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DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of:

) DRE No. H-41925 LA

JULIO E GRANDA,

) OAH No. 2021040241

) Respondent.

DECISION

The Proposed Decision dated June 28, 2021, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a mortgage loan originator license endorsement is denied. The earliest date on which the applicant may reapply for a license is one year from the effective date of this Decision. If and when application is again made for this license, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

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Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on 09/28/2021.

IT IS SO ORDERED 9.1.21.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

JULIO E. GRANDA, Respondent

Agency Case No. H-41925 LA

OAH No. 2021040241

PROPOSED DECISION

Chris Ruiz, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on May 26, 2021.

Laurence D. Haveson, Counsel for the Department of Real Estate (Department), represented Luke Martin (complainant), a Supervising Special Investigator of the State of California.

Respondent Julio E. Granda represented himself.

Testimony and documentary exhibits were received as evidence. The record was closed and the matter was submitted on May 26 2021.

FACTUAL FINDINGS

Jurisdictional Matters

1. On July 26, 2019, the Department issued real estate salesperson license S/02085572 to respondent. The license is active and is scheduled to expire on July 25, 2023, unless renewed.
2. On August 2, 2019, respondent filed an Application for a Mortgage Loan Originator (MLO) endorsement to be added to his real estate salesperson license.
3. Complainant filed the Statement of Issues on March 15, 2021.
4. On March 30, 2021, respondent filed a Notice of Defense, which requested a hearing on the allegations stated in the Statement of Issues.
5. All jurisdictional requirements have been met.

Respondent's MLO Application

6. Respondent's Application for a MLO endorsement to be added to his real estate salesperson license included a Form MU4 application, which respondent filed through the Nationwide Mortgage Licensing System and Registry. In his Form MU4 application, under the section entitled "Disclosure Questions," respondent gave two false answers, as detailed immediately below.
7. In the "Financial Disclosure" section, respondent was asked, "Do you have any unsatisfied judgments or liens against you?" Respondent answered "No."
8. In the "Regulatory Action" section, respondent was asked, "Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory

organization ever found you have been involved in a violation of a financial services-related business regulation(s) or statute(s)?" Respondent answered "No."

Respondent's History Prior to His Application for MLO Endorsement

DISCIPLINE BY THE STATE OF OREGON

9. On May 22, 2018, in the Matter of Julio N. Granda¹, Case No. M-16-0322, the Director of the Department of Consumer and Business Services for the State of Oregon (Director) issued a document entitled "Final Order to Cease and Desist, Order Assessing a Civil Penalty, and Consent to Entry of Order" (Order). In this Order, the Director found that respondent was not licensed with the State of Oregon as a mortgage broker or a mortgage loan originator. The Director concluded that respondent violated Oregon Revised Statutes 86A.203 by taking a mortgage loan application, and negotiating terms for a residential mortgage, without first obtaining a mortgage loan originator's license.

10. The Director ordered respondent to Cease and Desist from violating Oregon's Mortgage Lender Law and to pay a civil penalty for negotiating a residential mortgage without being licensed. The Director also agreed to suspend the collection of the civil penalty on condition that respondent agreed not to act as a mortgage loan originator, mortgage broker, or banker in the State of Oregon without being licensed and respondent agreed to commit no new violations of the Oregon Mortgage Lender

¹ The evidence did not establish why the Order shows respondent's name as "Julio N. Granda" rather than "Julio E. Granda."

Law or any administrative rules adopted thereunder. Respondent signed a written, notarized consent to the entry of the Director's order.

CIVIL JUDGMENT AGAINST RESPONDENT

11. On or about July 28, 2016, in the Small Claims Department of the Multnomah County, Oregon, Circuit Court, Case No. 16SC02963, a civil judgment in the amount of \$5,252 was granted in favor of United Finance Co. against respondent. Respondent has not satisfied this judgment.

RESPONDENT'S CRIMINAL CONVICTION

12. On or about October 24, 1993, in the Justice Court of the State of Sao Paulo, Brazil, Case No. RG: 31204503, N. Pedido 598798-0001, respondent was convicted of violating Law 11.343 (drug trafficking), a felony. The Brazilian criminal court sentenced respondent to serve four years in prison, which respondent did serve. The underlying events leading to respondent's conviction occurred when respondent and three friends attempted to transport 20 pounds of cocaine from Brazil to Europe, with the intention to traffic the cocaine in Europe.

RESPONDENT'S CURRENT EMPLOYER AND WORK HISTORY

13. Respondent is 51 years old. He is currently employed at Equity Smart Home Loans (ESHL) as a loan assistant. Respondent would like to transfer to the Mortgage Division at ESHL, but he needs an MLO endorsement from the Department before doing so.

14. Respondent has approximately eight years work experience in the mortgage loan business. He has been involved in the processing of residential and commercial mortgage loans.

RESPONDENT'S MISSTATEMENTS AND WITHHOLDING OF INFORMATION

15. As discussed above, respondent failed to disclose the discipline imposed on him by the State of Oregon and the civil judgment recorded against him in Oregon.

16. Respondent also made inconsistent statements to the Department regarding the underlying events which led to his conviction in Brazil. Respondent told the Department, in his MLO application (exhibit 3), that his friends were transporting the cocaine without his knowledge. However, respondent also told the Department he and his friends strapped the 20 pounds of cocaine to their bodies (exhibit 9).

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 10166.05, subdivision (c), the Commissioner shall not issue a license endorsement to act as a mortgage loan originator to an applicant unless the Commissioner makes the following finding:

The applicant has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of the article.

2. Business and Professions Code section 10166.051 provides, in pertinent part, the Commissioner may do the following after a hearing:

Subdivision (a): Deny, suspend, revoke, restrict, or decline to renew a mortgage loan originator license endorsement for

a violation of this article, or any rules or regulations adopted hereunder.

Subdivision (b): Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license endorsement, if an applicant or endorsement holder fails at any time to meet the requirements of Section 10166.05 or 10166.09, or withholds information or makes a material misstatement in an application for a license endorsement or license endorsement renewal.

3. California Code of Regulations (CCR), title 10², section 2758.3 provides in pertinent part:

The Commissioner's finding required by Section 10166.05(c) of the Business and Professions Code 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 fiduciary role of a mortgage loan originator.

(a) The applicant may be precluded from obtaining a mortgage loan originator license endorsement where his or her personal history includes:

² All further references are to title 10 of the California Code of Regulations.

(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.

Grounds for Denial of MLO Endorsement

4. Cause exists to deny respondent's application for a MLO endorsement to his real estate license, pursuant to Business and Professions Code sections 10166.05, subdivision (c), and 10166.051, subdivision (b), because respondent made material misstatements to the Department and withheld information from the Department, as set forth in Factual Findings 6-8, 9-11, and 15-16.

5. Cause exists to deny respondent's application for MLO endorsement to his real estate license, pursuant to Business and Professions Code sections 10166.05, subdivision (c), and 10166.051, subdivision (b), and CCR section 2758.3, because respondent withheld information or made material misstatements regarding the civil judgement against him, as set forth in Factual Findings 6, 8, 11, and 15.

6. In aggravation, respondent was convicted of felony drug trafficking in Brazil in 1993 and he served four years in prison, as set forth in Factual Finding 12.

7. A real estate licensee's functions and duties necessarily require that the person be honest, of good character, and trustworthy. Honesty and truthfulness are two qualities deemed by the Legislature to bear on one's fitness and qualification to be a real estate licensee. If an applicant's offenses reflect unfavorably on his honesty, it may be said that he lacks the necessary qualifications to become a real estate licensee.

(*Golde v. Fox* (1979) 98 Cal.App.3d 176.) Respondent was not candid with the Department in his MLO application. Respondent did not fully disclose all necessary information and he made material misstatements. Therefore, the following order denying respondent's application for a MLO endorsement is required.

ORDER

Respondent Julio E. Granda's application for a Mortgage Loan Originator real estate salesperson license endorsement is denied.

DATE: 06/28/2021


Christopher Ruiz (Jun 28, 2021 08:54 PDT)
CHRIS RUIZ

Administrative Law Judge

Office of Administrative Hearings