**

2 15. On or about March 2017, Decker processed a loan application for the purchase of a primary
3 residence on behalf of a borrower while he was employed at Guaranteed. In order to qualify the
4 borrower for a mortgage, Decker had his wife lend \$15,000.00 to the borrower and her husband, but
5 disguised it as a gift. Decker’s wife used her maiden name on the gift letter and withdrew funds
6 from a bank account separate from Decker to fund the personal loan. The gift letter also falsely
7 stated that Decker’s wife was a “cousin” of the borrower.

8 16. After the incident was brought to Guaranteed’s attention, Guaranteed reviewed Decker’s loan
9 files during the time he was employed with Guaranteed. Guaranteed discovered that Decker’s wife
10 had offered or made “gifts” to borrowers in two other loan transactions processed by Decker.

11 **III.**

12 **Applicable Law**

13 15. Financial Code section 50513 authorizes the Commissioner to revoke a mortgage loan
14 originator license if the licensee fails at any time to meet the requirement of Financial Code section
15 50141. (Fin. Code, § 50513, subd. (a)(2).)

16 16. Financial Code section 50141 requires the Commissioner to deny an application for a
17 mortgage loan originator license if the Commissioner cannot find that the applicant “has
18 demonstrated such financial responsibility, character, and general fitness or to command the
19 confidence of the community and to warrant a determination that the mortgage loan originator will
20 operate honestly, fairly, and efficiently within the purpose of this division.” (Fin. Code, § 50141,
21 subd. (a)(3).)

22 17. In addition, Financial Code section 50513 allows the Commissioner to revoke a mortgage
23 loan originator license if an applicant “withholds information or makes a material misrepresentation
24 in an application for license or license renewal.” (Fin. Code, § 50513, subd. (a)(2).)

25 **IV.**

26 **Grounds for Revoking Decker’s MLO License**

27 18. The Commissioner has determined that there are grounds to revoke Decker’s MLO License
28 under both Financial Code sections 50141 and 50513, for the following reasons:

1 (a) A jury has found by a preponderance of the evidence that Decker secretly
2 misappropriated confidential and proprietary information, including customer information, from his
3 former employer, MOMCo, with the knowledge that such action violated MOMCo’s written policies
4 and employee loyalty agreements, which Decker had agreed to abide by;

5 (b) Decker failed to obtain consent from many of MOMCo’s customers before sharing their
6 confidential financial information with Guaranteed. He falsified loan qualification records for
7 borrowers, specifically using his wife to make a personal loan to borrowers that was falsely
8 identified as a gift. As such, Decker has failed to demonstrate character, failed to demonstrate that
9 he can “command the confidence of the community” or that he “will operate honestly, fairly, and
10 efficiently” with respect to his job as an MLO; and,

11 (c) Decker failed to disclose the fact that he had been named in a lawsuit whereby an
12 injunction was sought against him to prevent him from engaging in certain financial services related
13 activity.

14 **V.**

15 **Conclusion**

16 The Commissioner finds, by reason of the foregoing, that Brian Joseph Decker fails to meet
17 the requirement of Financial Code section 50141 and that he withheld information in a license
18 renewal application.

19 WHEREFORE, notice is hereby given of the Commissioner’s intention to issue an order
20 under Financial Code section 50513 to revoke the mortgage loan originator license of Brian Joseph
21 Decker.

22
23 Dated: May 29, 2018
24 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

25
26
27 By: _____
28 KENNY V. NGUYEN
Senior Counsel