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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. DAVID MEADE THOMAS, Respondent.	NMLS No. 287488 Sponsor File No.: 603-G833 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 10, 2010, Complainant determined not to issue a mortgage loan originator license to David Meade Thomas ("Respondent") pursuant to Financial Code section 22109.1 in that Respondent has failed to demonstrate such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently.

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II

THE APPLICATION

On or about April 22, 2010, Respondent filed an application for a mortgage loan originator license with the California Corporations Commissioner ("Complainant" or "Commissioner") pursuant to the California Finance Lenders Law ("CFLL")(Financial Code sections 22000 et. seq.), in particular, Financial Code section 22105.1. The application was for employment or working on behalf of Data Mortgage, Inc. doing business as Essex Mortgage, which has its principal place of business located at 1100 Town & Country Road, Suite 100, Orange, California 92868. The application was submitted to the Commissioner by filing Form MU4 through the Nationwide Mortgage Licensing System ("NMLS"). Respondent signed the Form MU4 swearing that the answers were true and complete to the best of Respondent's knowledge.

Form MU4 at Question 8. (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 committing or conspiring to commit a misdemeanor involving: (i) financial services or a financial services related business, (ii) fraud, (iii) false statements or omissions, (iv) theft or wrongful taking of property, (v) bribery, (vi) perjury, (vii) forgery, (viii) counterfeiting, or (ix) extortion? Respondent answered "yes". In providing details about his "yes" answer, Respondent stated on or about May 11, 2010 that "Sometime around 1988 or 1989, I was convicted twice of petty theft, both misdemeanors. I don't recall the first incident, but the second one was for the unlawful taking of a bottle of shampoo from a beauty supply store. . . ."

However, the Commissioner, while reviewing the application discovered that Respondent had also been convicted of (i) misdemeanor burglary under California Penal Code section 459 in 1989, and (ii) misdemeanor false representation of identity to a peace officer under California Penal Code section 148.9(a) and misdemeanor personate to make others liable under California Penal Code section 529.3 in 1994. It is a violation of Financial Code section 22170(b) to make an untrue statement to the commissioner or NMLS during the course of licensing with the intent to impede, obstruct, or influence the administration or enforcement of the CFLL.

On or about July 1, 2010, Respondent was sent a letter asking him to explain the (i) misdemeanor burglary conviction in 1989 and (ii) misdemeanor false representation of identity to a peace officer and misdemeanor personate to make others liable conviction in 1994, which Respondent had failed to disclose in his application. On or about July 9, 2010, Respondent replied that "I failed to remember a few cases from nearly 20 years ago when I listed what the "yes" answered question was for. This was not intentional as two of the cases were 20 years ago, when I was 19 years old and the other was 16 years ago." Respondent then went on to recite the specifics and exact dates of three previously undisclosed convictions; two of which the Commissioner had inquired about and one further misdemeanor burglary conviction in 1989. Respondent stated as follows in describing these further convictions, "Here is a brief description of the cases: 04-03-1989- I was convicted of burglary. I was caught stealing quarters from the video games at Disneyland. 12-05-1989- I obviously didn't learn my lesson as I was convicted of burglary for stealing quarters from Knotts Berry Farm. 10-27-1994- I was convicted of lying to a police officer. I was driving with a suspended license and I used a bogus name to avoid arrest."

Additionally, Form MU4 at Question 8. (I) specifically asks: "Has any State or federal regulatory agency or foreign financial regulatory authority ever: (1) found you to have made a false statement or omission or been dishonest, unfair or unethical? . . (5) revoked your registration or license? (6) denied or suspended your registration, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities. . . ." Respondent answered "yes" to those three questions. In providing details, Respondent stated on or about May 11, 2010 that "Sometime around 1998, my Fire & Casualty insurance license was revoked by the Dept. of Insurance. This action was taken due to the department's interpretation revolving around a chain of events between a long-time client, my company and me. Basically, I listed myself as a driver on a clients auto insurance renewal when, in fact, I never intended to drive the vehicle. I did this to help the client, at her request, as her driving privileges were suspended and she needed to maintain coverage on her car for the lien-holder. This was common practice at the company I worked for at the time. . . ."

Documents obtained by the Department of Corporations during the application process

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disclosed that on or about May 2, 1997, the Department of Insurance ("DOI") brought an action to revoke Respondent's Fire and Casualty broker-agent license for falsely stating on his May 1, 1995 license application that he had not been convicted of any crimes, misdemeanor or felony. According to the DOI accusation, the revocation action was based upon three convictions in Riverside County against Respondent involving driving without a seat belt, driving under the influence, and driving on a suspended or revoked license, and failures to appear in each of those cases. On or about June 3, 1997, Respondent's DOI license was restricted pursuant to a stipulation entered into between Respondent and DOI wherein Respondent did not admit or deny any of the allegations.

However, at the time of Respondent's license application with DOI, Respondent, through his own admissions, had also been convicted of two separate misdemeanor petty thefts, two separate misdemeanor burglaries, and one misdemeanor conviction of lying to a police officer.

The DOI documents further showed that Respondent's DOI license was eventually revoked on or about June 15, 2001 for falsely filling out an application for automobile insurance for a client by stating on the application that he was a resident of the client's household and a licensed driver of the client's automobile. The DOI concluded that Respondent's actions showed that he "had engaged in a fraudulent practice or act and had conducted his business in a dishonest manner in violation of Section 1688(i) of the California Insurance Code, that Respondent had acted incompetently and has shown untrustworthiness in the conduct of any business in violation of Section 1668(j) of the California Insurance Code, and that Respondent is lacking in integrity in violation of Section 1668(e) of the California Insurance Code."

III

LICENSING REQUIREMENTS

Financial Code section 22109.1 provides in relevant part:

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

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> and efficiently within the purposes of this division."

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

> (a) The Commissioner's finding required by Section 22109.1(c) of the California Finance Lenders Law relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the role of a mortgage loan originator.
>
> . . .
>
> (c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:
>
> (1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or
>
> (2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

IV

CONCLUSION

Complainant finds, by reason of the foregoing, that:

(1) Thomas was convicted of misdemeanor petty theft on two separate occasions in or about 1988/1989.

(2) Thomas was convicted of misdemeanor burglary on two separate occasions in 1989.

(3) Thomas was convicted of misdemeanor false representation of identity to a peace officer and misdemeanor personate to make others liable in 1994.

(4) Thomas had his DOI license restricted in 1997 for making a false statement in his May 1, 1995 DOI license application that he had never been convicted of any crime.

(5) Thomas had been convicted of the crimes described in items (1) – (3) above at the time of his May 1, 1995 license application with the DOI, which were in addition to those convictions discovered by DOI.

(6) Thomas had his DOI license revoked on June 15, 2001 for engaging in a fraudulent practice or act, conducting his business in a dishonest manner, acting incompetently, displaying untrustworthiness in the conduct of a business, and lacking integrity.

(7) Thomas has made false statements to the Commissioner in his 2010 MLO license application.

(8) Thomas 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 long 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 April 22, 2010 application be upheld.

Dated: December 1, 2010
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By_____
Judy L. Hartley
Senior Corporations Counsel

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