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EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);  
Ariz. R. Crim. P. 31.24



DIVISION ONE  
FILED: 4/16/2013  
RUTH A. WILLINGHAM,  
CLERK  
BY: mjt

**IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION ONE**

STATE OF ARIZONA, ) 1 CA-CR 11-0528  
)  
Appellee, ) DEPARTMENT B  
)  
v. ) **MEMORANDUM DECISION**  
)  
DONALD LEE CONDRA, ) (Not for Publication -  
) Rule 111, Rules of the  
Appellant. ) Arizona Supreme Court)  
)  
)

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Appeal from the Superior Court in Mohave County

Cause No. S8015CR20060790

The Honorable Steven F. Conn, Judge

**AFFIRMED**

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Thomas C. Horne, Attorney General Phoenix  
by Kent E. Cattani, Chief Counsel  
Criminal Appeals/Capital Litigation Section  
and William Scott Simon, Assistant Attorney General  
Attorneys for Appellee

Jill L. Evans, Mohave County Appellate Defender Kingman  
Attorney for Appellant

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**H O W E**, Judge

¶1 Donald Lee Condra ("Condra") appeals his conviction for false application for a mortgage broker license, a class 3 felony. For the following reasons, we affirm.

**FACTS<sup>1</sup> AND PROCEDURAL HISTORY**

¶2 On April 13, 2006, the Mohave County Grand Jury indicted Condra on four counts of forgery, two counts of theft, and one count each of fraudulent schemes and artifices and computer tampering. *State v. Condra*, 1 CA-CR 08-0723, 2010 WL 1328686, at \*1, ¶ 1 (Ariz. App. Apr. 6, 2010) (mem. decision). These charges stemmed from Condra's conduct in his employment with Mohave County. *Id.* at ¶¶ 2-5. On May 25, 2006, the Grand Jury also indicted Condra with one count of false application for mortgage broker license.

¶3 One month later, the Arizona Department of Financial Institution ("the Department") filed an Order of Summary Suspension and Notice of Hearing against Condra for his illegal conduct. To avoid an administrative hearing against the Department, Condra signed a Consent Order detailing findings of fact and conclusions of law regarding the false statements he made on his application for a mortgage broker license and on his application for employment with Mohave County.

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<sup>1</sup> We view the evidence in the light most favorable to sustaining the conviction and resolve all reasonable inferences against defendant. *State v. Manzanedo*, 210 Ariz. 292, 293, ¶ 3, 110 P.3d 1026, 1027 (App. 2005).

¶4 On the first indictment, the state moved to admit the Consent Order as an adopted admission. *Id.* at \*4, ¶¶ 20-21. The trial court admitted the Consent Order for the limited use of impeachment only, finding that the misrepresentation in Condra's employment application was not relevant to the charges and unduly prejudicial. *Id.* After Condra was convicted, he appealed, claiming that the court erred in admitting the Consent Order. *Id.* at \*2, ¶ 8. This Court affirmed the court's ruling and his convictions. *Id.* at 4, ¶ 22.

¶5 After the trial on the first charges, Condra proceeded to trial on the false application charge. Before the start of trial, Condra moved to preclude admission of the Consent Order, arguing that it constituted inadmissible hearsay and was overly prejudicial because it contained information of his previous charges. The State responded that the Consent Order was admissible as an adoptive admission under Arizona Rule of Evidence 801(d)(2)(B), but agreed to redact any information regarding the unrelated criminal charges. The trial court held that the Consent Order was admissible in the State's case in chief. The court adopted the reasoning of its March 29 minute entry order, which stated that, in initialing each page of the Consent Order, Condra manifested an adoption of the facts contained in the order under Rule 801(d)(2)(B).

¶16 At trial, the State presented the application for a mortgage broker license that Condra submitted to the Department. On the application, Condra made the following statements: that he worked at C & S Financial Mortgage ("C & S Financial") in Denver, Colorado from 1994-1997; that "John Senior" was his supervisor at C & S Financial; that he left C & S Financial after it merged with another company; that he worked at First Street Mortgage ("First Street") in Denver, Colorado from 1997-2004; that "Mike Maxmon" was his supervisor at First Street; that he left First Street after it merged with another company; that he previously lived at an address in Denver, Colorado; that he maintained a bank account at Regency Bank in Columbia, South Carolina; and that he earned several college degrees from Apache University in Pensacola, Florida.

¶17 The State subsequently presented the testimonies of the chief investigator for the Colorado Securities Division ("the Colorado investigator") and the chief investigator for the Maricopa County Attorney's Office ("the Maricopa County investigator"). The investigators testified to the following facts: that no company called C & S Financial or First Street ever existed; no evidence showed that a "John Senior" or "Mike Maxmon" ever worked in Colorado; that no record of a merger involving either C & S Financial or First Street existed; that Condra never resided or worked in Colorado; that the address

Condra alleged to have resided in never existed; that Condra claimed in his employment application to have been working at C & S Manufacturing, a company in Florida from 1994-2004, the same time period he claimed to be working in Colorado; that Condra used the same phone number, which was previously registered to himself, for two different references; that no record of a Regency Bank in Columbia, South Carolina existed; that Apache University never existed; and that Condra had personally registered the internet domain name of "Apacheuniversity.edu." After the State presented this testimony, it submitted the Consent Order, which detailed the same information elicited during the investigators' testimony.

¶18 The jury convicted Condra of knowingly making a false application for a mortgage broker license. The court then sentenced him to a substantially mitigated term of three and a half years in prison.

¶19 Condra timely appeals. We have jurisdiction under Article 6, Section 9 of the Arizona Constitution and Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1), 13-4031, and 13-4033(A) (West 2013).<sup>2</sup>

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<sup>2</sup> Absent material revisions to this decision, we cite the current version of applicable statutes.

## DISCUSSION

¶10 Condra argues that the trial court erred in ruling that the Consent Order was admissible as an adopted admission pursuant to Rule 801(d)(2)(B). "We review [a] trial court's ruling on the admissibility of evidence for abuse of discretion." *State v. Aguilar*, 209 Ariz. 40, 49, ¶ 29, 97 P.3d 865, 874 (2004). We will reverse a conviction for evidentiary error only if the reviewing court determines that a "reasonable probability [exists] that the verdict would have been different had the evidence not been admitted." *State v. Mills*, 196 Ariz. 269, 276, ¶ 28, 995 P.2d 705, 712 (App. 1999). The focus of this harmless error standard is on "whether there is overwhelming additional evidence sufficient to establish the prosecution's case." *State v. Fulminante*, 161 Ariz. 237, 245, 778 P.2d 602, 610 (1988).

¶11 We need not determine whether the trial erred in admitting the Consent Order as an adoptive admission because the admission of the Consent Order, if error, was harmless. During trial, the State provided overwhelming evidence of Condra's conduct through the testimony from the two investigators. Both investigators testified to each false statement Condra made on the application. The Consent Order merely repeated this evidence in its findings of fact. "[E]rroneous admission of evidence which [is] entirely cumulative constitute[s] harmless error."

*State v. Williams*, 133 Ariz. 220, 226, 650 P.2d 1202, 1208 (1982). The Consent Order did not add any new evidence to the case, and the jury did not need the Consent Order to convict Condra. Thus, we find no reasonable probability exists that the verdict would have been any different had the trial court excluded the Consent Order.

**CONCLUSION**

¶12 For the foregoing reasons, we affirm Condra's conviction and sentence.

\_\_\_\_\_/s/\_\_\_\_\_  
RANDALL M. HOWE, Judge

CONCURRING:

\_\_\_\_\_/s/\_\_\_\_\_  
PATRICIA K. NORRIS, Presiding Judge

\_\_\_\_\_/s/\_\_\_\_\_  
ANDREW W. GOULD, Judge