

FILED

MAR 07 2012

DEPARTMENT OF REAL ESTATE

By P. Jones

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

MARK BARRY MAGNUS,

Respondent.

No. H-5749 SAC

ORDER DENYING APPLICATION FOR AN MLO LICENSE ENDORSEMENT

The Real Estate Commissioner, in conformity with Section 10152, Division 4, Business and Professions Code of the State of California, required further proof of the honesty and truthfulness of MARK BARRY MAGNUS (hereinafter "Respondent"), in connection with Respondent's application for an individual mortgage loan originator license endorsement filed on January 27, 2011, and Respondent's application for a company mortgage loan originator endorsement, filed on behalf of Sandmark Mortgage Loan Processing on March 10, 2011, and in relation thereto, filed a Statement of Issues on January 4, 2012.

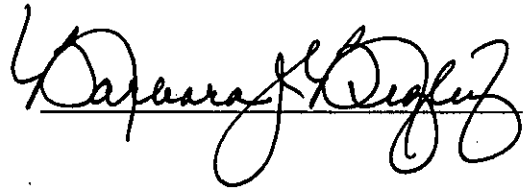
Said Statement of Issues was properly served on Respondent on or about January 4, 2012, by regular and certified mail. Respondent has, to date, failed to file a Notice of Defense, request a hearing, or otherwise establish that Respondent is entitled to the license sought.

1 IT IS THEREFORE ORDERED, pursuant to the authority granted under
2 Section 11520 of the Government Code of the State of California, that the applications of
3 MARK BARRY MAGNUS for an individual mortgage loan originator license endorsement and
4 a company mortgage loan originator endorsement, are hereby denied.

5 This Order shall be effective immediately.

6 DATED: 3/1/12

7 BARBARA J. BIGBY
8 Acting Real Estate Commissioner

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FILED

January 4, 2012

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

By

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)

12 MARK BARRY MAGNUS,)

No. H-5749 SAC

STATEMENT OF ISSUES

13 Respondent.)
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16 The Complainant, SYLVIA YRIGOLLEN, a Deputy Real Estate Commissioner
17 of the State of California, for Statement of Issues against MARK BARRY MAGNUS
18 (hereinafter "Respondent"), is informed and alleges as follows:

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20 Complainant, SYLVIA YRIGOLLEN, a Deputy Real Estate Commissioner of the
21 State of California, makes this Statement of Issues in her official capacity.

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23 On or about January 27, 2011, Respondent made application to the State of
24 California Department of Real Estate (hereinafter "Department") for an individual mortgage
25 loan originator license endorsement (hereinafter "license endorsement").

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2 On or about March 10, 2011, Respondent, on behalf of Sandmark Mortgage Loan
3 Processing, made application to the Department for a company license endorsement.
4 Respondent is the control person/affiliate for Sandmark Mortgage Loan Processing.

5 4

6 Respondent is presently licensed and/or has license rights under the Real Estate
7 Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "Code") as a real
8 estate broker. Beginning on or about November 19, 2010, Sandmark Mortgage Loan Processing
9 is and was a licensed fictitious business name of Respondent.

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11 In response to Question H(1) of said individual license endorsement application,
12 to wit: "Has any domestic or foreign court ever: ... (b) found that you were involved in a
13 violation of any financial series-related statutes(s) or regulations(s)?", Respondent concealed and
14 failed to disclose the judgments described in Paragraphs 7 and 8.

15 6

16 In response to Question F of said company license endorsement application, to
17 wit: "Has any domestic or foreign court: ... (2) in the past ten years found the entity or a control
18 affiliate was involved in a violation of any financial services-related statute(s) or regulation(s)?",
19 Respondent concealed and failed to disclose the judgments described in Paragraphs 7 and 8.

20 7

21 On or about January 21, 2010, in the United States Bankruptcy Court, Northern
22 District of California, Adversary Case No. 09-04535, a Judgment was entered against
23 Respondent in the amount of \$6,000, finding that the debt owed by Respondent is
24 nondischargeable pursuant to Section 523(a)(2)(A) of the United States Bankruptcy Code.

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26 On or about January 21, 2010, in the United States Bankruptcy Court, Northern
27 District of California, Adversary Case No. 09-04534, a Judgment was entered against

1 Respondent in the amount of \$4,000, finding that the debt owed by Respondent is
2 nondischargeable pursuant to Section 523(a)(2)(A) of the United States Bankruptcy Code.

3 9

4 Respondent's conduct, described in Paragraphs 7 and 8, constitute cause for
5 denial of Respondent's application for a license endorsement under Section 10166.05(c) of the
6 Code and Section 2758.3 of Title 10 of the California Code of Regulations.

7 10

8 Respondent's failure to reveal in said applications the judgments set forth in
9 Paragraphs 7 and 8, constitute the procurement of or attempt to procure a real estate license by
10 fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said
11 application, which failure is cause for denial of Respondent's application for a license
12 endorsement pursuant to the provisions of Sections 10177(a) and 10166.051(b) of the Code.

13 WHEREFORE, Complainant prays that the above-entitled matter be set for
14 hearing and, upon proof of the charges contained herein, that the Commissioner refuse to
15 authorize the issuance of, and deny the issuance of a mortgage loan act endorsement to
16 Respondent, and for such other and further relief as may be proper in the premises.

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SYLVIA YRIGOLLEN
Deputy Real Estate Commissioner

20 Dated at Sacramento, California,
21 this 16th day of December, 2011.

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23 DISCOVERY DEMAND

24 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department of
25 Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
26 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate
27 may result in the exclusion of witnesses and documents at the hearing or other sanctions that the
Office of Administrative Hearings deems appropriate.