1 2 3 4 5 6	KATHY YI, Counsel (SBN 236736) California Department of Real Estate 320 West 4th Street, Suite 350 Los Angeles, California 90013-1105 Telephone: (213) 576-6982 Direct: (213) 576-6940  Attorney for Complainant
8	BEFORE THE DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation Against  DRE No. H-05692 SD
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13	ELAINE TAM NGHIEM, ) <u>ACCUSATION</u>
14	Respondent.
15	
16	The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
17	State of California, for cause of Accusation against ELAINE TAM NGHIEM (Respondent),
18	alleges as follows:
19	1.
20	The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the
21	State of California, makes this Accusation in her official capacity.
22	2.
23	All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of
24	the California Business and Professions Code.
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<b>LICENSE</b>	<b>HISTORY</b>

3.

- a. Respondent is presently licensed and/or has license rights under the Code, as a real estate broker with Department of Real Estate (Department) license ID 01276804.
- b. Respondent's broker license was originally issued on March 15, 2005, and is scheduled to expire on March 14, 2025, unless renewed.
- c. Respondent currently holds a Mortgage Loan Originator (MLO) license endorsement with the Department with the assigned National Mortgage Licensing System and Registry (NMLS) No. 322151.
- d. Respondent is currently the Designated Officer of LendingUS, Inc., a corporate real estate broker with the Department license ID 01876728.

## STATEMENT OF FACTS

4.

Respondent violated the NMLS student Rules of Conduct (ROC) by using the services of Danny Yen, dba Real Estate Educational Services (REES) to complete her NMLS-approved continuing education (CE) courses, which constitutes a violation of the licensing requirements of this state and under federal law. Specifically, Respondent used and compensated REES to obtain credit through an in-person fraud scheme. Under the in-person fraud scheme, Respondent used REES to annually report completion of an in-person course for four (4) years from 2017 to 2020. For each of said four (4) years, REES did not teach the in-person course, and Respondent never attended the in-person course nor completed the required exam or course work to receive course credit.

## NMLS Pre-Licensing and Continuing Education

5.

The State Regulatory Registry LLC (SRR), which owns and operates the NMLS, administers pre-licensing education (PE) and CE and Uniform State Test protocols.

Title V of Public Law 110-289, the Secure and Fair Enforcement for Mortgage Licensing Act

1	of 2008 (the SAFE Act), requires that state-licensed MLOs complete PE prior to initial
2	licensure and annual CE thereafter. (See Code section 10166.06.)
3	6.
4	In order to meet PE requirements contemplated under the SAFE Act, state-
5	licensed MLOs must complete twenty (20) hours of NMLS-approved education. (Code section
6	10166.06(a).)
7	7.
8	In order to meet CE requirements contemplated under the SAFE Act, state-
9	licensed MLOs must complete eight (8) hours of NMLS-approved education. (Code section
10	10166.10(a).)
11	<u>REES</u>
12	8.
13	REES, with NMLS course provider number 1405046, was an NMLS-approved
۱4	course provider during the years 2017 to 2020.
15	9.
16	The NMLS had approved REES to offer one (1) in-person 8-hour "DBO-SAFE
ا 17	Act Comprehensive: Mortgage Continuing Education" course in a classroom format located at
18	15751 Brookhurst Street, Suite 230, Westminster, California (Westminster address).
19	10.
20	REES was never approved by the NMLS to offer online PE or CE to MLOs.
21	. 11.
22	During all times relevant herein, REES had its primary place of business located
23	at 3643 Adams Street, Carlsbad, California.
24	REES Investigation
25	12.
6	The Mortgage Testing and Education Board (MTEB), which was created by
27	SRR, has approved "Administrative Action Procedures for S.A.F.E. Testing and Education
- 1	

1	Requirements" (AAP), which extends administrative authority to the MTEB to investigate
2	alleged violations of the NMLS student Rules of Conduct (ROC).
3	13.
4	The AAP also extends administrative authority to the MTEB and SRR to
5	investigate alleged violations of the NMLS Standards of Conduct (SOC), which apply to all
6	NMLS-Approved course providers.
7	14.
8	In late 2020, SRR obtained information concerning suspicious activity and that
9	information identified a possible MLO education cheating scheme coordinated by and
10	implemented through REES and its owners and operators, including Danny Yen. Based on that
11	information, and pursuant to the AAP, SRR initiated an investigation into the matter.
12	Findings of SRR and Department Investigation
13	15.
14	On or about December 15, 2020, SRR staff were informed of suspected
15	individuals completing online NMLS-approved education courses on behalf of another.
16	16.
17	Additional investigation revealed evidence that REES fraudulently provided
18	course credit to MLOs who had never attended and completed REES' 8-hour in-person CE
19	course in Westminster, California in the in-person fraud scheme.
20	17.
21	Respondent was identified in NMLS records as receiving course credit for
22	REES' 8-hour in-person CE course in 2017, 2018, 2019, and 2020. It was determined that none
23	of these in-person courses ever took place and that Respondent never attended an in-person
24	course corresponding to the course credits Respondent received. Consequently, Respondent
25	never took a knowledge examination required for course credit. It was determined that
26	Respondent had used REES to obtain four (4) years of course credits from 2017 to 2020 in
27	violation of the ROC under the in-person fraud scheme.

course.

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The ROC provide in relevant part:

ROC 3: I understand that the SAFE Act and state laws require me to spend a specific amount of time in specific subject areas. Accordingly, I will not attempt to circumvent the requirements of any NMLS approved course.

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

ROC 8: I will not engage in any capacity that would be contrary to good character or reputation, or engage in any behavior that would cause the public to believe that I would not operate in the mortgage loan business lawfully, honestly or fairly.

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

19.

By using the services of another to complete her CE and receiving fraudulent course credits through a non-existent course, Respondent violated ROC 3, 5, 8 and 9, and engaged in conduct that was dishonest, fraudulent, and that adversely impacted the integrity of the courses and the conditions and qualifications for which Respondent sought licensure or renewal of licensure.

## Financial Responsibility, Character, and General Fitness

20.

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

As described in paragraphs 15 through 19 above, Respondent violated ROC 3, 5, 8 and 9 by using the services of another, REES, to falsely obtain course credits through an inperson course that Respondent never attended for the years 2017 to 2020.

22.

In violating the ROC by using the services of another to falsely obtain course credits, Respondent does not meet the minimum criteria for licensure under Code section 10166.05(c). The conduct of Respondent, as alleged above, is grounds for the suspension or revocation of Respondent's license, MLO license endorsement, and license rights pursuant to the provisions of Code sections 10166.051(a), 10166.051(b), 10177(d), 10177(g) and/or 10177(j).

## **GROUNDS FOR DISCIPLINARY ACTION**

23.

Section 10166.05 of the Code provides in pertinent part, "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:

(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 this article."

24.

Section 10166.051 of the Code provides in pertinent part, "...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

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1	hereunder.
2	(b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan
3	originator license endorsement, if an application or endorsement holder fails at any time to
4	meet the requirements of Section 10166.05 or 10166.09, or withholds information or makes a
5	material misstatement in an application for a license endorsement or license endorsement
6	renewal."
7	25.
8	Section 10177 of the Code provides in pertinent part, "[t]he Commissioner may
9	suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real
10	estate licensee, or deny the issuance of a license to an applicant, who has done any of the
11	following
12	···
13	(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
14	with Section 10000)) or Chapter I (commencing with Section 11000) of Part 2 or the rules and
15	regulations of the commissioner for the administration and enforcement of the Real Estate Law
16	and Chapter 1 (commencing with Section 11000) of Part 2.
17	•••
18	(g) Demonstrated negligence or incompetence in performing an act for which
19	the officer, director, or person is required to hold a license.
20	·
21	(j) Engaged in any other conduct, whether of the same or of a different character
22	than specified in this section, that constitutes fraud or dishonest dealing.
23	<u>COSTS</u>
24	(INVESTIGATION AND ENFORCEMENT COSTS)
25	26.
26	Section 10106 of the Code, provides, in pertinent part, that in any order issued in
27	resolution of a disciplinary proceeding before the Department, the Commissioner may request

1	the administrative law judge to direct a licensee found to have committed a violation of this
2	part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
3	case.
4	WHEREFORE, Complainant prays that a hearing be conducted on the
5	allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
6	disciplinary action against the license(s), MLO endorsement, and/or license rights of
7	Respondent ELAINE TAM NGHIEM under the Real Estate Law, for the costs of investigation
8	and enforcement as permitted by law and for such other and further relief as may be proper
9	under other applicable provisions of law.
10	14 Octobo2r
11	Dated at San Diego, California this 14 day of Octobe3r, 2022.
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13	Veronica Kilpatrick
14	Veronica Kilpatrick
15	Supervising Special Investigator
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21	cc: ELAINE TAM NGHIEM LendingUS, Inc.
22	Veronica Kilpatrick Sacto.
23	Sucto.
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