

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

COMMISSIONER OF BANKS  
MORTGAGE LOAN ORIGINATOR  
LICENSING  
Docket No. 2021-0001

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In the Matter of	)	
CRISTOBAL L. GARCIA	)	
	)	ORDER TO SHOW CAUSE,
	)	NOTICE OF INTENT TO REVOKE,
	)	NOTICE OF RIGHT TO A
Mortgage Loan Originator	)	HEARING
License No. MLO1049418	)	

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The Commissioner of Banks (Commissioner) having determined that CRISTOBAL L. GARCIA (Garcia or the Licensee) has engaged in, or is engaged in, or is about to engage in, acts or practices constituting violations of Massachusetts General Laws chapter 255F, 209 CMR 41.00 *et seq.*, and other applicable state and federal statutes and regulations, hereby issues the following FINDINGS OF FACT as well as an ORDER TO SHOW CAUSE AND NOTICE OF RIGHT TO A HEARING (collectively referred to as the Order) pursuant to General Laws chapter 255F section 11(a).

FINDINGS OF FACT

**A. FINDINGS OF FACT AND REGULATORY BACKGROUND**

1. The Division of Banks (Division) has jurisdiction over the licensing and regulation of persons and entities engaged in the business of a mortgage loan originator in Massachusetts pursuant to Massachusetts General Laws (M.G.L.) chapter 255F, section 2 and its implementing regulation at 209 Code of Massachusetts Regulations (C.M.R.) 41.00 *et seq.*

2. Garcia is licensed by the Commissioner as a mortgage loan originator under Massachusetts General Laws chapter 255F, section 2. According to records maintained on file with the Division and the Nationwide Multi State Licensing System & Registry (NMLS), the Commissioner initially issued a mortgage loan originator license, license number MLO1049418, to Garcia to engage in the business of a mortgage loan originator on or about June 3, 2020.

3. The Division's records indicate that, from on or about June 2, 2020 to on or about January 8, 2021, an Employing Entity (as defined in 209 CMR 41.02) sponsored Garcia as a mortgage loan originator for purposes of Garcia's Massachusetts mortgage loan originator license.

4. The Division's regulation 209 CMR 41.06 states in part:

Upon the termination of the relationship between an Employing Entity and the Mortgage Loan Originator, the Employing Entity shall notify the Division within five (5) business days after the termination.

5. On or about January 8, 2021, the Employing Entity sponsoring Garcia as a mortgage loan originator for purposes of Garcia's Massachusetts mortgage loan originator license updated its sponsorship information of Garcia on the NMLS to disclose Garcia's termination on or about January 8, 2021.

6. Based upon review of the information reflected in the NMLS, the Division commenced an investigation of Garcia which continues to this date.

7. The Division's investigation, as further detailed in this Order, revealed that Garcia failed to comply with applicable state and federal laws, rules, and regulations governing the conduct of those engaged in the business of a mortgage loan originator in Massachusetts.

### **FINRA Determination Regarding Falsification of Records**

8. In or about 2007, a large retail bank (bank) employed Garcia as a “Personal Banker” at its Garland, Texas branch. In addition to his duties at the bank, Garcia was a registered representative of the bank’s affiliated investment advisor firm.

9. An internal investigation by the bank uncovered that Garcia violated the code of conduct of the bank, and the bank terminated Garcia on or about December 5, 2008. The bank provided information regarding this violation to the Financial Industry Regulatory Authority (FINRA).

10. Specifically, after FINRA received information from the bank, FINRA conducted an investigation into the matter. FINRA determined that Garcia, while employed by the bank as a Personal Banker and registered representative of the bank’s affiliated investment advisor firm, falsified account opening documents by enrolling 12 bank customers in a bank online bill payment program without their knowledge or consent, and then Garcia accessed and activated those customers’ accounts for personal gain. FINRA further concluded that Garcia had failed to respond to FINRA’s requests for information concerning his actions while employed by the bank.

11. On or about November 5, 2009, FINRA barred Garcia from associating with any member firm in any capacity for falsifying customer account documents, in violation of FINRA rule 2110, and failing to respond to requests for information, in violation of FINRA procedural rule 8210 and conduct rule 2010 (the FINRA bar).

12. The FINRA bar concerned Garcia’s forgery and falsification of customer records, which involved acts of dishonest, unfair, and unethical conduct and false statements or omissions in violation of FINRA rules.

**Failure to Demonstrate the Character, Reputation, Integrity, and General Fitness  
to Maintain a Mortgage Loan Originator License**

13. Massachusetts General Laws chapter 255F, section 4(a)(iii) states:

The commissioner shall issue a mortgage loan originator license to an applicant therefore unless the applicant: (iii) has failed to demonstrate financial responsibility, character, reputation, integrity and general fitness such as to command the confidence of the community and to warrant a determination that such applicant will operate honestly, fairly, soundly and efficiently in the public interest, consistent with the purposes of this chapter...

14. In order to receive a Massachusetts mortgage loan originator license, an applicant must submit a uniform application form known as the MU4 or Form MU4 through the NMLS.

15. On or about June 2, 2020, Garcia applied for a Massachusetts mortgage loan originator license by filing a Form MU4 through the NMLS.

16. In completing the Form MU4, Garcia failed to disclose material facts in connection with his mortgage loan originator license application.

17. For example, Form MU4 question (K) asks, in relevant part: Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:

(1) Found you to have made a false statement or omission or been dishonest, unfair or unethical?

(2) Found you to have been involved in a violation of a financial services-related regulation(s) or statute(s)?

. . .

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

. . .

- (7) Barred you from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in a financial services-related business?
- (8) Issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?
- (9) Entered an order concerning you in connection with any license or registration?

18. Garcia answered “No” to questions (K)(1), (2), (4), (7), (8), and (9). Garcia failed to disclose material facts related to his application by answering “No” to the referenced questions.

19. Garcia answered “Yes” to question (K)(6), which asks the applicant whether a state regulatory agency has ever “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?” However, in the disclosure explanation section of the MU4 application, which asks the applicant to provide more detailed explanation about their “Yes” response, Garcia only described the suspension of his Georgia mortgage loan originator license due to his inability to obtain sponsorship.

20. On or about June 2, 2020, Garcia executed his Form MU4 as part of his Massachusetts mortgage loan originator license under the penalty of perjury that his responses were “current, true, accurate, and complete[.]”

21. Starting on or about January 8, 2021 and until on or about February 17, 2021, Division employees attempted to contact Garcia to discuss the aforementioned FINRA bar and his failure to disclose the action on his Massachusetts mortgage loan originator license application; however, Garcia did not respond to requests by the Division.

## **B. CONCLUSIONS OF LAW**

22. Based upon the information contained in Paragraphs 1 through 21, Garcia has failed to demonstrate and maintain the character, reputation, integrity, and general fitness such as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, soundly and efficiently in the public interest, as a mortgage loan originator in violation of Massachusetts General Laws chapter 255F, section 4 and the Division's regulation 209 CMR 41.04(2)(d).

23. Based upon the information contained in Paragraphs 1 through 21, Garcia failed to disclose a material fact(s) in connection with the NMLS in violation of 209 CMR 41.10(13) and 209 CMR 41.10(21).

### **C. ORDER TO SHOW CAUSE AND NOTICE OF RIGHT TO A HEARING**

NOW, THEREFORE, based upon the Findings of Fact set forth above, the Division hereby sets forth the following allegations against Garcia:

24. The Division hereby re-alleges and incorporates by reference the Findings of Fact presented in Paragraphs 1 through 23 of the Order as though fully set forth.

25. The Division hereby re-alleges and incorporates by reference the Conclusions of Law presented in Paragraphs 22 through 23 of the Order as though individually set forth as separate allegations providing the basis of this Order to Show Cause.

### **ORDER TO SHOW CAUSE**

26. WHEREAS, finding it necessary and appropriate and in the public interest, and consistent with the purposes of the laws governing licensed mortgage loan originators in the Commonwealth;

27. WHEREAS, Pursuant to General Laws chapter 255F, section 11(d), the Commissioner may issue a written notice of intention to prohibit a person from any further

actions, in any manner, as a mortgage loan originator in Massachusetts or to prohibit that person from being employed by, as agent of, or operating on behalf of a mortgage loan originator or any other business which requires a license from the Commissioner; and

28. WHEREAS, finding that the allegations set forth above, if found to be true and correct, form the legal basis for the action sought to be taken under General Laws chapter 255F, section 11(d).

29. IT IS HEREBY ORDERED that Garcia shall show cause why his mortgage loan originator license should not be revoked pursuant to General Laws chapter 255F, section 11.

30. IT IS FURTHER ORDERED that Garcia shall show cause why he should not be permanently prohibited from any further actions, in any manner, as a mortgage loan originator in Massachusetts or from being employed by, as agent of, or operating on behalf of a mortgage loan originator or any other business which requires a license under chapter 255E or 255F or any other business which requires a license from the Commissioner.

### **NOTICE OF RIGHT TO REQUEST A HEARING**

31. Garcia or his authorized representative is required to file an Answer or otherwise respond to the allegations contained in this Order within twenty-one (21) days of its effective date, pursuant to the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 (6)(e). Failure to file an Answer may also result in a default judgment against Garcia in the matter of the revocation of his mortgage loan originator license and the issuance of an Order of

Prohibition. The Answer, and any subsequent filings that are made in conjunction with this proceeding, shall be directed to the Division, with a copy to Prosecuting Counsel.

All papers filed with the Division shall be addressed to the attention of:  
Administrative Hearings Officer  
Division of Banks  
1000 Washington Street, 10th Floor  
Boston, Massachusetts 02118

Prosecuting Counsel for this matter is:  
Brian Morecraft, Esq.  
Division of Banks  
1000 Washington Street, 10th Floor  
Boston, Massachusetts 02118

32. You are further advised that Garcia has the right to be represented by counsel or other representative, to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify against Garcia, and to present oral argument.

33. A hearing will be scheduled on this matter only upon receipt of a written request for such a hearing from Garcia within twenty-one (21) days of service of this Notice of Order upon him. If Garcia fails to request a hearing within this twenty-one (21) day period or fails to appear at a scheduled hearing date, Garcia shall be deemed to have consented to the issuance of an order of prohibition in accordance with this Order, pursuant to M.G.L. chapter 255F, section 11(d).

34. The hearing shall be fixed for a date not more than thirty (30) days after the date of service upon the Commissioner of the request for hearing and will be conducted according to M.G.L. chapter 30A, sections 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03.



BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS.

Dated at Boston, Massachusetts, this 31st day of March, 2021.

By: /s/ Cynthia A. Begin, Esq.  
First Deputy Commissioner  
Massachusetts Division of Bank