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BUREAU OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation Against)
) No. H-05267 SD
BENJAMIN M. HENRY)
)
Respondent.) ACCUSATION
)

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against BENJAMIN M. HENRY dba Mortgage Alliance Group (Respondent) alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code.

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1 NMLS Pre-Licensing and Continuing Education

2 6.

3 The State Regulatory Registry LLC (SRR), which owns and operates the
4 NMLS, administers PE and CE and Uniform State Test protocols. Title V of Public Law 110-
5 289, the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act),
6 requires that state-licensed MLOs complete PE prior to initial licensure and annual CE
7 thereafter. (See Code section 10166.06)

8 7.

9 In order to meet PE requirements contemplated under the SAFE Act, state-
10 licensed MLOs must complete twenty (20) hours of NMLS-approved education. Code section
11 10166.06(a).

12 8.

13 In order to meet CE requirements contemplated under the SAFE Act, state-
14 licensed MLOs must complete eight (8) hours of NMLS-approved education. Code section
15 10166.10(a).

16 REES

17 9.

18 REES, NMLS course provider number 1405046, was an NMLS-approved
19 course provider during the years 2017 to 2020.

20 10.

21 The NMLS had approved REES to offer one in-person 8-hour "DBO-SAFE Act
22 Comprehensive: Mortgage Continuing Education" course.

23 11.

24 REES was never approved by the NMLS to offer online PE or CE to MLOs.

25 12.

26 During all times relevant herein, REES had its primary place of business located
27 at 3643 Adams Street, Carlsbad, California.

1 13.

2 During all times relevant herein, REES, by and through Danny Yen, maintained
3 with his Internet Service Provider an IP address at 76.88.84.139 (the IP Address). The IP
4 Address assigned to Danny Yen is associated with REES' business address, 3643 Adams
5 Street, Carlsbad, California.

6 REES Investigation

7 14.

8 The Mortgage Testing and Education Board (MTEB), which was created by
9 SRR, has approved "Administrative Action Procedures for S.A.F.E. Testing and Education
10 Requirements" (AAP), which extends administrative authority to the MTEB to investigate
11 alleged violations of the NMLS student Rules of Conduct (ROC).

12 15.

13 The AAP also extends administrative authority to the MTEB and SRR to
14 investigate alleged violations of the NMLS Standards of Conduct (SOC), which apply to all
15 NMLS-Approved course providers.

16 16.

17 In late 2020, SRR obtained information concerning suspicious activity and that
18 that information identified a possible MLO education cheating scheme coordinated by and
19 implemented through REES and its owners and operators, including Danny Yen. Based on that
20 information, and pursuant to the AAP, SRR initiated an investigation into the matter.

21 Findings of SRR and Department Investigation

22 17.

23 On or about December 15, 2020, SRR staff received a "suspicious relations"
24 report involving suspected individuals completing online NMLS-approved education courses
25 on behalf of another.

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18.

Subsequent SRR research found at least 113 education students associated with taking online PE and/or CE courses from the IP Address in Carlsbad, California (the SRR report).

19.

Respondent was identified in the SRR report as one of the 113 students that had completed PE and/or CE from the IP Address in Carlsbad, California and who received NMLS course credit.

20.

It was determined that the IP Address in question belonged to Danny Yen, REES' owner and operator.

21.

Respondent does not reside or work at 3643 Adams Street, Carlsbad, California, the physical address associated with the IP Address identified by the Commissioner as belonging to REES.

22.

Based upon the results of the SRR report and the IP Address information, it was determined that Respondent had used the services of REES and compensated REES to complete one course in 2020 in violation of the ROC.

23.

The ROC provide in relevant part:

ROC 4: I will not divulge my login ID or password or other login credential(s) to another individual for any online course.

ROC 5: I will not seek or attempt to seek outside assistance to complete the course.

///

1 ROC 9: I will not engage in any conduct that is dishonest, fraudulent, or would
2 adversely impact the integrity of the course(s) I am completing and the conditions for which I
3 am seeking licensure or renewal of licensure.

4 24.

5 By using the services of another to complete his PE and/or CE, Respondent
6 violated ROC 4, 5, and 9, and engaged in conduct that was dishonest, fraudulent, and that
7 adversely impacted the integrity of the courses he completed and the conditions and
8 qualifications for which he sought licensure or renewal of licensure.

9 Voluntary Survey

10 25.

11 On or about July 13, 2021, Respondent was provided an opportunity via a
12 survey to disclose information about his participation in the REES online PE and CE education
13 fraud. On or about August 23, 2021, Respondent responded to the survey request. In part,
14 Respondent denied receiving course credit for which Respondent did not personally take.

15 Financial Responsibility, Character, and General Fitness

16 26.

17 Pursuant to Code section 10166.05(c), the Commissioner must deny a MLO
18 license endorsement if the licensee fails to meet the minimum criteria for licensure, which
19 includes a requirement that the applicant "has demonstrated such financial responsibility,
20 character and general fitness as to command the confidence of the community and to warrant a
21 determination that the [MLO] will operate honestly, fairly, and efficiently within the purposes
22 of this division."

23 27.

24 As described in paragraphs 16 through 25 above, Respondent violated ROC 4, 5,
25 and 9 by using the services of another, REES, to complete his PE and/or CE during 2020.

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27 ///

1 material misstatement in an application for a license endorsement or license endorsement
2 renewal.”

3 31.

4 Section 10177 of the Code provides in pertinent part, “[t]he Commissioner may
5 suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real
6 estate licensee, or deny the issuance of a license to an applicant, who has done any of the
7 following...

8 ...

9 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
10 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and
11 regulations of the commissioner for the administration and enforcement of the Real Estate Law
12 and Chapter 1 (commencing with Section 11000) of Part 2.

13 ...

14 (g) Demonstrated negligence or incompetence in performing an act for which
15 the officer, director, or person is required to hold a license.

16 ...

17 (j) Engaged in any other conduct, whether of the same or of a different character
18 than specified in this section, that constitutes fraud or dishonest dealing.

19 COSTS

20 (INVESTIGATION AND ENFORCEMENT COSTS)

21 33.

22 Section 10106 of the Code, provides, in pertinent part, that in any order issued in
23 resolution of a disciplinary proceeding before the Department, the Commissioner may request
24 the administrative law judge to direct a licensee found to have committed a violation of this
25 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
26 case.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the licenses, MLO endorsement, and/or license rights of Respondent BENJAMIN M. HENRY under the Real Estate Law, for the costs of investigation and enforcement as permitted by law and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California this 29 day of December, 2021.

Veronica Kilpatrick

Veronica Kilpatrick
Supervising Special Investigator

cc: BENJAMIN M. HENRY
Veronica Kilpatrick
Sacto.