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8 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
9 OF THE STATE OF CALIFORNIA

11 In the Matter of:)	
)	NMLS NO.: 2059834
12 THE COMMISSIONER OF FINANCIAL)	
13 PROTECTION AND INNOVATION,)	SPONSOR FILE NO.: N/A
)	
14 Complainant,)	STATEMENT OF ISSUES
)	
15 v.)	
)	
16 MAX KAY also known as MANSOUREDIN)	
17 KAYATZADEH,)	
)	
18 Respondent.)	

19
20 The Commissioner of Financial Protection and Innovation (Commissioner) is informed and
21 believes, and based upon such information and belief, alleges and charges Respondent Max Kay
22 (Kay) as follows:

23 **I.**

24 **Introduction**

25 1. The proposed order seeks to deny the issuance of a mortgage loan originator license
26 to Kay pursuant to Financial Code sections 22109.1 and 50141in that Kay has failed to demonstrate
27 such financial responsibility, character, and general fitness as to command the confidence of the
28 community and to warrant a determination that he will operate honestly, fairly, and efficiently.

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II.

The Application

2. Financial Code sections 22105.1 and 50140 provide in pertinent part:

(a) An applicant for a mortgage loan originator license shall apply by submitting the uniform form prescribed for such purpose by the Nationwide Mortgage Licensing System and Registry. The commissioner may require the submission of additional information or supporting documentation to the department.

...
(c) In connection with an application for a license as a mortgage loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant’s identity, including the following:

...
(2) Personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the commissioner to obtain both of the following:

...
(B) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

3. On or about February 9, 2021, Kay filed an application for a mortgage loan originator (MLO) license with the Commissioner pursuant to the California Financing Law (CFL) (Fin. Code § 22000 *et. seq.*) and the California Residential Mortgage Lending Act (CRMLA) (Fin. Code § 50000 *et. Seq.*), in particular, Financial Code sections 22105.1 and 50140. The application was submitted to the Commissioner by filing Form MU4 through the Nationwide Mortgage Licensing System (NMLS). Kay signed the Form MU4 attesting that the answers were true and complete to the best of his knowledge.

4. Form MU4 at Financial Disclosure Question (D) asks: “Do you have any unsatisfied judgments or liens against you?” Kay answered “No”.

5. Form MU4 at Criminal Disclosure Question (F) (1) asks: “Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to any felony? Kay answered “yes” to this question.

6. Form MU4 at Regulatory Action Disclosure Questions (K) (1) and (5) asks: “Has any State or federal regulatory agency or foreign financial regulatory agency or self-regulatory organization (SRO) ever: (1) found you to have made a false statement or omission or been

1 dishonest, unfair, or unethical?” and” (5) revoked your registration or license?” Kay answered “yes”
2 to both these questions.

3 7. Form MU4 at Customer Arbitration/Civil Litigation Disclosure Question (P)(1) asks:
4 “Have you ever been named as a respondent/defendant in a financial services-related consumer-
5 initiated arbitration or civil litigation which: (1) is still pending?” Kay answered “yes”.

6 8. MLO applicants are required to give detailed explanations for every disclosure
7 answered in the affirmative and submit supporting documentation. Kay’s detailed explanation
8 regarding his affirmative responses to Form MU4 Disclosure Questions (F)(1), (K)(1) and (5) and
9 (P)(1) were: *Question (F)(1)* - “In 2009 I pleaded (sic) guilty to misdemeanor, which was originally
10 going to be felony however the DA found it adequate to adjust to misdemeanor. I paid my dues for
11 this, did restitution to public, community service. The charges of misdemeanor have now been
12 expunged from my record by the court. DRE Permission is attached.”; *Questions (K)(1) and (5)* -
13 “The California BRE found that I had omitted my criminal record when re-applying for my Real
14 Estate Broker License. Because of this omission the BRE revoked my real estate broker license.
15 Currently the BRE approved me to re-apply for my Real Estate Broker license, and I am in the
16 process of taking required exams for it. DRE Permission is attached.”; and *Question (P)(1)* - “A
17 lawsuit that in my opinion has no merit was filled against me in civil court. The plaintiff in this
18 lawsuit knew I had lost my income and could not afford lawyer at the time, and I believe tried to
19 capitalize on the situation. Currently this lawsuit is pending. It involves real estate matters which I
20 had no hand in, however the plaintiff’s relatives where (sic) part of.” Kay submitted the Department
21 of Real Estate Order Granting Reinstatement dated September 22, 2020, and a court docket for a
22 civil case wherein Kay was named as a defendant. Kay did not submit any supporting
23 documentation regarding the criminal conviction.

24 9. On or about April 1 and 13, 2021, Kay submitted and attested to amended MU4s in
25 which he continued to answer “no” to Form MU4 Financial Disclosure Question (D) and failed to
26 submit all the required documentation.

27 10. On or about April 20, 2021, Department of Financial Protection and Innovation
28 (Department) staff notified Kay by way of license item postings in NMLS to (i) submit supporting

1 court documentation for the felony conviction; (ii) disclose the unsatisfied judgment by (a) providing
2 a yes response to Financial Disclosure Question (D), (b) submitting an explanation, and (c)
3 uploading the applicable documents in NMLS; and (iii) obtain a sponsorship request from a
4 company licensed by the Department.

5 11. On or about May 13, 2021, Kay emailed the Department a letter of explanation.
6 Included with the letter were various other documents concerning his criminal conviction. Kay did
7 not submit any information or documentation regarding the unsatisfied judgment.

8 12. To date, Kay has never accurately responded to Financial Disclosure Question D,
9 uploaded any supporting documentation, or otherwise provided any information regarding the
10 unsatisfied judgment.

11 13. At no time has Kay ever submitted information to the Commissioner that he is
12 employed by, and subject to the supervision of, a finance lender or broker and/or residential
13 mortgage lender or servicer that has obtained a license from the commissioner pursuant to the CFL
14 and/or CRMLA.

15 **III.**

16 **Criminal Conviction**

17 14. On or about May 20, 2010, Kay pled nolo contendere to one felony count of violating
18 California Penal Code section 530.5(a) (identity theft) in Los Angeles Superior Court. On or about
19 July 28, 2010, Kay was sentenced to three years in prison with the execution of the sentence
20 suspended and Kay placed on formal probation for a period of three years conditioned upon serving
21 350 days in jail and the payment of various fines and restitution.

22 15. On or about January 13, 2012, pursuant to a motion, Kay’s felony conviction was
23 reduced to a misdemeanor and his probation was terminated. Thereafter, on or about March 8, 2012,
24 Kay had his conviction expunged pursuant to Penal Code section 1203.4.

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IV.

Administrative Action

16. On or about May 3, 2012, to be effective June 28, 2012, the California Department of Real Estate (DRE) revoked Kay’s DRE broker license. The revocations were the result of Kay’s felony conviction for identity theft and his failure to disclose the conviction to the DRE in his broker renewal application. The revocation occurred after a hearing before the Office of Administrative Hearings on January 17, 2012 wherein the Administrative Law Judge, in his proposed decision finding cause to revoke Kay’s DRE license, found that Kay’s “Respondent’s credibility, however, is questioned due to inconsistent prior statements in the record. For example, Respondent asserted at hearing that he attempted to purchase the car from (sic) to help Foster, when in fact he tried to purchase the car for his son. Respondent falsely stated he was only trying to help a friend, but his bad credit was the reason he used Jane Lui’s false identification. Respondent also did not take responsibility for submitting an application to the Department which omitted his pending criminal charges, choosing instead to claim an employee completed the application which he failed to review. Respondent’s lack of candor and honesty seriously damaged his credibility at hearing.”

17. On May 15, 2020, Kay petitioned for reinstatement of his DRE broker license, which was granted by DRE on September 22, 2020, subject to the meeting the following conditions – (i) qualify for, take and pass the real estate broker license examination; and (ii) submit a completed application and pay the fee for a real estate broker license. DRE records disclose that Kay’s broker license currently remains revoked.

V.

Unsatisfied Judgment

18. A Westlaw search performed on Kay disclosed an unsatisfied small claim judgment with creditor Ricardo A. in the amount of \$5,000.00 from March 8, 2000. To date, Kay has not disclosed this unsatisfied judgment in his Form MU4, nor has he responded to any inquiries from the Department regarding it.

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VI.

Material Omissions

19. In the MU4s filed on February 9 and April 1 and 13, 2021, Kay was required to respond “yes” to Financial Disclosure Question (D) “Do you have any unsatisfied judgments or liens against you?” as Kay has an unsatisfied small claims judgment in the amount of \$5,000.00 against him. Kay has never accurately responded to Financial Disclosure Question (D) nor responded to any inquiry regarding such judgment.

VII.

Licensing Requirements

20. Financial Code sections 22109.1 and 50141 provide in relevant part:

(a) The commissioner shall deny an application for a mortgage loan originator license unless the commissioner makes, at a minimum, the following findings:

...

(3) 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.

21. California Code of Regulations, title 10, sections 1422.6.2 and 1950.12.5.2 provide 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.

1 **VIII.**

2 **Conclusion**

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

4 (1) On or about May 20, 2010, Kay pled nolo contendere to one felony count (later
5 reduced to a misdemeanor) of violating California Penal Code section 530.5(a) (identity theft) in Los
6 Angeles Superior Court and was sentenced to three years in prison (sentence suspended) and placed
7 on formal probation for a period of three years conditioned upon servicing 350 days in jail and the
8 payment of various fines and restitution;

9 (2) On or about May 3, 2012, to be effective June 28, 2012, the California Department of
10 Real Estate revoked Kay’s broker license as a result of Kay’s felony conviction for identity theft and
11 his failure to disclose the conviction in his broker renewal application. On September 22, 2020,
12 DRE granted Kay’s May 15, 2020 petition for reinstatement of his DRE broker license subject to the
13 meeting the following conditions – (i) qualify for, take and pass the real estate broker license
14 examination; and (ii) submit a completed application and pay the fee for a real estate broker license.
15 Kay’s broker license remains revoked as of the date hereof;

16 (3) Kay has an unsatisfied small claim judgment in the amount of \$5,000.00 from March
17 8, 2000;

18 (4) Kay has made material misrepresentations and/or omitted material information from
19 his MLO applications regarding the unsatisfied small claims judgment;

20 (5) As a result of the above, Kay has failed to demonstrate the financial responsibility,
21 character and fitness required of a mortgage loan originator under the California Financing Law and
22 the California Residential Mortgage Lending Act; and

23 (6) Kay is not employed by, nor subject to the supervision of, a finance lender or broker
24 and/or residential mortgage lender or servicer that has obtained a license from the commissioner
25 pursuant to this division.

26 THEREFORE, the Commissioner is mandated under Financial Code sections 22109.1 and
27 50141 to deny the mortgage loan originator application of Max Kay.

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IX.

Prayer

WHEREFORE IT IS PRAYED that the mortgage loan originator application filed by Max Kay on February 9, 2021 be denied.

Dated: August 2, 2021
Los Angeles, California

CHRISTOPHER S. SHULTZ
Acting Commissioner of Financial Protection and Innovation

By _____
Judy L. Hartley
Senior Counsel
Enforcement Division

