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DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)	DRE No. H-41279 LA
J. PAUL REDDAM,)	OAH No. 2019030081
Respondent.)	

DECISION

The Proposed Decision dated October 15, 2019, of the Administrative Law Judge of the Office of Administrative Hearings, was codified by operation of law pursuant to the Administrative Procedure Act section 11517(c)(2).

The Decision suspends or revokes one or more real estate licenses, but the right to a restricted broker license is granted to 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.

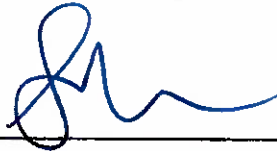
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The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on MAY 11 2020.

IT IS SO ORDERED 4/15/20

SANDRA KNAU
ACTING REAL ESTATE COMMISSIONER



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DEPT. OF REAL ESTATE

By



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

In the Matter of the Accusation against:

J. PAUL REDDAM, Respondent

Case No. H-41279 LA

OAH No. 2019030081

PROPOSED DECISION (CORRECTED)

Howard W. Cohen, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, heard this matter on September 4, 2019, in Los Angeles.

Andrea Bentler, Staff Counsel, represented complainant Chika Sunquist, a Supervising Special Investigator, Department of Real Estate (Department), State of California.

Brad W. Seiling, Manatt, Phelps & Phillips, LLP, represented respondent J. Paul Reddam, who was present.

Oral and documentary evidence was received. The record was closed and the matter was submitted on September 4, 2019.

SUMMARY

Complainant seeks to revoke or suspend respondent's real estate broker license due to (a) alleged misstatements or omissions of fact on his 2016 license renewal application, and (b) respondent's acts that led to civil or administrative actions by various states against respondent and his consumer lending license. Respondent argues that (a) he made only one misstatement on his application, through inadvertence, and (b) none of the state actions against him was connected to his real estate broker license, among other things. As further described below, respondent's real estate broker license will be restricted.

FACTUAL FINDINGS

Jurisdiction

1. Complainant filed an Accusation in her official capacity on January 25, 2019. Respondent timely filed a notice of defense.
2. The Department issued respondent a real estate salesperson license on October 4, 1989, and real estate broker license number B/01047362 on July 24, 1991. Respondent renewed the broker license in June 2012 and June 2016. Respondent's license was in full force and effect at all relevant times and is scheduled to expire on June 20, 2020.
3. Respondent has been an officer of SC Funding Corporation (from August 7, 1991, to January 30, 1995); World Wide Credit Corporation (from February 28, 1992, to October 6, 1993); Listing For Less Real Estate Corporation (from March 9, 1995, to March 8, 1999); DiTech Funding Corporation (from March 9, 1995, to March 8, 1999);

Ditech Real Estate Corporation (from May 2, 1995, to July 28, 2003); and Relantis Corporation (from March 28, 2002, to January 30, 2005). At all relevant times, respondent has been President, Chief Executive Officer, Sole Director, and owner of CashCall, Inc., a corporation not licensed by the Department.

Respondent's Business Activities

4. Respondent founded CashCall, Inc., which in 2003 began engaging in consumer lending. The company started making and servicing unsecured consumer loans in California to subprime customers, those with low credit scores.

5. Respondent testified that, in 2004 or 2005, he met with Merrill Lynch, which advised him that CashCall, Inc.'s business was too concentrated in California and that the company should get a banking partner. Merrill Lynch introduced respondent to Claudia Callaway, a prominent regulatory attorney. Acting on Ms. Callaway's advice, CashCall, Inc. partnered with a bank operating in South Dakota and Delaware. The bank originated unsecured consumer loans and CashCall, Inc. provided loan support services; within a few days after the bank made the loans, CashCall, Inc. bought the loans from the bank.

6. As a result of the 2008 financial crisis, banks stopped many of their lending programs. Ms. Callaway advised respondent that CashCall, Inc. could buy loans nationally if a Native American lender on a reservation made the loan, because those lenders had sovereign immunity and were exempt from certain applicable regulations and licensing requirements. Western Sky Financial was a Native American-owned lender founded by Martin A. "Butch" Webb, a Cheyenne River Sioux tribe member. Western Sky Financial hired Native Americans from the Cheyenne River Sioux reservation and underwrote and funded loans. CashCall, Inc. entered into an

agreement with Western Sky Financial under which Western Sky Financial originated consumer loans to be serviced and shortly thereafter purchased by CashCall, Inc. This arrangement was known as, among other things, the Western Sky Financial model.

State Actions Against CashCall, Inc.

7. On August 20, 2009, a complaint filed in an action entitled, *People of the State of California v. CashCall, Inc.*, in the Superior Court of California, County of Los Angeles, Case No. BC420115, described CashCall, Inc. as "a lender that makes small, unsecured cash loans to consumers at very high interest rates." (Ex. 11.) The complaint alleged (a) that, in order to attract borrowers, CashCall, Inc. made misleading statements about interest rates, how interest accrues on loans, total payoff amounts, and other matters, and (b) engaged in unlawful collection practices. On August 24, 2009, the court issued a Final Judgment and Permanent Injunction (California Judgment) prohibiting CashCall, Inc., and its owners, officers, and directors (thereby including respondent) from making untrue or misleading statements in connection with consumer lending activities, whether advertising, making, or servicing such loans, and from violating the federal Unfair Debt Collection Practices Act, in addition to other findings. The court ordered CashCall, Inc. to pay a civil penalty of \$500,000.

8. On October 10, 2011, the State of Alaska, Department of Commerce, Community, and Economic Development, Division of Banking and Securities (Division), issued a Consent Order (Alaska Order) in an administrative action entitled, *In the Matter of CashCall, Inc.*, Case No. 2010001035. The Alaska Order denied CashCall, Inc.'s application for a mortgage lender license. CashCall, Inc., had failed to disclose on its application that the California Attorney General had obtained an injunction prohibiting CashCall, Inc. and its owners and officers from engaging in certain practices related to its consumer loan business. (See Factual Finding 7.) CashCall, Inc. had submitted to the

Division the Alaska application, in the form of a Uniform Mortgage Lender/Mortgage Broker Application (Form MU1) through the Nationwide Mortgage License System and Registry (NMLS). The Alaska Order provided that, upon CashCall, Inc.'s correcting and updating its answers on the Form MU1 and paying a civil penalty and investigative fees totaling \$2,450, the Division would issue an Alaska mortgage license to CashCall, Inc. The Division did not name respondent in the administrative action.

9. On June 1, 2012, the State of Maryland, Commissioner of Financial Regulation (Commissioner), in an administrative action entitled, *In the Matter of CashCall, Inc.*, case number CFR-FY2011-129, issued an Opinion and Final Order to Cease and Desist against CashCall, Inc. (Maryland Order). The Maryland Order revoked CashCall, Inc.'s mortgage lender license and prohibited the company and its officers, employees, and agents (thereby including respondent) from engaging in mortgage lending. The action was based on the failure of CashCall, Inc. to disclose in its mortgage lender license application that the California Attorney General had obtained an injunction against CashCall, Inc. related to its consumer loan business. (See Factual Finding 7.) "In Maryland, as in other states, applications for mortgage lender licenses are made principally through the [NMLS]. . . ." (Ex. 9.) The Regulatory Action Disclosure section of the NMLS application asked, at question (F)(1), whether any court in the prior 10 years had enjoined CashCall, Inc. in connection with any financial services-related activity. CashCall, Inc. answered "No," which was found to be an intentional and material misstatement. The Commissioner found that disclosure of the 2009 California injunction would have provided "important insight on how the applicant runs its business. The failure to disclose such an order relates directly to the applicant's honesty and candor, which is highly relevant to the licensing process" and to determining whether CashCall, Inc. is of good moral character and fit to conduct business honestly. (Ex. 9, pp. 31, 33.) On November 11, 2010, CashCall, Inc. changed its

answer to question (F)(1) on the NMLS form to "Yes." Respondent testified that, after several appeals, CashCall, Inc. ultimately settled with the Commissioner in 2017 or 2018.

10. On September 21, 2011, the State of Kansas, Office of the State Bank Commissioner, Consumer & Mortgage Lending Division, in an administrative case entitled, *In the Matter of CashCall, Inc. and John Paul Reddam, in his capacity as Owner, President and Chief Executive Officer for CashCall, Inc., et al.*, case number 2011-392, issued a summary order revoking CashCall, Inc.'s two supervised loan licenses and ordering CashCall, Inc. to cease and desist engaging in the business of making or collecting payments from supervised loans and to pay a fine in the amount of \$30,000. In a Consent Order issued in that case on June 28, 2012 (Kansas Order) in lieu of an administrative hearing, the State and respondent, in his capacity as President and CEO, agreed that CashCall, Inc. was to cease and desist its supervised lending activity with Kansas consumers, provide a report of supervised loan activity, take corrective action, and pay a fine of \$1,000. The Deputy Commissioner found facts that "warrant the belief that the Licensee does not operate a supervised loan business honestly and fairly" (Ex. 8, p. 17.) CashCall, Inc. neither admitted nor denied the Deputy Commissioner's findings. Respondent testified that, under the Western Sky Financial model, he did not believe the company had used its supervised loan licenses to conduct its business, based on Ms. Callaway's advice that Western Sky Financial, not CashCall, Inc., was the real lender.

11. On June 4, 2013, the State of New Hampshire, Banking Department (Department), in an administrative action entitled, *In re CashCall, Inc., John Paul Reddam, President and CEO of CashCall, Inc., and WS Funding, LLC*, case number 12-308, issued an order (New Hampshire Order) requiring the respondents to cease and

desist from engaging in consumer lending, to pay restitution, and to pay an administrative fine of \$1,967,500. The Department found that CashCall, Inc. or its wholly-owned subsidiary, WS Funding, LLC, was the actual lender for small loans issued by Western Sky Financial. Among other things, CashCall, Inc. supplied funds for the loans, bore the risk of loss on the loans by agreeing to purchase the promissory notes from Western Sky Financial, and agreed to indemnify Western Sky Financial for any liability. The Department found the Western Sky Financial model to be an unfair or deceptive act or practice, preventing consumers from understanding which entity was making the loans and exploiting Indian Tribal Sovereign Immunity to evade licensure by the Department. CashCall, Inc. was licensed by the Department as a mortgage banker; the activities the Order addressed were not mortgage banking activities. Respondent was not licensed by the Department.

12. On October 5, 2015, the State of Washington, Department of Financial Institutions, Division of Consumer Services, in an administrative action entitled *In the Matter of Determining Whether there has been a violation of the Consumer Loan Act of Washington by CashCall Inc. and Western Sky Financial, LLC, et al.*, Case Nos. C-11-0701-13-15-CO01 and C-H-0810-15-CO01, issued a Consent Order (Washington Order). In the Washington Order, the parties agreed to resolve matters alleged in a Second Amended Statement of Charges. The Washington Order defined "Respondents" to include CashCall, Inc. and its directors, officers, and shareholders; acknowledging that J. Paul Reddam was not a named respondent, the Washington Order recited that Reddam agreed to be legally bound as if he had been named in the statement of charges and to be jointly and severally liable with CashCall, Inc. The Washington Order provides that "Respondents" shall cease and desist soliciting Washington residents for loans with interest rates greater than those permitted by Washington law and from making new loans or servicing existing loans unless they

obtain a license. The Washington Order revoked CashCall, Inc.'s consumer loan license and ordered Reddam and others to pay restitution in the amount of \$1,900,000. The Washington Order recites that nothing stated therein shall be construed as an admission of liability or wrongdoing, "and this Consent Order may not be used as evidence of liability, nor is it intended to be used or admissible in any unrelated administrative, civil, or criminal proceeding." (Ex. 6, p. 111.)

13. On August 17, 2016, the District Court of Minnesota, Fourth Judicial District, in a civil action entitled *State of Minnesota vs. CashCall, Inc., WS Funding, LLC, and WS Financial, LLC*, Case No. 27-CV-13-12740, issued a Consent Judgment and Order (Minnesota Judgment) against CashCall, Inc. and its subsidiaries and divisions, as well as its directors, officers, and agents, "including but not limited to Reddam." (Ex. 5, p. 69.) The court action was based on the violation by CashCall, Inc. and others of Minnesota statutes by engaging in consumer lending without a license and in violation of consumer lending laws. The Minnesota Judgment recited that the state Department of Commerce had filed a Statement of Charges in an administrative action against J. Paul Reddam, and that the defendants in the court case, as well as Reddam, a respondent in the administrative action, entered into the Minnesota Judgment to resolve all claims. The Minnesota Judgment enjoined CashCall, Inc. and respondent, among others, from engaging in consumer lending services of any kind, ordered them to cancel and discharge all existing consumer debt held by them, and ordered them to pay a civil penalty in the amount of \$4,500,000. The Minnesota Judgment recites that defendants "neither admit nor deny the allegations in the Complaint" and that Reddam and others "neither admit nor deny the allegations in the Statement of Charges." (Ex. 5, p. 75.)

14. On December 30, 2016, the State of Florida, Office of Financial Regulation, in an administrative proceeding entitled, *In Re CashCall, Inc. and J. Paul Reddam, individually, Western Sky Financial, LLC, et al.*, case number 16-003758, issued a Final Order (Florida Order) adopting a Stipulation that CashCall, Inc. and respondent be subject to a permanent lifetime bar from licensure with the Office of Financial Regulation in any capacity, including mortgage loan brokering and consumer lending activities. CashCall, Inc. and respondent were ordered to pay an administrative fine of \$500,000, and CashCall, Inc. agreed that its consumer finance license would be revoked. The action was based on respondents' violation of Florida state statutes by engaging in mortgage loan brokering and consumer lending activities without a license and in violation of consumer lending laws by, among other things, making consumer loans of under \$25,000 at annual interest rates exceeding 18 percent. The Stipulation recites that respondents "deny the allegations in the Amended Complaint" and that "Nothing in this Settlement Stipulation may be used as evidence of liability . . . in any unrelated administrative, civil, or criminal proceeding." (Ex. 4, p. 19.) This matter was pending when respondent submitted the renewal application in California; it was resolved at end of 2016.

15. On January 23, 2017, the Superior Court of Georgia, County of Fulton, in a civil action entitled, *State of Georgia v. CashCall, Inc., WS Funding, LLC, Delbert Services Corporation, J. Paul Reddam, Western Sky Financial, LLC, and Martin Webb*, case number 2013-CV-234310, entered a Stipulated Judgment and Final Order (Georgia Judgment). The Georgia Judgment required the defendants to pay \$25,000,000 jointly and severally to the State of Georgia, and enjoined respondent and others from multiple activities, including making consumer loans of \$3,000 or less with annual interest rates above 10 percent, servicing or transferring existing loans, or engaging in any consumer lending activities unless they obtain a license, all based on

alleged violations of the Georgia Payday Lending Act. The Georgia Judgment recites that the defendants "agree that they will not dispute the allegations in the Second Amended Complaint," which "establish all elements necessary to sustain an action by the State" (Ex. 3, p. 13.)

Respondent's Real Estate Broker License Renewal Application

16. On April 22, 2016, respondent applied to the Department to renew his real estate broker license. Questions 18, 19, and 21 of the license renewal application read as follows:

18. Within the six-year period prior to filing this application, have you ever had a denied, suspended, restricted or revoked business or professional license (including real estate) in California or any other state?

19. Are there any license disciplinary actions pending against a business or professional license you hold at this time?

21. Within the six-year period prior to filing this application, have you ever been ordered to cease, desist and/or refrain from doing an act(s), or from violating a law, rule or regulation by, or cited for a breach of ethics or unprofessional conduct, by an administrative agency or professional association in California or any other state?

17. On respondent's application, the box marked "No" is checked as the answer to each of the above three questions.

Complainant's Allegations

18. Complainant alleges: (a) the acts resulting in the Alaska Order, Maryland Order, Kansas Order, New Hampshire Order, Washington Order, Minnesota Judgment, Florida Order, and Georgia Judgment (Factual Findings 7-15) constitute cause under Business and Professions Code section 10177, subdivision (f), for suspending or revoking respondent's license and licensing rights under the Real Estate Law; (b) the acts resulting in the state actions taken with respect to respondent's consumer lending license constitute cause under Code Section 10177, subdivision (f), for suspending or revoking respondent's license and licensing rights under the Real Estate Law; and (c) respondent's failure to reveal the state actions in his 2016 license renewal application constitutes an attempt to procure a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact, or by knowingly omitting to state a material fact in the application, which is grounds for suspending or revoking respondent's license and licensing rights under Code Sections 475, and 10177(a).

The Consumer Financial Protection Bureau's 2013 Lawsuit

19. The Consumer Financial Protection Bureau (CFPB) filed an action against CashCall, Inc., respondent, and others on December 16, 2013, in the United States District Court, Central District of California, case no. CV 15-07522-JFW, and amended its complaint on March 21, 2014, alleging that defendants engaged in unfair, deceptive, and abusive acts with respect to consumer loans, in violation of the Consumer Financial Protection Act (CFPA). On August 31, 2016, two months after respondent submitted his license renewal application, the court granted the CFPB's motion for partial summary judgment as to liability only, finding that the defendants violated the CFPA.

20. The judge ruled that the identity of the lender should be determined by the predominant economic interest test; because CashCall, Inc. had assumed the risk on the loans it purchased from Western Sky Financial, CashCall, Inc. was the lender, and the loans were therefore effectively illegal. The penalty issue was tried separately, on October 17, 2017. The CFPB sought \$235 million in restitution and a \$50 million fine. The judge, however, awarded a penalty of only \$10.3 million. Judge John F. Walter, in his Findings of Fact and Conclusions of Law, found that restitution was not warranted:

There simply was no evidence that Defendants decided to embark on an unlawful scheme to structure the Western Sky Loan Program to defraud borrowers. On the contrary, Reddam saw a legitimate need for these types of loans and set out to establish a program that would permit Defendants to lawfully enter this market. The evidence presented demonstrated that Baren and Reddam only agreed to participate in the Western Sky Loan Program after consulting with prominent legal counsel and receiving advice that the structure of the Western Sky Loan Program was not unlawful. . . .

Moreover, the evidence established that it was reasonable for CashCall to rely on Callaway's advice because at the time, no court had ruled on the Tribal Lending Model or concluded that it was unlawful. Indeed, it was not until this Court's true lender determination that Defendants could have known that the program violated the CFPA. . . . [T]he

Court's finding of liability was premised solely on its determination of the discrete issue that CashCall was the true lender under the structure of the Western Sky Loan Program. [¶] . . . [¶]

Finally, the evidence indicated quite clearly that consumers received the benefit of their bargain—i.e., the loan proceeds. As previously discussed, Defendants plainly and clearly disclosed the material terms of the loans to consumers—including fees and interest rates—before the loan[s] were funded. Accordingly, the Court cannot conclude that Defendants plainly and clearly resorted to trickery or deception, or have been guilty of fraud in connection with the origination of the loans that are [at] issue in this case.

(Ex. A, pp. 15-16.)

As of the date of this hearing, the CFPB and CashCall, Inc. had both appealed and oral argument had been scheduled but not yet been heard.

Additional Evidence

21. According to respondent, residential mortgages constituted a much larger portion of CashCall, Inc.'s business than consumer loans; in 44 states, CashCall, Inc. sold mortgage loans to the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). When the New York action was publicized, Freddie Mac terminated its relationship with CashCall, Inc. In September 2013, respondent testified, he decided to stop buying loans from Western

Sky Financial because it was damaging the company's mortgage loan business. In early 2015, CashCall, Inc. sold its mortgage business.

22. Respondent first applied for real estate licensure in California after starting SC Funding, a mortgage company, because the company required the supervision of a broker. Respondent did not use his California real estate license in connection with CashCall, Inc., but he kept renewing the license because he thought he might at some time desire to enter into a real estate transaction; mortgage lending, however, was his primary occupation. None of the state actions involved respondent's California real estate broker's license. Respondent has submitted renewal applications to the Department every four years, as required. He has never been disciplined by the Department, and the Department has never received any consumer complaints about him.

23. Respondent testified that, with respect to Question 18 (ex. 12, p. 5), he does not believe he personally had ever been denied an application for a license or had a license revoked or suspended.

24. With respect to Question 19 (ex. 12, p. 5), CashCall, Inc. did business under its own license; respondent had no license relevant to CashCall, Inc.'s business. Also, some of the state civil or administrative action against CashCall, Inc., was settled before the application was filed, and some was pending but not resolved at the time the application was filed.

25. With respect to Question 21 (ex. 12, p. 5), respondent readily admitted the answer on his application, "No," was not accurate. For actions that settled with no admission of liability but included an agreement not to do business for a time in the state, respondent testified the answer should have been, "Yes." Respondent denied

that any incorrect or incomplete answers establish that he was trying to deceive the Department.

26. Respondent's 2016 license renewal application states that it was "certified by licensee via eLicensing." (Ex. 12, p. 11.) The application lists, as respondent's current email address, "sarah.martinez@CashCall.com." Sarah Martinez, who is a legal assistant to CashCall, Inc.'s in-house counsel, Dan Baren, prepared respondent's application. Respondent himself did not input any of the information. He testified that his prior assistant, Tricia Wilson, filled out innumerable forms for him to sign, including license renewal applications, from 2003 until early 2016, giving him only the signature pages. When Ms. Wilson left the company, Ms. Martinez performed the same function for him. Respondent admitted that he signed the license renewal application without reviewing the application; in the regular course of his business he assumes documents his legal staff give him for signature have been thoroughly vetted.

27. In mitigation, respondent offered evidence of filings with the NMLS on his behalf and on behalf of CashCall, Inc. Respondent and CashCall, Inc. use outside legal counsel, Jordana Gilden, to file disclosures with the NMLS. Ms. Gilden has worked for CashCall, Inc. as associate counsel and for respondent personally since 2008. She testified that CashCall, Inc. and respondent have filed publicly all information requested by the Department in its license renewal application, and that the information has at all relevant times been available to the Department. The evidence also reflects that certain states use NMLS filings as licensure application forms. (See, e.g., Factual Findings 8 and 9.)

28. Ms. Gilden testified that the NMLS is an online license management system, created to streamline management and renewals of various licenses in a single database. The system started with a focus on mortgage licenses, to provide lenders

one consistent platform, and made all renewals due at same time. Now it is used for other licenses as well. Licensees and regulators can access the system and review or add information to the profiles listed. NMLS Consumer Access is a site created to be accessible to the public for searching licensees; it does not list all the information the main NMLS site lists.

29. CashCall, Inc.'s profile in NMLS is on a form designated "MU1." That form reflects all information Ms. Gilden has provided on behalf of CashCall, Inc., e.g., tax identification number, disclosure questions and explanations, officers and directors, licensing renewals, supplemental documentation uploads, and disclosure of regulatory actions against the company. Another form, the MU2 form, is for individual owners, officers, and directors, known in NMLS terminology as "control persons." Control persons must file and link the MU2 form to the company's MU1 form. Ms. Gilden files MU2 forms for respondent and links the MU2 form to the MU1 form filed on behalf of CashCall, Inc. Any agency that accesses CashCall, Inc.'s MU1 form can access the MU2 forms linked to it and can search an individual's record on the NMLS Consumer Access site.

30. Respondent's MU2 and CashCall, Inc.'s MU1 disclosure forms on the NMLS site reflect the state actions against respondent and CashCall, Inc. and their disposition or current status. (Exs. B, C.) Ms. Gilden updates the forms when any licensing-related activity occurs; for example, she filed five MU1 forms for CashCall, Inc. in 2016, and one for respondent that year. She filed respondent's disclosure of this administrative action on his MU2, and uploaded a pdf image of the Accusation. (Ex. D, pp. 23-24.) She was not involved in completing the California broker renewal form; she has worked with clients who have applied for and managed their real estate licenses on the NMLS.

Analysis

31. Complainant argues that respondent's failure to reveal the state actions against CashCall, Inc. and him in his 2016 license renewal application was fraudulent and deceitful and constitutes grounds for denial of his application.

32. In summary:

1. Alaska denied CashCall, Inc.'s mortgage license application for failure to disclose the California Judgment. (Factual Finding 8.)

2. Maryland revoked CashCall, Inc.'s mortgage license and prohibited CashCall, Inc. and respondent from engaging in mortgage lending due to CashCall, Inc.'s failure to disclose the California Judgment. (Factual Finding 9.)

3. Kansas revoked CashCall, Inc.'s two supervised loan licenses and then, in a consent order, CashCall, Inc. and respondent in his capacity as an officer agreed that CashCall, Inc. would cease and desist from engaging in supervised lending activities. (Factual Finding 10.)

4. New Hampshire ordered CashCall, Inc., and respondent as an officer, to cease and desist from consumer lending; no license held by respondent was revoked. (Factual Finding 11.)

5. Washington revoked CashCall, Inc.'s consumer loan license and ordered CashCall, Inc. and respondent to cease and desist soliciting Washington residents for loans with interest rates greater than those permitted by Washington law and from making new loans or servicing existing loans unless they obtain a license. (Factual Finding 12.)

6. In a consent judgment, Minnesota enjoined CashCall, Inc. and respondent, among others, from engaging in consumer lending services of any kind; respondent made no admissions. (Factual Finding 13.)

7. Florida, in an order adopting a stipulation, revoked CashCall, Inc.'s consumer finance license and barred, for life, CashCall, Inc. and respondent from licensure in any capacity, including mortgage loan brokering and consumer lending activities; though the action was based in part on allegations that both CashCall and respondent impermissibly engaged in activities requiring licensure, respondent denied the allegations and made no admissions in the stipulation. (Factual Finding 14.)

8. Georgia entered a stipulated judgment enjoining respondent, among others, from engaging in any consumer lending activities unless he obtains a license; respondent agreed not to dispute the pleading's allegations and stipulated that facts alleged in the pleading "establish all elements necessary to sustain an action by the State." (Factual Finding 15.)

33. On his broker renewal application, respondent answered "no" to question 18, which asked whether in the prior six years he had ever been denied a license or had a business or professional license disciplined in any state. The evidence shows that, though the answer would not be correct if applied to CashCall, Inc., respondent's answer was, strictly speaking, accurate when applied to himself as an individual. (See Factual Findings 7-15, 32.)

34. Respondent answered "no" to question 19, which asked whether there were any pending license disciplinary actions against a license held by respondent. Again, strictly speaking, respondent's answer was accurate. (See Factual Findings 7-15, 32.)

35. Complainant argued that respondent is barred for life from licensure with the Florida Office of Financial Regulation. While that is so, the lifetime ban is a result of a settlement in which respondent denied all allegations and that was made, by its terms, inadmissible as evidence of liability in any other proceeding. (See Factual Findings 14, 32(g).) Complainant argued that the District Court of Minnesota enjoined respondent and others based on respondent's violation of state statutes, acts that would be grounds for suspension or revocation in California. The Minnesota Judgment did enjoin CashCall, Inc. and respondent from engaging in consumer lending services and ordered them to pay a civil penalty in the amount of \$4,500,000, but there was no adjudication or admission of liability. (Factual Findings 13, 32(f).) Actions finally determined by states against respondent after he filed his license renewal application in California, such as those in Minnesota, Georgia, and Florida, could not have been disclosed on the California renewal form. They were, however, listed on the NMLS website in respondent's MU2 and in CashCall, Inc.'s MU1 forms.

36. Finally, respondent answered "No" to question 21, which asked whether in the prior six years he had ever been ordered to cease and desist from doing an act or from violating a law, or been cited for breach of ethics or unprofessional conduct, by an administrative agency in any state. The evidence clearly and convincingly establishes that respondent's answer was incorrect and that, when he submitted the application, he knew the answer should have been "yes." (See Factual Findings 7-15, 25-30, 32.)

37. Respondent argues that complainant offered no evidence to demonstrate that the answer to question 21, which he concedes was inaccurate, was a material misstatement, in that orders that he cease and desist from certain activities or findings that he engaged in unprofessional conduct did not relate to his California real

estate broker license. Respondent further argues that the Department's renewal of respondent's license in 2012, while at least some state actions were pending, further demonstrates immateriality. Respondent's argument is not persuasive.

38. An act is substantially related to the functions, duties, and responsibilities of a real estate license if it involves misrepresentation to achieve an end or doing an unlawful act for economic benefit. (Cal. Code Regs., tit. 10, § 2910.) Some states have found respondent deliberately engaged in or was responsible for such acts, though a United States District Court found to the contrary in the CFPB lawsuit. (Factual Findings 7-15, 19-20, 32.) The Maryland Commissioner's findings as to materiality are also persuasive. (Factual Finding 9.) CashCall, Inc. and its relationship with Western Sky Financial in making consumer loans did not involve improper licensed broker activities by respondent. Unlawful acts committed by respondent in any capacity would, however, be material to respondent's real estate licensing rights in California, in that they would implicate his fitness for licensure and the Department's duty to protect the public from unethical licensees. Whether the Department's failure to act on information about pending state actions posted on the NLMS website when it renewed respondent's license in 2012 was inadvertent or deliberate, that failure does not prevent a finding of materiality in this case, based on the factors listed above.

39. With respect to mitigation and rehabilitation, respondent took responsibility for overreliance on his legal assistant in connection with completing his renewal application. (Factual Finding 25, 26, 36.) Lack of personal attention to the application does not constitute fraud or reveal an intent to deceive, however. Respondent demonstrated that the information required by question 21 has long been made available to the Department and the public through his filings with the NMLS. (Factual Finding 27.) Mere remorse or contrition for his lack of attention to the import

of his renewal application is not enough to demonstrate rehabilitation. Changed behavior over time is required. (*In re Menna* (1995) 11 Cal.4th 975, 991; *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) Respondent has not yet had an opportunity to demonstrate the necessary change in behavior.

40. While respondent's failure to answer question 21 does not justify revocation of a long-held, previously undisciplined license, it does justify placing restrictions on his license in order to protect the public.

Costs of Enforcement

41. The Department incurred enforcement costs, in the form of Attorney General fees, in the amount of \$1,468.50, and investigation costs in the amount of \$617.50, for a total of \$2,086. Those costs are deemed reasonable.

42. Respondent offered no evidence to show that paying costs would pose a financial hardship for him.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant bears the burden of proof. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99; *Pipkin v. Bd. of Supervisors* (1978) 82 Cal.App.3d 652.) The standard of proof is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) Clear and convincing evidence means the evidence is "so clear as to leave no substantial doubt" and is "sufficiently strong to command the unhesitating assent of every reasonable mind."

(Mathieu v. Norrell Corp. (2004) 115 Cal.App.4th 1174, 1190 [citing Mock v. Michigan Millers Mutual Ins. Co. (1992) 4 Cal.App.4th 306, 332-333].)

Applicable Authority

2. The real estate commissioner "has full power to regulate and control the issuance and revocation . . . of all licenses . . ." (Bus. & Prof. Code, § 10071.)
"Protection of the public shall be the highest priority for the Department of Real Estate in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 10050.1.)

3. The commissioner may suspend or revoke a real estate license, or delay the renewal of a license, if the licensee has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal . . . by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license, license renewal, or reinstatement. [¶] . . . [¶]

(f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license, or either had a license denied or had a license issued by another agency of this state, another state, or the federal government revoked, surrendered, or suspended for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, [if the action

were taken after due process and there was] an express finding of a violation of law by the agency or entity.

(Bus. & Prof. Code, § 10177.)

Cause for Discipline

4. Cause exists to suspend or revoke respondent's real estate broker's license under Business and Professions Code section 10177, subdivision (a), in that he made a material misrepresentation of fact on his license renewal application, as set forth in Factual Findings 4 through 40.

5. Cause does not exist to suspend or revoke respondent's real estate broker's license under Business and Professions Code section 10177, subdivision (f), as set forth in Factual Findings 4 through 40.

6. In the circumstances in this case, respondent made misrepresentations of fact on his license renewal application. He answered Question 21 "No," when, as he acknowledges, the correct answer should have been "Yes." The press of business or an unnoticed error of his assistant does not and cannot excuse respondent's failure to attend appropriately to the serious matter of a license renewal. Licensure is granted only when the commissioner can assure the public interest will be served. Though complainant did not establish an intent to defraud or deceive, license discipline is warranted to ensure that respondent will in the future perform all the responsibilities of a licensee, including the responsibility to accurately report to the Department information on license renewal forms and other real estate forms, with the required attention and diligence.

Rehabilitation

7. Because cause for revocation of respondent's license was established, respondent bears the burden of proving mitigation or rehabilitation sufficient to warrant continued licensure. (See *Martin v. Alcoholic Beverage Control Appeals Bd.* (1950) 52 Cal.2d 259, 264-265.) The "more serious the misconduct and the bad character evidence, the stronger the applicant's showing of rehabilitation must be." (*In re Gossage* (2000) 23 Cal.4th 1080, 1096.)

8. Applying the Department's rehabilitation criteria (Cal. Code Regs., tit. 10, § 2912), in respondent's favor are that his license has been long-held and he has not previously been disciplined by the Department. On the other hand, he has not demonstrated that his practice has changed with respect to the attention and seriousness he devotes to licensure by the Department. His delegation to his legal assistant of completing his license application renewal, to such an extent that he never reviewed the application himself, does not reflect well on respondent's willingness to diligently carry out the duties to the public required of a real estate licensee.

9. All relevant factors having been considered, respondent established sufficient mitigation and showed that he is, at this time, sufficiently rehabilitated to justify issuing him a restricted real estate salesperson license, based on Factual Findings 4 through 40. The purpose of a disciplinary action such as this is to protect the public, and not to punish the licensee. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.)

Costs

10. Under Business and Professions Code section 10106, subdivisions (a), (c), and (d), complainant is entitled to recover reasonable costs of investigation and

prosecution of this matter in the amount of \$2,086, as set forth in Factual Findings 41 and 42.

ORDER

All licenses and licensing rights of respondent J. Paul Reddam under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The restricted license 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 nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.

2. The restricted license 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 violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations

or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.

4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

5. It is an express condition of the restricted license that respondent shall pay the Department's costs of investigation and enforcement of this case in the amount of \$2,086 within nine months of the issuance of the restricted license.

DATE: November 22, 2019

DocuSigned by:
Howard W. Cohen
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HOWARD W. COHEN

Administrative Law Judge

Office of Administrative Hearings

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

In the Matter of the Accusation Against:

J. PAUL REDDAM, Respondent

Case No. H-41279 LA

OAH No. 2019030081

**NOTICE AND ORDER OF CORRECTION OF CLERICAL ERROR IN
PROPOSED DECISION**

Howard W. Cohen, Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH), heard this matter on September 4, 2019, in Los Angeles, California. The record was closed and the matter was submitted on September 4, 2019. A Proposed Decision issued on October 15, 2019.

On November 14, 2019, the Department of Real Estate (Department), through staff counsel, applied to OAH to correct a mistake or clerical error in the Proposed Decision, citing as authority Government Code section 11518.5, subdivision (b). The application, a copy of which is attached to this Order, does not indicate that it was served on respondent and, as of the date of this Order, 10 days have not yet elapsed from the date of service of the Department's request.

Nevertheless, under authority of California Code of Regulations, title 1, section 1048, subdivision (a), the ALJ finds that the Proposed Decision contained the clerical

error identified by the Department and hereby, on his own motion, corrects that clerical error. The ALJ determines in his discretion that there is no need to provide the parties notice and an opportunity to be heard.

THEREFORE, IT IS HEREBY ORDERED that the following correction is to be made to the October 15, 2019, Proposed Decision, and that the correction is to be reflected in a Corrected Proposed Decision issued concurrently herewith:

On page 11, in paragraph 18, the reference to subdivision "(t)" of Business and Professions Code section 10177 will be changed to subdivision "(f)".

DATE: November 22, 2019

DocuSigned by:
Howard W. Cohen
HOWARD W. COHEN

Administrative Law Judge
Office of Administrative Hearings