

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 JOANNE J. ROSS (CA BAR NO. 202338)
Corporations Counsel
4 Department of Corporations
5 1515 K Street, Ste. 200
6 Sacramento, California 95814
Telephone: (916) 324-9687
7 Facsimile: (916) 445-6985

8 Attorneys for Complainant

9
10 BEFORE THE DEPARTMENT OF CORPORATIONS
11 OF THE STATE OF CALIFORNIA

12 In the Matter of the Statement of Issues of THE) NMLS No.: 290496
CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) Sponsor File No.: 6053971
14)
Complainant,) STATEMENT OF ISSUES IN SUPPORT OF
15) NON-ISSUANCE OF MORTGAGE LOAN
vs.) ORIGINATOR LICENSE
16)
17 CESAR CUEVAS,)
18 Respondent.)
19 _____)

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

22 I

23 INTRODUCTION

24 On or about December 10, 2010, Complainant determined not to issue a mortgage loan
25 originator license to Cesar Cuevas ("Respondent") pursuant to Financial Code section 22109.1 in
26 that Respondent has failed to demonstrate such financial responsibility, character, and general fitness
27 as to command the confidence of the community and to warrant a determination that he will operate
28 honestly, fairly, and efficiently.

II

THE APPLICATION

1
2
3 On or about May 28, 2010 Respondent filed an application for a mortgage loan
4 originator license with the California Corporations Commissioner (“Complainant” or
5 “Commissioner”) pursuant to the California Finance Lenders Law (“CFLL”)(Financial Code
6 sections 22000 et. seq.), in particular, Financial Code section 22105.1. The application was for
7 employment or working on behalf of Pacific Union Financial, LLC, which holds CFLL license
8 number 6053971. The application was submitted to the Commissioner by filing Form MU4 through
9 the Nationwide Mortgage Licensing System (“NMLS”). Respondent signed the Form MU4
10 swearing that the answers were true and complete to the best of Respondent’s knowledge.

11 It is a violation of Financial Code section 22170(b) to make an untrue statement to the
12 commissioner or NMLS during the course of licensing with the intent to impede, obstruct, or
13 influence the administration or enforcement of the CFLL. Form MU4 at Question 8. (I) specifically
14 asks: “Has any State or federal regulatory agency or foreign financial regulatory authority ever: (1)
15 found you to have made a false statement or omission or been dishonest, unfair or unethical? . . . (5)
16 revoked your registration or license? . . . (8) issued a final order against you based on violations of
17 any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?” Respondent
18 answered “no” to those three questions.

19 Documents obtained by the Department of Corporations during the application process
20 disclosed that on October 24, 2001, the Department of Real Estate (“DRE”) issued a final order
21 revoking Respondent’s DRE salesperson license. Respondent’s license was revoked for falsely
22 stating on his August 2, 1999 license application that he did not have any criminal charges pending
23 against him at the time he made the application. The Respondent certified his DRE license
24 application, under penalty of perjury, that the answers and statements given in his application were
25 true and correct.

26 According to the DRE license revocation order, the Respondent had fifteen felony counts
27 pending against him, including five felony insurance fraud counts involving making false statements
28 on an application for insurance at the time of the application for a real estate salesperson license.

1 Specifically, Respondent was charged with:

2 (a) five counts (Counts 1 through 5: one count each for 1992, 1993, 1994, 1995 and
3 1996) of “Misrepresentation of Fact to Obtain Insurance At Less Rate” in violation of Insurance
4 Code Section 11880, each a felony;

5 (b) five counts (Counts 6, 8, 10, 12 and 14: one count each for 1992, 1993, 1994,
6 1995 and 1996) of “Failure To File A Return In A Timely Manner” in violation of Unemployment
7 Insurance Code Section 2117.5, each a felony; and

8 (c) five counts (Counts 7, 9, 11, 13 and 15: one count each for 1992, 1993, 1994,
9 1995 and 1996) of “Failure To Pay Tax” in violation of Unemployment Insurance Code Section
10 2118.5, each a felony.

11 The felony charges were based upon Respondent’s underreporting the number of employees
12 he had working for his roofing business in order to avoid paying premiums and to obtain insurance
13 from the State Compensation Insurance fund at less than the proper rate of insurance. In addition,
14 Respondent willfully failed to collect, account for and pay state income and employment insurance
15 taxes that are required to be withheld and/or paid under the California Unemployment Insurance
16 Code. On September 2, 1999, Respondent pled guilty to and was convicted of three felonies: one
17 count of insurance fraud and two counts of failure to pay tax.

18 DRE determined that these three felonies were crimes involving moral turpitude and
19 substantially related to the qualifications, functions or duties of a real estate salesperson. In addition,
20 DRE found that the felonies, “involving dishonest[y] in financial transactions and disregard of the
21 laws governing professional relationships, are the types of misconduct which the legislature intended
22 to prevent when establishing the minimum licensing standards for professions possessing the public
23 trust.”

24 DRE issued its revocation against Respondent based on violations of Business and
25 Professions Code Sections 498, 490, 10177(a) and 10177(b), which prohibit the procurement of a
26 real estate license by fraud, misrepresentation, or deceit. In its final order revoking Respondent’s
27 license, DRE stated: “Respondent’s crimes involved fraudulent and deceptive business practices.
28 Those employed arranging mortgage loans have many opportunities to engage in deceptive business

1 practices, so Respondent’s deceptive license application provides a particularly troubling indication
2 that Respondent has not changed the deceptive business practices that resulted in Respondent’s
3 convictions.”

4 III

5 LICENSING REQUIREMENTS

6 Financial Code section 22109.1 provides in relevant part:

7 (a) The commissioner shall not issue a mortgage loan originator license
8 unless the commissioner makes, at a minimum, the following findings:

9 . . .

10 (c) The applicant has demonstrated such financial responsibility, character, and
11 general fitness as to command the confidence of the community and to warrant
12 a determination that the mortgage loan originator will operate honestly, fairly,
and efficiently within the purposes of this division."

13 California Code of Regulations, title 10 section 1422.6.2 provides in relevant part:

14 (a) The Commissioner's finding required by Section 22109.1(c) of the California
15 Finance Lenders Law relates to any matter, personal or professional, that may
16 impact upon an applicant's propensity to operate honestly, fairly, and efficiently
when engaging in the role of a mortgage loan originator.

17 . . .

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

19 (1) Any liens or judgments for fraud, misrepresentation, dishonest dealing,
20 and/or mishandling of trust funds, or

21 (2) Other liens, judgments, or financial or professional conditions that indicate
22 a pattern of dishonesty on the part of the applicant.

23 IV

24 CONCLUSION

25 Complainant finds, by reason of the foregoing, that:

26 (1) Cuevas was convicted of three felonies upon a plea of guilty on or about September 2,
27 1999.

28 (2) Cuevas had fifteen felony counts pending against him at the time of his application

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

with DRE.

(3) Cuevas had his DRE license revoked on October 24, 2001 for filing a deceptive license application that failed to disclose pending felony charges of crimes involving prior fraudulent and deceptive business practices.

(4) Cuevas has made false statements to the Commissioner in his 2010 MLO license application by failing to disclose to the Commissioner that DRE revoked his real estate salesperson license as a result of his filing a deceptive license application.

(5) Cuevas has failed to demonstrate the financial responsibility, character and fitness required of a mortgage loan originator under the Finance Lenders Law as demonstrated by his history of dishonest and deceptive acts.

THEREFORE, Complainant asserts that Financial Code section 22109.1 mandated that the Commissioner not issue a mortgage loan originator license to Respondent under the Finance Lenders Law.

WHEREFORE IT IS PRAYED that the determination of the Commissioner to not issue a mortgage loan originator license to Respondent in connection with Respondent's May 28, 2010 application be upheld.

Dated: January 24, 2011
Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Joanne Ross
Corporations Counsel