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California Corporations Commissioner
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8
9 BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

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11 In the Matter of the Statement of Issues of THE) NMLS No.: 210623
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) Sponsor File No.: 413-0403
)
13 Complainant,) STATEMENT OF ISSUES IN SUPPORT OF
) NON-ISSUANCE OF MORTGAGE LOAN
14 vs.) ORIGINATOR LICENSE
)
15)
16 Barry Bauer Hill,)
)
17 Respondent.)
18)

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

21 I
22 INTRODUCTION

23 On or about November 10, 2010, Complainant determined not to issue a mortgage loan
24 originator license to Barry Bauer Hill ("Respondent") pursuant to Financial Code sections 50141 and
25 50513 in that: (1) Respondent has been convicted of or pled guilty or nolo contendere to a felony
26 involving an act of fraud, dishonesty, or a breach of trust, or money laundering; (2) Respondent has
27 not demonstrated such financial responsibility, character, and general fitness as to command the
28 confidence of the community and to warrant a determination that the mortgage loan originator will

1 operate honestly, fairly, and efficiently within the purposes of the Mortgage Loan Originators
2 (“MLO”) provision of the California Residential Mortgage Lending Act (“CRMLA”) (California
3 Financial Code section 50000 *et seq.*); and, (3) Respondent withheld information or made a material
4 misstatement in his mortgage loan originator application when he failed to fully disclose his criminal
5 history.

6 II

7 THE APPLICATION

8 On March 31, 2010, Respondent filed an application for a mortgage loan originator
9 license with the California Corporations Commissioner (“Complainant” or “Commissioner”)
10 pursuant to the California Residential Mortgage Lending Act (“CRMLA”) (Financial Code
11 sections 50000 *et. seq.*), in particular, Financial Code section 50140. The application was for
12 employment or working on behalf of Manifold Group as a mortgage loan originator, which
13 Manifold Group has its principal place of business located at 100 Digital Avenue, Suite 100,
14 Novato, CA. The application was submitted to the Commissioner by filing Form MU4 through
15 the Nationwide Mortgage Licensing System (“NMLS”)

16 Form MU4 at Question 8. (D)(1) specifically asked: “Have you ever been convicted of or
17 pled nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony?
18 Respondent answered “No”. Documents received by the Department during the application process
19 disclosed that Respondent had pled nolo contendere to possession of stolen property on February 13,
20 1998. Respondent signed the Form MU4 swearing that the answers were true and complete to the
21 best of Respondent’s knowledge.

22 III

23 CRIMINAL CONVICTION

24 The documentation obtained by the Commissioner during the application process disclosed
25 that Respondent, on or about February 13, 1998 in Sonoma Superior Court, had been charged and
26 sentenced for violating Penal Code section 496(a), receiving stolen property.

27 Financial Code section 50141 provides in relevant part:

28 The commissioner shall not issue a mortgage loan originator license
unless the commissioner makes at a minimum the following findings:

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(b) 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. . . .

(c) 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. . . .

IV.

MATERIAL MISSTATEMENT IN APPLICATION

Form MU4 at Question 8. (D)(1) specifically asked: “Have you been convicted of or pled nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony? Respondent answered “No”. Respondent answered “No.” Documents received by the Department during the application process disclosed that in fact Respondent had pled nolo contendere to felony possession of stolen property on February 13, 1998. On March 31, 2010, Respondent signed the Form MU4 swearing that the answers were true and complete to the best of Respondent’s knowledge.

V.

CONCLUSION

Complainant finds, by reason of the foregoing, that Respondent has pled nolo contendere to violating Penal Code section 496(a), receiving stolen property, which constitutes a felony involving an act of fraud or dishonesty.

Complainant further finds that by reason of Respondent’s criminal history and his omission of material information in his application about it he has not demonstrated such 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. Thus, Complainant finds that non-issuance of Respondent’s mortgage loan originator

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license is supported by evidence that Respondent withheld information or made a material misstatement in his application when he failed to fully disclose his criminal history.

THEREFORE, Complainant asserts that Financial Code sections 50141 mandate that the Commissioner not issue a mortgage loan originator license to Respondent under the California Residential Mortgage Lending Act.

WHEREFORE IT IS PRAYED that Complainant’s non-issuance of a mortgage loan originator license to Respondent in connection with his application of March 31, 2010, be upheld.

Dated: December 21, 2010
San Francisco, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Joan Kerst
Senior Corporations Counsel