BEFORE THE
DEPARTMENT OF BUSINESS OVERSIGHT
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: TODD LEE LOOP, Respondent.	NMLS ID: 1144081 OAH No. 2014120310

DECISION

The attached Proposed Decision of the Administrative Law Judge of the Office of Administrative Hearings, dated May 18, 2015, is hereby adopted by the Department of Business Oversight as its Decision in the above-entitled matter with technical and minor changes on the attached Errata Sheet pursuant to Government Code section 11517(c)(2)(C).

This Decision shall become effective on September 23, 2015.

IT IS SO ORDERED this 24th day of August, 2015.

/S/
JAN LYNN OWEN
Commissioner of Business Oversight

State of California - Department of Business Oversight

ERRATA SHEET

(Changes to Proposed Decision – Todd Lee Loop)

1) On page 2 of the proposed decision, paragraph number 2 of the Factual Findings, line 4, delete "or fraud" and insert "of fraud."

2) On page 2 of the proposed decision, paragraph number 2 of the Factual Findings, line 7, delete "DBO007" and insert "DBO0007."

3) On page 3 of the proposed decision, paragraph number 8 of the Factual Findings, line 3, insert "had" after "has."

4) On page 5 of the proposed decision, paragraph number 5 of the Legal Conclusions, line 3, delete "DBO007" and insert "DBO0007."

BEFORE THE
DEPARTMENT OF BUSINESS OVERSIGHT
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: TODD LEE LOOP, Respondent.	NMLS ID: 1144081 OAH No. 2014120310

PROPOSED DECISION

Administrative Law Judge Thomas Heller, State of California, Office of Administrative Hearings, heard this matter in Los Angeles, California on April 21, 2015.

Marlou de Luna, Senior Corporations Counsel, Department of Business Oversight (Department), represented complainant Jan Lynn Owen, Commissioner of Business Oversight (Commissioner).

Respondent Todd Lee Loop represented himself.

The matter was submitted on April 21, 2015.

REDACTION OF PRIVATE INFORMATION

After submission of the matter, the Administrative Law Judge redacted Exhibit 6 and Exhibit A to obscure respondent's social security number and date of birth.

FACTUAL FINDINGS

Parties and Jurisdiction

1. On or about June 20, 2014, respondent filed an application for a mortgage loan originator license[1] with the Commissioner under the California Residential Mortgage

[1] A mortgage loan originator is "an individual who, for compensation or gain, or in the expectation of compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan." (Fin. Code, § 50003.5, subd. (a).)

Lending Act (Fin. Code, § 50000 et seq.) (CRMLA). Respondent submitted the application by filing a Form MU4 with the Nationwide Mortgage Licensing System. Respondent disclosed on the application that he had previously been convicted of a felony on two occasions, had unsatisfied judgments or liens against him, and was delinquent on court ordered child support payments.

2. On November 14, 2014, the Commissioner filed a Statement of Issues and Notice of Intention to Deny Application for Mortgage Loan Originator License, alleging as grounds for denial that respondent: (1) "has, on two occasions . . ., pleaded guilty to a felony involving an act or fraud, dishonesty, a breach of trust, or money laundering;" and (2) "has not demonstrated such financial responsibility, character, and general fitness as to . . . warrant a determination that he will operate honestly, fairly, and efficiently" if issued the license. (Ex. 1 at p. DBO007.)

3. On a date not established, respondent submitted a Notice of Defense and requested a hearing.

Respondent's Convictions

4. On December 27, 1989, in the United States District Court, Central District of California, Case No. CR-89-593-WDK, respondent was convicted, based on his plea of guilty, of three counts of misapplication of funds from a federally-funded mortgage institution, in violation of title 18 United States Code section 657. Court records indicate that the charges were filed as felonies, and that respondent was "convicted as charged." (Ex. 5 at pp. DBO00039, DBO00073.)[2] Respondent pleaded guilty to misapplying funds belonging to Commonwealth Mortgage, his employer, to pay personal debts, by diverting checks from and to the company and by approving payment of a false invoice. At the time of the crimes in 1988, respondent was a Commonwealth Mortgage branch manager. Respondent was sentenced to three months in prison, to be served either on consecutive weekends or all at once, plus two years of supervised release on various terms.

5. On November 6, 1990, in the Superior Court of California, County of San Bernardino, Case No. SCR52634, respondent was convicted, based on his plea of guilty, of

---

[2] Misapplication of funds from a federally-funded mortgage institution can be a felony or a misdemeanor, depending on the amount misapplied. At present, it is a felony when the amount misapplied exceeds $1,000. (18 U.S.C. § 657 [30-year maximum prison term for misapplication of over $1,000]; see 18 U.S.C. § 3559 [crimes for which maximum prison term exceeds one year are felonies].) When respondent was convicted, misapplication of over $100 was a felony. (Former 18 U.S.C. § 657 (1989); see Economic Espionage Act of 1996, Pub. L. No. 104-294, § 606 (Oct. 11, 1996) 110 Stat. 3511 [increasing threshold to $1,000]; *United States v. Harris* (1984) 729 F.2d 441, 447.) The three charges of which respondent was convicted each involved misapplication of over $100. (Ex. 5.)

felony grand theft by embezzlement, in violation of Penal Code section 487, subdivision (1) (now Pen. Code, § 487, subd. (b)(3)). Respondent pleaded guilty to embezzling money and personal property worth more than $400 from Provident Savings Bank, his employer, between September and December 1989.[3] The court withheld pronouncement of judgment and placed respondent on supervised probation for three years, under various terms, including that he serve 90 days in jail, pay restitution to the bank, perform 200 hours of community service, and refrain from gambling.

6. Respondent testified that his convictions resulted from his need to pay gambling debts. He was subject to unspecified duress or threats due to those debts, and committed his crimes due to "self-preservation." He expressed remorse and shame for his conduct.

Subsequent Events

7. Respondent completed his federal sentence and state probation many years ago. At one point in 1991, the San Bernardino County Superior Court revoked his probation, but it was reinstated less than a month later. No evidence was presented that respondent's federal or state convictions have been expunged or pardoned.

8. After his convictions in 1989 and 1990, respondent continued to work as a mortgage loan officer for various companies for many years. Currently, he works for a company that sells funeral insurance. He has no other convictions since 1990. He estimates that he worked as a loan officer on over 1,500 mortgages since his convictions, and testified that there have been no problems involving his honesty or integrity on any of those transactions. He is 57 years old, has worked in the mortgage business for about 25 years, and wants the opportunity to work as a licensed mortgage loan originator.

9. The Internal Revenue Service recorded tax liens against respondent in 2011 and 2012. The 2011 tax lien was for over $107,000, and the 2012 tax lien was for over $1,500. As of April 2014, he owed the California Franchise Tax Board about $1,300 for personal income taxes. As of May 2009, he owed the State of California Employment Development Department $1,755 due to an overpayment of unemployment insurance benefits. Respondent testified that he currently owes the State of California about $3,100 in unpaid child support related to one of his now-adult children, because the child's mother received public assistance at some point during which child support was due. He makes monthly payments of $50 or more on this debt.

10. Respondent testified that he filed for Chapter 7 bankruptcy in February 2015, and received a discharge of his debts. No documentary evidence was presented concerning the bankruptcy filing or the discharge.

---

[3] At the time, grand theft by embezzlement required the taking of money or property worth $400 or more during a 12 month consecutive period. Currently, the amount is $950 or more during the same period. (Pen. Code, § 487, subd. (b)(3).)

LEGAL CONCLUSIONS

1. Respondent bears the burden of proving that he meets all of the prerequisites necessary for the requested license. (See *Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1221.) This burden of proof requires proof by a preponderance of the evidence. (See Evid. Code, § 115.)

2. "An applicant for a license as a mortgage loan originator shall apply by submitting the uniform form prescribed for that purpose by the Nationwide Mortgage Licensing System and Registry." (Fin. Code, § 50140, subd. (a).) The Commissioner "shall deny" the application unless she finds, among other things, that the applicant "has not been convicted of . . . a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application . . ., *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.*" (Fin. Code, § 50141, subd. (a)(2)(A), italics added.) Any such conviction requires denial of the application, regardless of the applicant's rehabilitation, unless the conviction has been expunged or pardoned. (*Id.*, subd. (a)(2)(B); see also Fin. Code, §§ 4, 15 [as used in the Financial Code, the word "shall" is mandatory, unless the context otherwise requires].) In addition, the Commissioner "shall deny" the application unless she finds that 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 [the CRMLA]." (Fin. Code, § 50141, subd. (a)(3).)

3. Respondent's federal conviction in 1989 was for willfully misapplying funds from the federally-funded mortgage institution where he worked to pay his personal debts, by diverting checks to and from the institution and approving payment of a false invoice. The conviction was for three felony violations of title 18 United States Code section 657, and it involved acts of "fraud, dishonesty, [and] a breach of trust." (Fin. Code, § 50141, subd. (a)(2)(A).) There was no evidence presented that this conviction has been expunged or pardoned. Therefore, this conviction requires denial of respondent's application, even though it occurred over 25 years ago.

4. Respondent's state conviction in 1990 was for felony grand theft by embezzlement under Penal Code section 487, subdivision (1) (now Pen. Code, § 487, subd. (b)(3)). "Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property . . . is guilty of theft." (Pen. Code, § 484, subd. (a).) Grand theft by embezzlement is theft by a servant, agent, or employee from his or her principal or employer of $950 or more (or $400 or more in 1990) in any 12 consecutive month period. (Pen. Code, § 487, subd. (b)(3).) By its very nature, embezzlement involves acts of fraud and dishonesty, and a breach of trust. (*People v. Talbot* (1934) 220 Cal. 3, 13.) As with respondent's federal conviction, there was no evidence presented that respondent's state conviction has been

expunged or pardoned. Therefore, this conviction also requires denial of respondent's application, despite its age.

5. Based on respondent's various debts, the Commissioner also alleges that respondent should be denied a license because he "has not demonstrated such financial responsibility, character, and general fitness" as is required. (Ex. 1 at p. DBO007.) But respondent's testimony about his Chapter 7 bankruptcy calls into question which debts may be considered in support of the Commissioner's allegation. (See 11 U.S.C. § 525(a) [a governmental unit may not deny a license "solely because [a] bankrupt or debtor . . . has not paid a debt that is dischargeable . . . or that was discharged . . . ."].) Respondent's unpaid child support obligation is likely non-dischargeable in bankruptcy. (See 11 U.S.C. § 523(a)(5).) Respondent's tax debts may also be non-dischargeable (see 11 U.S.C. § 523(a)(1)), but there is insufficient evidence in the record to make that determination. Because respondent's convictions require denial of his application, it is unnecessary to resolve these bankruptcy issues, or to determine whether respondent lacks the requisite "financial responsibility, character, and general fitness." (Fin. Code, § 50141, subd. (a)(3).)

ORDER

Respondent Todd Lee Loop's application for a mortgage loan originator license is denied.

DATED: May 18, 2015

THOMAS HELLER
Administrative Law Judge
Office of Administrative Hearings