PRESTON DuFAUCHARD
California Corporations Commissioner
ALAN S. WEINGER
Deputy Commissioner
MARLOU de LUNA (CA BAR 162259)
Senior Corporations Counsel
320 West 4th Street, Suite 750
Los Angeles, California 90013-2344
Telephone: (213) 576-7606

Attorneys for Complainant

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. VICTOR MELGOZA GALLARDO, Respondent.	NMLS No.: 326868 Sponsor File No.: 413 0570 STATEMENT OF ISSUES IN SUPPORT OF NON-ISSUANCE OF MORTGAGE LOAN ORIGINATOR LICENSE

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

I.

INTRODUCTION

On or about November 15, 2010, Complainant determined not to issue a mortgage loan originator license to Victor Melgoza Gallardo ("Respondent" and/or "Gallardo") pursuant to Financial Code section 50141 in that Gallardo pled guilty to a felony involving an act of fraud, dishonesty, or a breach of trust.

///

///

State of California – Department of Corporations

II.

THE APPLICATION

On August 11, 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, §§ 50000 et. seq.), in particular, Financial Code section 50140. The application was for employment or working on behalf of International City Mortgage, Inc. as a mortgage loan originator, which has its principal place of business located at 333 S Anita Dr., Ste 300, Orange, California 92868. Gallardo submitted his application 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 ever been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any felony?" Respondent answered "no." Respondent signed the Form MU4 swearing that the answers were true and complete to the best of Respondent's knowledge. However, during the application process, the Department discovered that on October 10, 1995, Gallardo pled guilty to one count unlawful taking of a vehicle in violation of Vehicle Code section 10851, subdivision (a), a felony and one count receiving stolen property in violation of Penal Code section 496, subdivision (a), a felony.

III.

CRIMINAL CONVICTION

As set forth above in section II, Respondent stated that he was not convicted of or pled guilty or no contest in a domestic, foreign, or military court to any felony. The Department, however, discovered during the application process that Respondent, on or about October 10, 1995, in the Municipal Court, Central Judicial District, County of Orange, State of California, pled guilty to the unlawful taking of a vehicle in violation of Vehicle Code section 10851, subdivision (a), a felony and receiving stolen property in violation of Penal Code section 496, subdivision (a), a felony.

///

///

///

Financial Code section 50141 provides in relevant part:

> The commissioner shall not issue a mortgage loan originator license unless the commissioner makes at a minimum the following findings:
>
> . . .
>
> (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 ever been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any felony?" Respondent answered "no." Respondent signed the Form MU4 swearing that the answers were true and complete to the best of Respondent's knowledge. However, during the application process, the Department discovered that on October 10, 1995, Gallardo pled guilty to one count unlawful taking of a vehicle in violation of Vehicle Code section 10851, subdivision (a), a felony and one count receiving stolen property in violation of Penal Code section 496, subdivision (a), a felony.

V.

CONCLUSION

Complainant finds, by reason of the foregoing, that Respondent pled guilty to the unlawful taking of a vehicle in violation of Vehicle Code section 10851, subdivision (a), and of receiving stolen property in violation of Penal Code section 496, subdivision (a), which constitutes a felony involving an act of fraud or dishonesty or breach of trust.

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 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 section 50141 mandates that Complainant not issue a mortgage loan originator license to Respondent under the California Residential Mortgage Lending Act.

WHEREFORE IT IS PRAYED that the determination of Complainant to not issue a mortgage loan originator license to Respondent in connection with Respondent's August 11, 2010 application be upheld.

Dated: January 5, 2011
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
MARLOU de LUNA
Senior Corporations Counsel
Enforcement Division

State of California – Department of Corporations