



Page 8, under Four Default Judgments Against Respondent Peters, Paragraph 10, “On April 10, 2010, a default judgment was entered . . .” shall be amended to “On April 12, 2010, a default judgment was entered . . .”

Page 9, under Chapter 7 Bankruptcy, Paragraph 14, last sentence, “. . . under the April 10, 2010 default judgment described above,” shall be amended to “. . . under the April 12, 2010 default judgment described above.”

The application of Respondent US LENDER HOME LOANS INC. for a mortgage loan originator (“MLO”) license endorsement is denied, but the right to a restricted MLO license endorsement is granted to Respondent US LENDER HOME LOANS INC. pursuant to Section 10166.051 of the Business and Professions Code (“Code”). The restricted MLO license endorsement issued to Respondent US LENDER HOME LOANS INC. shall be subject to the following limitations, conditions and restrictions imposed under authority of Code Section 10166.051:

1. The restricted MLO license endorsement issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent’s conviction or plea of guilty or nolo contendere to a felony involving an act of fraud, dishonesty, a breach of trust, or money laundering.

2. The restricted MLO license endorsement issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has failed to meet the requirements of Code Sections 10166.05 or 10166.09, or has violated provisions of the California Real Estate Law, the Subdivided Lands Law, the Secure and Fair Enforcement for Mortgage Licenses Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted MLO license endorsement.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted MLO license endorsement, nor for the removal of any of the conditions, limitations or restrictions of a restricted MLO license endorsement until

one (1) year has elapsed from the effective date of this Decision. Petition for the removal of restrictions from a restricted MLO license endorsement is controlled by Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of Respondent.

The application of Respondent ROBERT MICHAEL PETERS, individually and as designated officer and control person of US Lender Home Loans Inc., for a MLO license endorsement is denied, but the right to a restricted MLO license endorsement is granted to Respondent ROBERT MICHAEL PETERS pursuant to Code Section 10166.051. The restricted MLO license endorsement issued to Respondent ROBERT MICHAEL PETERS shall be subject to the following limitations, conditions and restrictions imposed under authority of Code Section 10166.051:

1. The restricted MLO license endorsement issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of guilty or nolo contendere to a felony involving an act of fraud, dishonesty, a breach of trust, or money laundering.

2. The restricted MLO license endorsement issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has failed to meet the requirements of Code Sections 10166.05 or 10166.09, or has violated provisions of the California Real Estate Law, the Subdivided Lands Law, the Secure and Fair Enforcement for Mortgage Licenses Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted MLO license endorsement.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted MLO license endorsement, nor for the removal of any of the conditions, limitations or restrictions of a restricted MLO license endorsement until one (1) year has elapsed from the effective date of this Decision. Petition for the removal of restrictions from a restricted MLO license endorsement is controlled by

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Section 11522 of the Government Code. A copy of Section 11522 is attached hereto for the information of Respondent.

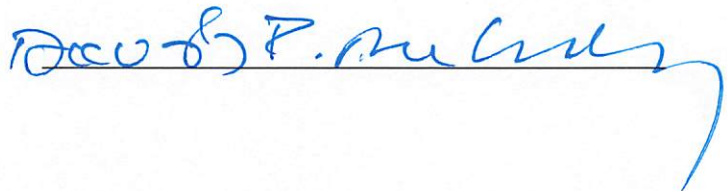
Pursuant to Government Code Section 11521, the Department of Real Estate may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for 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 are attached hereto for the information of respondents.

If and when one or more petitions for removal of restrictions is filed, all competent evidence of rehabilitation presented by Respondents will be considered by the Real Estate Commissioner. A copy of the Commissioner's Criteria of Rehabilitation is attached hereto.

This Decision shall become effective at 12 o'clock noon on 05/24/2022.

IT IS SO ORDERED 4.29.22.

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER



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

**In the Matter of the First Amended Statement of Issues**

**Against:**

**US LENDER HOME LOANS INC., ROBERT MICHAEL PETERS,  
individually and as Designated Officer and Control Person of  
US Lender Home Loans Inc., Respondents.**

**Agency Case No. H-41973 LA**

**OAH No. 2021090879**

**PROPOSED DECISION (CORRECTED)**

Thomas Lucero was the ALJ, the Administrative Law Judge, of the Office of Administrative Hearings, State of California, who heard this matter by videoconference on January 3, 2022.

Laurence D. Haveson, Staff Counsel, represented Ruth Corral, complainant. The ALJ took official notice that complainant brought the statement of issues in her official capacity as a Supervising Special Investigator of the State of California. Robert Michael Peters represented respondents, himself individually and the respondent corporation, US Lender Home Loans Inc., for which respondent Peters is the Designated Officer and Control Person. The respondent corporation is referred to below as respondent US Lender.

Testimony and documents were received in evidence. The record was held open until January 10, 2022, for respondent's submission of documents and until January 18, 2022, for complainant's response.

On January 5, 2022, complainant filed a letter to the ALJ, marked for identification as Exhibit 26, regarding and accompanying a first amended statement of issues. Under Government Code section 11507, the first amended statement of issues became the operative pleading, was marked for identification as Exhibit 25, and admitted into evidence for jurisdictional purposes.

Respondents timely submitted documentation, and complainant timely submitted a response. Complainant's Objections and Response to Respondents' Proffered Evidence was marked Exhibit 27. Respondents' January 6, 2022 letter to the ALJ was marked for identification as Exhibit A. Complainant objected that it is hearsay and that several paragraphs are improper argument. The hearsay objection is sustained. Regarding improper argument, complainant is correct to the extent that respondents did not request and were not granted leave for written argument. The objection is nonetheless overruled. Evidence during the hearing showed that respondent Peters is unfamiliar and uncomfortable with legal procedure, the same arguments found in the January 6, 2022 letter could have been at the hearing. The letter is not evidence, but may otherwise be considered as it will result in no prejudice to complainant.

Marked Exhibit B is respondent Peters's Motion to Avoid Lien filed with and an Order issued by the United States Bankruptcy Court, Central District of California, Riverside Division, in case number 6:12-bk-34329-MW. The motion was to void a lien in favor of American Express Centurion Bank against a residence in Banning, California, in the bankruptcy estate of respondent Peters. Complainant objects that there is no

admissible evidence to establish that Exhibit B is what it appears to be and is hearsay. Respondent Peters, however, testified at hearing to the motion's filing in his Chapter 7 case. Exhibit B is relevant because it explains respondent Peters's decision not to include a default judgment in favor of American Express Centurion Bank as part of required financial disclosures. The objections are overruled, and Exhibit B is admitted into evidence.

The same reasoning applies to Exhibit C, a similar motion filed with the same bankruptcy court on the same day as in Exhibit B. It resulted in a substantially identical order, except that the lien avoided against the Banning, California property in this instance was that of Citibank (South Dakota), N.A. Exhibit C is admitted into evidence.

The record closed and the matter was submitted for decision on January 18, 2022.

On February 25, 2022, complainant filed and served on respondents Complainant's Application to Correct Mistake or Clerical Error in Proposed Decision, a request for a technical correction of the proposed decision, marked for identification as Exhibit 28. The request stated that the Proposed Decision indicated in paragraph 7, page 27, and again in paragraph 15, page 29, that respondents should be issued restricted mortgage loan originator (MLO) endorsements. Complainant consequently requested that the Order in the Proposed Decision should be modified to state:

The application of respondents, US Lender Home Loans Inc. and Robert Michael Peters for endorsement of the license of each as a mortgage loan originator (MLO) is denied; provided, however, that restricted MLO endorsements shall be issued to respondents, US Lender Home Loans Inc. and



Robert Michael Peters pursuant to section 10166.051 of the Business and Professions Code. The Real Estate Commissioner may impose limitations, conditions, and restrictions on the restricted MLO endorsements issued to respondents, US Lender Home Loans Inc. and Robert Michael Peters under authority of section 10166.051, subdivision (c)(4), of the Business and Professions Code.

On March 8, 2022, respondent Robert Michael Peters, individually and on behalf of respondent US Lender Home Loans Inc., filed a response, marked for identification as Exhibit D, writing: "I am not necessarily objecting to the DRE's request for clarification. . . . I wanted to point out, for the record, a clerical error that I found. The clerical error does not pose, or require, a change in [the] . . . ruling . . . [or proposed ] decision. I just wanted to note that my bankruptcy filing was, in fact, a Chapter 7 bankruptcy. It was never a Chapter 13 as noted in Finding of Fact #24 and #31." There was no objection to correction of the proposed decision regarding the Chapter 7 bankruptcy.

This corrected proposed decision grants complainant's request and modifies the order in the proposed decision as requested by complainant. In addition, the proposed decision is modified to state Chapter 7 and not Chapter 13 in Findings of Fact numbers 24 and 31.

## **STATEMENT OF THE CASE**

Respondent Peters, licensed as a real estate broker since 2013, applies for endorsement of his license as an MLO, a mortgage loan originator. Respondent Peters



had an MLO endorsement in 2014 and for some years afterwards, but it expired. Respondent Peters also applies for an MLO endorsement of the real estate corporation license of respondent US Lender. Respondents' financial disclosures required in applying for the MLO endorsements were incomplete, leaving out a cease and desist order from Oregon real estate authorities in 2014 and several default judgments against respondent Peters. Respondent Peters believed he could omit the information until he reviewed questions with a DRE special investigator. DRE contends that omitting such information and the information itself show that respondents are not fit to act as MLO's. Respondents contend that they are qualified and acted, though mistakenly, in good faith, relying on such things as proceedings in respondent Peters's personal bankruptcy in 2013.

## **Official Notice**

The ALJ took official notice of the March 5, 2019, Decision, effective on March 28, 2019, which is referred to below as the 2019 Decision. The 2019 Decision was by the then acting Real Estate Commissioner in consolidated cases, one entitled *In the Matter of the Statement of Issues Against Ransome Carl McKissick, Jr., Respondents*, DRE number H-6626-SAC, OAH number 2018050333, the other entitled *In the Matter of the Statement of Issues Against Ransome Carl McKissick, Jr., Respondent*, DRE number H-6627-SAC, OAH number 2018050335.

## **ISSUES**

Whether respondents are fit to act as MLO's, by offering consumers, for compensation or gain, or in the expectation of compensation or gain, residential mortgages, or by offering or negotiating terms of residential mortgage loans, and

whether respondents' background, and the financial disclosures they omitted from their applications, are good grounds to deny the applications, notwithstanding evidence of good faith.

## **FINDINGS OF FACT**

1. In a June 14, 2021 Notice of Defense on Application, respondents timely sought a hearing regarding complainant's June 1, 2021 Statement of Issues.

### **Licenses**

2. On May 3, 2013, DRE issued respondent Peters real estate broker license number B/01932021, the expiration of which was extended to June 30, 2021 by the Governor's executive order number N-83-20. DRE retains jurisdiction to discipline respondent Peters's license under Business and Professions Code section 10103.

3. As set out below, DRE endorsed respondent Peters's broker license to authorize his acting as an MLO. An MLO, under Business and Professions Code section 10166.01, subdivision (b)(1), "means an individual who takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan for compensation or gain." Respondent Peters's individual MLO license endorsement became inactive and later terminated in 2018.

4. On October 23, 2020, DRE issued corporation license, number C/02126277, to respondent US Lender, and registered respondent Peters as its Designated Officer. Unless renewed, both respondent US Lender's license and respondent Peters's status as Designated Officer are scheduled to expire on October

22, 2024. DRE has no record that it issued a real estate license to respondent US Lender at any time from January 1, 2019 through October 22, 2020.

5. Respondent Peters, as the sole owner and Chief Executive Officer of respondent US Lender, controls the corporation and is its control person under the NMLS Policy Guidebook, as updated on January 5, 2022.

### **Misdemeanor Conviction**

6. A misdemeanor conviction is not alleged in the first amended statement of issues, but is pertinent to respondents' credibility and respondent Peters's character. In 1997, in the Superior Court of California, County of San Diego, of violating Vehicle Code section 23103, subdivision (a), reckless driving. The offense is known as a wet reckless because it involved alcohol consumption. It is illegal to drive with a BAC, a Blood Alcohol Content, of 0.08 percent or higher. Respondent Peters drove with a BAC at 0.08 percent. Respondent Peters served one day in jail and paid fines.

7. The underlying circumstances are that respondent Peters was drinking alcoholic beverages on the night of July 6, 1997, and drove the next morning at his father's request on the way to a family fishing trip. Respondent Peters did not drink alcohol the morning of July 7, 1997, but he was still impaired when arrested.

### **Financial Difficulties**

8. In 2009, the consumer lending division of HSBC bank laid off thousands of other employees, including respondent Peters. As he advised licensing authorities in 2014, for years his tax debts went unpaid and in 2010, respondent Peters lost a vacation home to foreclosure. He sought bankruptcy protection in 2012, as set out below.

## **Four Default Judgments Against Respondent Peters**

9. On April 6, 2010, a default judgment was entered against respondent Peters in the Superior Court of California, County of Riverside, case number RIC539764. The award in favor of plaintiff, American Express Centurion Bank, totaled \$28,337.13.

10. On April 10, 2010, a default judgment was entered against respondent Peters in the Superior Court of California, County of Riverside, case number BAC012728. The award in favor of plaintiff, Citibank (South Dakota), N.A., \$4,353.04.

11. On September 10, 2010, a default judgment was entered against respondent Peters in the Superior Court of California, County of Riverside, case number RIC10007357. The award in favor of plaintiff, Chase Bank USA, N.A., totaled \$28,013.39.

12. On July 22, 2010, a default judgment was entered against respondent Peters and Elizabeth Peters in the Superior Court of California, County of Riverside, case number BAC10000520. The award in favor of plaintiff, Target National Bank, totaled \$5,156.29.

## **Chapter 7 Bankruptcy**

13. On October 29, 2012, respondent Peters filed a voluntary Chapter 7 petition in the United States Bankruptcy Court, Central District of California, Riverside Division. In February 2013, the bankruptcy court approved respondent Peters's Chapter 7 plan.

14. Liens in favor of two of respondent Peters's judgment creditors are no longer valid. On February 13, 2013, the bankruptcy court in case number 6:12-bk-34329-MW granted motions to avoid liens against respondent Peters's residence in

Banning, California. The ruling on one motion voided liens in favor of American Express Centurion Bank under the April 6, 2010 default judgment described above. The ruling on the other motion voided liens in favor of Citibank (South Dakota), N.A., under the April 10, 2010 default judgment described above.

15. There were no motions in the bankruptcy proceedings regarding the July 22, 2010 and September 10, 2010 default judgments.

### **NMLS and Its Uniform Licensing Forms**

16. Under Business and Professions Code section 10166.01, subdivision (c), NMLS, the Nationwide Mortgage Licensing System and Registry, is recognized as "a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration" of MLO's. NMLS has developed forms that provide regulators nationwide with information required in licensing applications and for licensed practice.

17. Regulations define the types of NMLS forms. Each regulation cited here is a section of title 10 of the California Code of Regulations. Regulation 1950.003 defines the three types NMLS forms pertinent, the MU1, MU2, and MU4:

(d) "Form MU1" means the uniform licensing form developed by [NMLS] for a mortgage lender, mortgage servicer, or mortgage broker business, entitled "Uniform Mortgage Lender/Mortgage Broker Form."

(e) "Form MU2" means the uniform licensing form developed by [NMLS] for a person that directly or indirectly

exercises control over a mortgage lender, mortgage servicer, or mortgage broker business, or a branch thereof, including qualifying individuals and branch managers specified in Form MU1, entitled "Uniform Mortgage Biographical Statement & Consent Form." [¶] . . . [¶]

(g) "Form MU4" means the uniform licensing form developed by [NMLS] for an individual mortgage loan originator license or registration, entitled "Uniform Individual Mortgage License/Registration & Consent Form."

## **2014 NMLS Filing**

18. On March 3, 2014, respondent Peters filed an MU4, Exhibit 4, in applying for an individual MLO license or registration. Each completed MU1, MU2, and MU4 requires disclosures which are verified by the applicant's execution of this attestation:

[¶] . . . swear (or affirm) that I executed this application on my own behalf, and agree to and represent the following:

(1) That the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, are current, true, accurate and complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or similar provisions as provided by law;

(2) To the extent any information previously submitted is not amended and hereby, such information remains accurate and complete;

(3) That the jurisdiction(s) to which an application is being submitted may conduct any investigation into my background, in accordance with all laws and regulations;

(4) To keep the information contained in this form current and to file accurate supplementary information on a timely basis; and

(5) To comply with the provisions of law, including the maintenance of accurate books and records, pertaining to the conduct of business for which I am applying.

If an Applicant has knowingly made a false statement of a material fact in this application or in any documentation provided to support the foregoing application, then the foregoing application may be denied.

I verify that I am the named person above and agree to the language as stated.

19. Respondent Peters's financial disclosures in the March 2014 MU4 stated in response to specific questions that in the previous 10 years he had filed a personal bankruptcy petition and was the subject of a foreclosure action. Respondent Peters explained that after being laid off in 2009, he worked to establish his new financial services company, ARS Financial Group, Inc. With reduced income, however,



respondent Peters could not repay the loan securing his vacation home, lost in a July 2010 foreclosure. Later, with financial help from a family member, respondent Peters was able to pay off debt to the IRS, the Internal Revenue Service, in 2012. At the same time, he was paying off state tax liens, owing FTB, the Franchise Tax Board, approximately \$5,000.

20. The MU4's inquiry under its Financial Disclosure section includes question D, Exhibit 4, page A40: "Do you have any unsatisfied judgments or liens against you?" Respondent Peters answered no. He made no financial disclosures in the March 2014 MU4 regarding the four default judgments described above. Respondent Peters did not disclose the default judgments until years later when persuaded to do so by Shannon Boyd, a Special Investigator at the Department.

21. Respondent Peters's MLO endorsement application by means of the March 2014 MU4 was approved in April 2014. Respondent Peters renewed the MLO endorsement. In December 2016, however, because respondent Peters had no current sponsorship, the MLO endorsement's status changed to inactive. In January 2018, its status changed to terminated for failure to renew and then terminated and expired.

### **Oregon Consent Order**

22. Respondent Peters and his company, ARS Financial Group, Inc., consented to a December 23, 2014 order of the Director of the Department of Consumer and Business Services for the State of Oregon. The Director ordered respondent Peters and ARS Financial Group, Inc. to cease and desist from violating Oregon's laws and rules regulating debt management service providers. This December 2014 consent order, including an assessment of civil penalties, was issued in

case number DM-14-0036, entitled *In the Matter of ARS Financial Group, Inc. and Robert Peters, Respondents*.

23. The December 23, 2014 consent order was based on these facts. Respondent Peters and ARS Financial Group, Inc. had never been registered with the Oregon Secretary of State to do business in the state. On March 8, 2012, Oregon residents paid ARS Financial Group, Inc. \$1,750 for modification of a home loan, but the company did not effect a home loan modification and did not give a refund as the resident requested. Both respondent Peters and ARS Financial Group, Inc. were found to have acted as mortgage brokers in violation of several Oregon statutes and rules regarding residential mortgage transactions and debt management services. They were barred from any such activity in the state in the future and ordered to pay \$1,750 in restitution and a civil penalty of \$600, which the Director was empowered to assess at up to \$5,000. Respondents paid the monies ordered, a total of \$2,350.

## **April 2014 MU2**

24. On April 29, 2014, respondent Peters filed an MU2, Exhibit 6, with NMLS. As before in his March 2014 MU4, respondent Peters disclosed his Chapter 7 bankruptcy filing and the July 2010 foreclosure on his vacation home. Respondent Peters did not disclose the four default judgments against him in response to question (D), below, and he did not disclose the December 23, 2014 Oregon consent order and instead answered no to each of three questions under subsection (K), below:

(D) Do you have any unsatisfied judgments or liens against you?

(K) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization . . . ever: [11] . . . [11]

(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)? [11] . . . [11]

(4) entered an order against you in connection with a financial services-related activity?

(6) denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?

Respondent Peters likewise answered no to question (M):

Based upon activities that occurred while you exercised control over an organization, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization . . . ever taken any of the actions listed in (K) . . . above against any organization?

25. The answers above were verified by an attestation worded identically to that in the March 2014 MU4.

## **November 2020 NMLS Submissions**

26. On November 6, 2020, respondent Peters filed an MU1 on behalf of respondent US Lender and an MU2 associated to respondent US Lender. On March 11, 2021, he submitted each application form to DRE with a sworn declaration that the forms were identical to those submitted to NMLS. Respondents answered no to these questions in the November 6, 2020 MU1, Exhibit 7, page A87:

(C) In the past 10 years, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization . . . ever: [1] . . . [1]

(2) found the entity or a control affiliate to have been involved in a violation of a financial services-related regulation(s) or statute(s)?

(3) found the entity or a control affiliate to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted?

(4) entered an order against the entity or a control affiliate in connection with a financial services-related activity?

(5) denied, suspended, or revoked the entity's or a control affiliate's registration or license or otherwise, by order, prevented it from associating with a financial services-related business or restricted its activities?

27. On December 10, 2020, respondent Peters filed another MU4, Exhibit 10, with NMLS, which had the same pertinent information as that in the December 3, 2020 MU4.

28. On December 16, 2020, again respondent Peters filed an MU4. Exhibit 11, with NMLS, which had the same pertinent information as that in the December 3, 2020 and December 10, 2020 MU4's.

29. Respondent Peters answered no to this question in the November 6, 2020 MU2, Exhibit 8, page A97:

(D) Do you have any unsatisfied judgments or liens against you?

30. Respondent Peters likewise answered no to these questions in the November 6, 2020 MU2, Exhibit 8, page A98:

(K) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization . . . ever: [1] . . . [1]

(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)? [1] . . . [1]

(4) entered an order against you in connection with a financial services-related activity? [1] . . . [1]

(6) denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by

order, prevented you from associating with a financial services-related business or restricted your activities?

[11] . . . [11]

(M) Based upon activities that occurred while you exercised control over an organization, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization . . . ever taken any of the actions listed in (K) through (L) above against any organization?

### **NMLS Submissions in December 2020**

31. On December 3, 2020, respondent Peters again filed an MU4 with NMLS. As before in his March 2014 MU4, respondent Peters disclosed his Chapter 7 bankruptcy filing and the July 2010 foreclosure on his vacation home. He did not disclose the December 23, 2014 consent order and instead answered no to each of these two questions, Exhibit 9, pages A109 to A110:

(K) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization . . . ever: [11] . . . [11]

(2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)? [11] . . . [11]

(4) entered an order against you in connection with a financial services-related activity?

Respondent Peters likewise answered no to question (M):

Based upon activities that occurred while you exercised control over an organization, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization . . . ever taken any of the actions listed in (K) . . . above against any organization?

The answers above were verified by an attestation worded identically to that in the March 2014 MU4.

### **DRE Investigation**

32. Special Investigator Boyd testified that she has worked for DRE for approximately 20 years. Among matters the Department assigns her are consumer complaints against licensees, background checks of applicants for MLO endorsement, and investigations initiated by DRE into a licensed broker's records and practices. She was assigned to investigate respondent Peters's MLO application and summarized the results of her investigation in a February 26, 2021 Interview Checklist/Report, Exhibit 19. Special Investigator Boyd recommended that DRE deny the application based on respondent Peters's repeated failures to disclose required information over several years.

33. Special Investigator Boyd interviewed respondent Peters by telephone on February 26, 2021. At that time respondent Peters had no debts past due and was involved in no litigation or bankruptcies. He was licensed as a notary public, covered by a \$100,000 bond, against which no claim had ever been made. Respondent also held a license in good standing from the Department of Insurance.



## February 2021 NMLS Filings

34. On February 26, 2021, the day of Special Investigator Boyd's interview, respondent Peters, as the control person of respondent US Lender, filed an MU1, Exhibit 12, with NMLS. In this MU1, respondent Peters answered yes to questions (C)(2), (C)(3), (C)(4), and (C)(5), having previously answered no to the identical questions, quoted above, in the November 6, 2020 MU1, Exhibit 7.

35. Also on February 26, 2021, respondent Peters filed an MU2 with NMLS. As before in his April 2014 MU2, respondent Peters answered no to question (D), whether there were unsatisfied judgments or liens against him. Respondent Peters answered yes to questions (K)(2), (K)(3), (K)(4), and (K)(6), whereas he had answered no to the questions in his April 2014 MU2. Respondent Peters thus disclosed for the first time on an NMLS application form that a regulatory authority had found him guilty of violating financial services-related business regulations, was the cause that an authorization to do financial services-related business was denied, suspended, revoked, or restricted, that there was an order against him relating to a financial services-related business, and that he had been subject to discipline relating to financial services. Respondent Peters also answered yes to question (M), which he had answered no previously, regarding a regulatory authority's taking action against an organization because of activities while respondent Peters was in control.

36. To explain the affirmative answers, respondent wrote in the February 26, 2021 MU2, Exhibit 13, page A158:

This is from an order in 2014. All 'yes' answers for Section K are all related to the same event. There as [*sic*] no other events that would require a 'yes' answer prior or since. I

have previously explained this case and it currently shows under my 'regulatory actions' in my NMLS lookup. This case involved a complaint filed against me in the State of Oregon prior to me obtaining an NMLS license. The order WAS issued after my NMLS license in December 2014. I have also uploaded a letter of explanation.

37. On March 11, 2021, respondent Peters submitted the February 26, 2021 MU2 to DRE as part of his application for an MLO endorsement to his broker license.

### **Respondent Peters's Evidence**

38. Respondent Peters served in the United States Navy. He and his wife of 22 years have four children, between 14 and 21 years of age. Respondent stated that he is the family's sole financial support.

39. In 2012, the University of Redlands awarded respondent Peters a Master of Arts in Business Management.

40. Respondent Peters has been active in charities that benefit veterans, but their current lack of funding has made them all but inactive.

41. In a February 22, 2021 Conviction Detail Report, Exhibit 18, page A180, respondent Peters stated that a positive change he has made since the December 2014 Oregon consent order is that he "no longer do[es] loan modifications for any client in any state." In a February 22, 2021 letter accompanying respondent Peters's Conviction Detail Report, he pointed out that at the time of the actions that led to the December 2014 Oregon consent order, he was licensed by neither DRE nor NMLS and was unaware that he must be registered with the Oregon Secretary of State to do

business. Respondent Peters believes that his Oregon client was upset with him because he would not submit false income information on the client's behalf. He states that no other clients expressed dissatisfaction with his loan modification services. Respondent gave his consent for the December 2014 Oregon consent order to avoid the costs to litigate the matter and because Oregon authorities assured him it would not appear on his NMLS record, whereas it did.

## **PRINCIPLES OF LAW**

1. Upon complainant's showing a prima facie case, the burden shifts to respondents, the applicants, who must show fitness for licensure by a preponderance of the evidence. As set out in Regulation 2758.3, the requisite fitness is the "applicant's propensity to operate honestly, fairly, and efficiently when engaging in the fiduciary role of an [MLO]."

2. Business and Professions Code section 10166.05 provides:

Notwithstanding any other provision of law, the commissioner shall not issue a license endorsement to act as a mortgage loan originator to an applicant unless the commissioner makes all of the following findings:

(a) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation.

(b)(1) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for licensing, or at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. Whether a particular crime is classified as a felony shall be determined by the law of the jurisdiction in which an individual is convicted.

(2) For purposes of this subdivision, an expunged or pardoned felony conviction shall not require denial of an application. However, the commissioner may consider the underlying crime, facts, or circumstances of an expunged or pardoned felony conviction when determining the eligibility of an applicant for licensure under this subdivision or subdivision (c).

(c) 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.

(d) The applicant has complied with the education and written testing requirements in Section 10166.06.

3. Business and Professions Code section 10166.051 provides:

In addition to any penalties authorized by regulations adopted pursuant to Section 10166.15, the commissioner may do one or more of the following, after appropriate notice and opportunity for hearing:

(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.

(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 [quoted above] or 10166.09 [regarding renewal of licensure], or withholds information or makes a material misstatement in an application for a license endorsement or license endorsement renewal.

(c) Issue orders or directives to licensees who hold mortgage loan originator license endorsements, as follows:

(1) Order or direct persons subject to this article to desist and refrain from conducting business, including immediate temporary orders to desist and refrain.

(2) Order or direct persons subject to this article to cease any harmful activities or violations of this article, including immediate temporary orders to desist and refrain.

(3) Enter immediate temporary orders to cease business under a license endorsement if the commissioner determines that the license endorsement was erroneously granted or the endorsement holder is currently in violation of this article.

(4) Order or direct any other affirmative action the commissioner deems necessary.

4. Regulation 2758.3 provides:

In order to apply for a mortgage loan originator license endorsement, an applicant shall authorize the Nationwide Mortgage Licensing System and Registry (NMLSR) to obtain the applicant's current credit report. The credit report will be used as needed to validate the applicant's responses to the NMLSR's electronic application form, in order to support the Commissioner's finding required by Section 10166.05(c) of the Business and Professions Code.

(a) The applicant may be precluded from obtaining a mortgage loan originator license endorsement 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.

(b) Notwithstanding the requirements above, where an applicant for a mortgage loan originator license endorsement (1) is currently holding a restricted real estate license, or (2) has a right to a restricted license and is making a dual application for the restricted license and mortgage loan originator license endorsement, such applicant must demonstrate, where pertinent, the completion of restitution to any person who has suffered monetary losses through acts or omissions of the applicant that include, but are not limited to, those that substantially related to the qualifications, functions or duties of a real estate licensee as defined in Section 2910 of these regulations, and/or the discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

5. Section 524(a) of title 11 of the United States Code states in part that a discharge in a Chapter 7 bankruptcy:

(1) voids any judgment at any time obtained, to the extent that such judgment is a determination of the personal



liability of the debtor with respect to any debt discharged under [Chapter 7] section 727 . . . of this title, whether or not discharge of such debt is waived;

(2) operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such debt as a personal liability of the debtor, whether or not discharge of such debt is waived; and

(3) operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect or recover from, or offset against, property of the debtor of the kind specified in section 541(a)(2) of this title that is acquired after the commencement of the case, on account of any allowable community claim, except a community claim that is excepted from discharge under section 523, 1192, 1228(a)(1), or 1328(a)(1), or that would be so excepted, determined in accordance with the provisions of sections 523(c) and 523(d) of this title, in a case concerning the debtor's spouse commenced on the date of the filing of the petition in the case concerning the debtor, whether or not discharge of the debt based on such community claim is waived.

## **ANALYSIS**

1. To qualify for the licensure they seek, respondents must meet strict and comprehensive standards designed by lawmakers to prevent repetition of a recent financial crisis.

2. Entitled "Secure and Fair Enforcement for Mortgage Licenses," Business and Professions Code sections 10166.01 through 10166.17, including the provisions of quoted above, are set out in Article 2.1, Chapter 3, Part 1, Division 4, of the Code. The Article 2.1 provisions are coordinated with federal law, identified in subdivision (a) of Business and Professions Code section 10166.01: "'SAFE Act' means the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Public Law 110-289)."

3. The State and federal coordination efforts include education. To qualify for a license, an individual must pass courses approved by NMLS. As stated in part in Business and Professions Code section 10166.06, subdivision (b), "For purposes of this section, education courses are only acceptable if they have been reviewed and approved, or otherwise deemed acceptable, by the [NMLS], in accordance with the SAFE Act." As respondent Peters passed courses required by NMLS, respondents have the requisite knowledge and meet this part of the qualification process.

4. Knowledge is not enough, however. Both Article 2.1 of the Business and Professions Code and the federal SAFE Act were enacted following the recession of 2009, which had severe consequences for members of the public that agree to and must repay mortgage debt. The state and federal legislation is designed to restore confidence in the financial system as it relates to the mortgage industry. More specifically pertinent here is the legislative purpose to ensure that an MLO is not just knowledgeable but trustworthy as well.

5. Omissions in their NMLS filings provide grounds to doubt respondents' trustworthiness. Especially troublesome is the repeated failure to disclose the December 23, 2014 consent order from Oregon. Respondents' explanation for these failures is that the information, though not in any NMLS application forms before 2021, was described "under my 'regulatory actions' in my NMLS lookup," as respondent Peters stated in the February 26, 2021 MU2, Exhibit 13, page A158. Respondents did not send information from the "NMLS lookup" to DRE, however. They sent only the NMLS forms, which were silent on the issue.

6. This silence on the adverse regulatory action continued for years and through several NMLS filings that were submitted to DRE. The information was not disclosed until February 26, 2021. An experienced broker such as respondent Peters must have appreciated the seriousness of his conduct. Even though respondent Peters is convinced that he did no wrong to his customers in Oregon, he must have known that the resulting order against him and his former corporation was a matter that he could not justifiably withhold from California regulators at the DRE. Respondent Peters could not assume that DRE would find out about the Oregon consent order on its own. Respondent Peters should have been forthright. He should actively have brought the information to the Department's attention.

7. Respondent Peters should have been mindful of Business and Professions Code section 10186.2, which requires self-reporting, including a licensee's duty to report to DRE such matters as criminal convictions and disciplinary actions. That respondent Peters did not self-report the Oregon consent order until 2021 indicates a certain willingness to provide DRE with less than full information about his background. Given that the information was available to NMLS earlier is an indication that respondents did not intend to conceal the information. But they did mean to

minimize its significance. Minimizing wrongdoing is not in itself wrongful, but it suggests that respondents may not be deserving of an unrestricted MLO license endorsement.

8. A lesser cause to doubt respondents' fitness for licensure is the failure to report the four default judgments against respondent Peters in 2010. The judgments were discharged in bankruptcy, but this is not the same as satisfied. In this sense, and as set out in the 2019 Decision of which the ALJ took official notice, the four judgments have remained unsatisfied and were therefore subject to disclosure in the NMLS application forms. This, however, is not the end of the inquiry.

9. Few if any real estate licensees or applicants should be expected to employ the sophisticated legal reasoning regarding judgments discharged in bankruptcy, as set out in the 2019 Decision. It is understandable that a licensee or applicant would reason that a judgment that is not enforceable by reason of bankruptcy has been "satisfied" in some manner, in that a bankruptcy court has decided it need not be satisfied, and so need not be reported. Or the licensee or applicant might take the practical approach that the reason for the NMLS question about unsatisfied judgments is to show whether an obligation is outstanding. No obligation is outstanding from a judgment discharged in bankruptcy. This sort of practicality suggests that there is no reason to report discharged judgments.

10. Such reasoning against reporting judgments discharged in bankruptcy is incorrect. But the reasoning, incorrect though it is, has surface appeal, and mitigates the failure of disclosure.

11. Cause exists to deny respondents' applications based on their repeated failures of disclosure, as noted above.

12. To their credit, however, respondents immediately after discussion with Special Investigator Boyd revised their NMLS filings to disclose the Oregon consent order. Also to respondents' credit, they had previously, without prompting from a special investigator or anyone else, disclosed respondent Peters's financial difficulties with foreclosure and bankruptcy.

13. Unlike respondent US Lender, respondent Peters has a criminal conviction in his background. The conviction has little significance here, however, because it is remote in time, does not involve fraud or dishonesty, and is not related to financial business.

14. The statements in writing by respondent Peters, and his testimony and demeanor, indicate that he believes he has been consistently upstanding in all his financial dealings and forthright with all, including NMLS and DRE. He changed his disclosures in February 2021, but not his attitude. That attitude has not been improper. Respondent Peters has not been an applicant in need of reform and regeneration, such as the State Bar applicant in *Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.

15. Respondents' failings are attributable not to an improper attitude, but to faulty reasoning. Faulty reasoning in a licensee is undesirable, but little cause for concern once corrected. All indications that the safety of the public will be adequately protected by restriction of MLO endorsements for respondents.

## **CONCLUSIONS OF LAW**

Respondents showed that they are fit to act as MLO's and may, for compensation or its expectation, offer consumers residential mortgages and may negotiate terms of residential mortgage loans. Respondents' background, and the

financial disclosures they omitted from their applications, do not constitute sufficient grounds to deny the applications and will not endanger the public.

## **ORDER**

The application of respondents, US Lender Home Loans Inc. and Robert Michael Peters for endorsement of the license of each as a mortgage loan originator (MLO) is denied; provided, however, that restricted MLO endorsements shall be issued to respondents, US Lender Home Loans Inc. and Robert Michael Peters pursuant to section 10166.051 of the Business and Professions Code. The Real Estate Commissioner may impose limitations, conditions, and restrictions on the restricted MLO endorsements issued to respondents, US Lender Home Loans Inc. and Robert Michael Peters under authority of section 10166.051, subdivision (c)(4), of the Business and Professions Code.

DATE: 03/30/2022

*Thomas Lucero*

THOMAS LUCERO

Administrative Law Judge

Office of Administrative Hearings