

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
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FILED

JAN 25 2023

DEPT. OF REAL ESTATE

By _____

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JASON WESLEY CHRISTIANSEN,)
13 doing business as Christiansen Capital,)
14 Respondent.)

) DRE No. H-42117 LA
) OAH No. 2022020439

) STIPULATION AND AGREEMENT
) AND DECISION AFTER REJECTION

15)
16)
17)
18 It is hereby stipulated by and between Respondent JASON WESLEY
19 CHRISTIANSEN (sometimes referred to as “Respondent”) and the Complainant, acting by and
20 through Judith B. Vasan, Counsel for the Department of Real Estate, as follows for the purpose
21 of settling and disposing of the Accusation (“Accusation”) filed on November 5, 2021, in this
22 matter:

23 1. On June 16, 2022, a formal hearing was held on the Accusation in accordance
24 with the provisions of the Administrative Procedure Act (“APA”) before Administrative Law
25 Judge Erlinda G. Shrenger (“ALJ Shrenger”) where, after evidence and testimony were received,
26 the record was closed and the matter was submitted for decision.

27 2. On July 18, 2022, ALJ Shrenger issued a Proposed Decision.

STIPULATION AND AGREEMENT AND DECISION AFTER REJECTION

1 rights, and MLO license endorsements pursuant to Code sections 10166.051(a), 10166.051(b),
2 10177(d) and Section 2945.1 of Title 10, Chapter 6, of the California Code of Regulations
3 (“Regulations”).

4 ORDER

5 WHEREFORE, THE FOLLOWING ORDER is hereby made:

6 I.

7 All licenses, MLO license endorsements, and licensing rights of Respondent
8 JASON WESLEY CHRISTIANSEN under the Real Estate Law are revoked; provided, however,
9 a restricted real estate broker license and restricted MLO license endorsements shall be issued to
10 Respondent pursuant to Code section 10156.5 if Respondent makes application therefor and pays
11 to the Department of Real Estate the appropriate fee for the restricted license and restricted MLO
12 license endorsements within ninety (90) days from the effective date of this Decision. The
13 restricted license and restricted MLO license endorsements issued to Respondent shall be subject
14 to all of the provisions of Code section 10156.7 and to the following limitations, conditions and
15 restrictions imposed under authority of Section 10156.6 of that Code:

16 1. The restricted license and restricted MLO license endorsements issued to
17 Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the
18 event of Respondent’s conviction or plea of nolo contendere to a crime which is substantially
19 related to Respondent’s fitness or capacity as a real estate licensee.

20 2. The restricted license and restricted MLO endorsements issued to Respondent
21 may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence
22 satisfactory to the Commissioner that Respondent has violated provisions of the California Real
23 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or
24 conditions attaching to the restricted license or restricted MLO license endorsements.

25 3. Respondent shall not be eligible to petition for the issuance of any unrestricted
26 real estate license, any unrestricted MLO license endorsements, nor for removal of any of the
27 conditions, limitations or restrictions of a restricted license until three (3) years have elapsed

1 from the effective date of this Decision and Order. Respondent shall not be eligible to apply for
2 any unrestricted licenses or unrestricted MLO license endorsements until all restrictions
3 attaching to the license or MLO license endorsements have been removed.

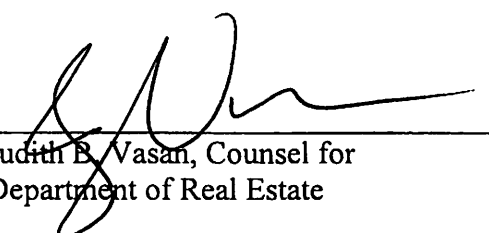
4 II.

5 Respondent shall, within nine (9) months from the effective date of this Decision
6 and Order, present evidence satisfactory to the Commissioner that Respondent has, since the
7 most recent issuance of an original or renewal real estate license, taken and successfully
8 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
9 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
10 Respondent's restricted real estate license and restricted MLO license endorsements shall
11 automatically be suspended until Respondent presents evidence satisfactory to the Commissioner
12 of having taken and successfully completed the continuing education requirements. Proof of
13 completion of the continuing education courses must be delivered to the Bureau of Real Estate,
14 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

15 III.


16 All licenses, MLO license endorsements, and licensing rights of Respondent are
17 indefinitely suspended unless or until Respondent pays the sum of \$2,722.70 for the
18 Commissioner's reasonable costs of the investigation (\$1,877.90) and enforcement (\$844.80)
19 which led to this disciplinary action. Said payment shall be in the form of a cashier's check made
20 payable to the Department of Real Estate. The investigative and enforcement costs must be
21 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA
22 95813-7013, within ninety (90) days from the effective date of this Decision and Order.

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24 DATED: 1-4-2023

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26 Judith B. Vasani, Counsel for
27 Department of Real Estate

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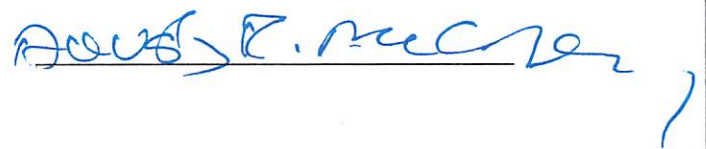
JASON WESLEY CHRISTIANSEN
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent JASON WESLEY CHRISTIANSEN and shall become effective at 12 o'clock noon on FEB 28 2023.

IT IS SO ORDERED 1.19.23.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER



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

In the Matter of the Accusation Against:

**JASON WESLEY CHRISTIANSEN
doing business as Christiansen Capital,**

Respondent.

Agency Case No. H-42117 LA

OAH No. 2022020439

PROPOSED DECISION

Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on June 16, 2022.

Judith B. Vasan, Counsel, represented complainant.

Jason Wesley Christiansen (respondent) represented himself.

Oral and documentary evidence was received. The record closed and the matter was submitted for decision on June 16, 2022.

FACTUAL FINDINGS

Jurisdictional Matters

1. Complainant Ruth Corral made and filed the Accusation solely in her official capacity as a Supervising Special Investigator for the Department of Real Estate (Department), State of California.

2. Respondent timely filed a Notice of Defense in which he requested a hearing to present his defense or matters in mitigation or extenuation to the allegations in the Accusation. This hearing ensued.

Respondent's License History

3. Respondent is licensed by the Department as a real estate broker. Respondent's license, number 01465319, was originally issued on November 15, 2010, and is scheduled to expire on November 14, 2022, unless renewed.

4. Respondent currently holds an individual mortgage loan originator (MLO) license endorsement with the Department, National Mortgage Licensing System (NMLS) number 269373, and a company MLO endorsement with NMLS number 385686.

5. Respondent is currently authorized by the Department to use the fictitious business names Christiansen Capital, Christiansen Capital Investment Group, Christiansen Management, Temecula Valley Property Management, and www.CAHardMoneyNow.com.

6. At all relevant times, respondent engaged in the business of a real estate broker within the meaning of Business and Professions Code (Code) section 10131,

subdivision (d), for or in expectation of compensation, by soliciting borrowers or lenders for or negotiating loans or performing services for borrowers or lenders in connection with loans secured directly or collaterally by liens on real property.

7. At all relevant times, respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a mortgage loan originator within the meaning of Code section 10166.01, subdivision (b)(1), for compensation or gain, by taking a mortgage loan application or offering or negotiating the terms of a residential mortgage loan.

Online Advertisement

8. Kristy Rodrigues is a Special Investigator in the Department's Mortgage Loan Activity Unit. Her duties include investigating allegations and complaints of mortgage fraud and reviewing advertisements. Investigator Rodrigues credibly testified at the hearing regarding her investigation of an online advertisement that was brought to the Department's attention in August 2020.

9. In August 2020, the Department was notified of an online advertisement at <http://cahardmoneynow.com> (website) soliciting borrowers for residential hard money and commercial private money loans. Investigator Rodrigues reviewed the online advertisement and printed hard copies. The advertisement stated, pertinent in part:

Ca Hard Money Now is a real estate lending firm. We base the loan on the equity in the asset which is real estate. We match borrowers with our investors to find both parties the best residential hard money loan. Commercial hard money loans are also done by us. We don't broker your loan out.

We are the broker of record and we do the loan docs. Our track record speaks for itself with helping borrowers getting the best possible loan for people who need a hard money loan.

Some people call us hard money lenders; others call us private money loan specialists. Whatever you call us, we can give you a hard money loan on your California real estate. All of our loans are stated income and also non recourse. These loans are short term in duration, usually 3 years or less.

(Exh. 3, p. DRE 012.)

10. The advertisement identified George Kengott (Kengott) as the person to contact “[f]or more information” and provided a telephone number to call or text him. (Exh. 3, pp. DRE 009, DRE 005-007, and DRE 011.) The advertisement solicited potential borrowers to contact Kengott as follows:

For all of your private money and hard money loan needs, you can make one phone call and talk to a real live person, George Kengott.. [sic] Sometimes it’s nice when someone picks up the phone right away instead of leaving 5 different voice mails for 5 different private money lenders in hopes that 1 of them will finally get back to you.

This is a 2 person company so there is not much overhead and no red tape to navigate through. George has been in the business for almost 11 years and can in many cases,

give you a quick yes over the phone with good rates. He will then look at your property personally without an upfront charge.

(Exh. 3, p. DRE 004.)

11. Investigator Rodrigues researched the Department's records and determined Kengott is licensed by the Department as a real estate broker. Kengott's license number 00919936 was issued on October 24, 2019, and is set to expire on October 23, 2023, unless renewed. The Department's records indicate Kengott is a "Broker Associate" for respondent. (Exh. 9.) Thus, respondent is responsible for all licensed activities performed by Kengott. Investigator Rodrigues compared information from the Department's records with information from the NMLS and confirmed that Kengott was associated with the online advertisement.

12. The online advertisement indicated Kengott engaged in private money loan originating. Investigator Rodrigues explained that, in private money loan transactions, a private investor is a person or entity who is not licensed as a lender and does not hold a real estate broker license. The private investor conducts transactions under the license of a licensed real estate broker. A real estate broker's license or federal securities license is required to engage in private money loan transactions.

Respondent's Transaction Files

13. Investigator Rodrigues contacted respondent and requested he provide transaction files for private money loans originated by Kengott. By letter dated September 9, 2020, respondent sent Investigator Rodrigues a USB drive containing "the 3 latest transactions you requested . . . originated by George Kengott (DRE# 00919936)." (Exh. 8.) The transaction files pertained to loans for three residential

properties: (1) Keenan Avenue in Los Angeles; (2) Tribeca Lane in Cathedral City; and (3) Galileo Lane in Murrieta. Excerpts from the transaction files were presented at the hearing. (See Exhs. 4-6.) Investigator Rodrigues' review of the transaction files established violations of the Code, as described below.

KEENAN AVENUE LOAN

14. The transaction file for the Keenan Avenue loan included a Uniform Residential Loan Application dated June 2, 2020, completed by borrower G.M. (initials are used for all borrowers herein to protect their privacy). The loan application identified respondent, under his fictitious business name Christiansen Capital, and his real estate broker license (DRE #01465319), as the interviewer who obtained and completed the information contained in the loan application. (Exh. 4, p. DRE 004.) The Keenan Avenue loan involved three investors.

Lender/Purchaser Disclosure Statement

15. Pursuant to Code section 10232.4, respondent was required to maintain a completed Lender/Purchaser Disclosure Statement for the Keenan Avenue loan.

16. Code section 10232.4, subdivision (a), provides that a real estate broker, in making a solicitation to a particular person and in negotiating with that person to make a loan secured by real property, shall deliver to the person solicited the applicable completed statement described in Code section 10232.5 as early as practicable before the person becomes obligated to make the loan and before the receipt by the broker of any funds from that person. The completed statement, signed by the prospective lender and the real estate broker, shall be retained by the broker for a period of three years. (*Ibid.*)

17. The disclosure statement required by Code section 10232.4 must contain the information specified in Code section 10232.5, which includes but is not limited to the following: the address of the real property securing the borrower's obligation; the estimated fair market value of the securing property as determined by appraisal; the age, size, type of construction, and a description of improvements to the property; the identity, occupation, employment, income, and credit data about the prospective borrower; the terms of the promissory note to be given to the lender; pertinent information concerning all encumbrances which constitute liens against the securing property; provisions for servicing the loan; and a statement that the broker has a responsibility to make reasonable efforts to determine that the loan is a suitable and appropriate investment for the lender, based on information provided by the lender regarding the lender's financial situation and investment objectives.

18. Respondent's transaction file for the Keenan Avenue loan contained a Lender/Purchaser Disclosure Statement that was partially completed and not signed by the three investors, in violation of Code section 10232.4. The loan application for the Keenan Avenue loan was signed by the borrower on June 2, 2020. Since Code section 10232.4 requires a broker to maintain the completed disclosure statement for three years, respondent's transaction file should have contained a fully completed and signed Lender/Purchaser Disclosure Statement.

Investor Questionnaire/Suitability

19. Pursuant to Code section 10232.45, respondent was required to complete and maintain an investor questionnaire/suitability in the transaction file for the Keenan Avenue loan. Investigator Rodrigues explained the purpose of the investor questionnaire is for the broker to collect information to determine whether the investor-lender understands the transaction by reason of their educational, business,

or financial experience; whether the investor-lender can bear the economic risk of the investment; and whether the investor-lender is suitable for the transaction. (Code § 10232.45, subd. (a)(1)-(3).) The broker uses the information collected to evaluate the investor's ability to transact the loan. The broker is required to maintain records of the investor information for at least four years. (Code § 10232.45, subd. (c).)

20. Respondent's transaction file for the Keenan Avenue loan did not contain an investor questionnaire/suitability, in violation of Code section 10232.45. The borrower signed the loan application on June 2, 2020. Since respondent is required to maintain records of certain investor information for at least four years, his transaction file for the Keenan Avenue loan should have contained an investor questionnaire/suitability.

Investor Qualification Statement

21. Pursuant to Code section 10238, subdivision (f)(1), respondent was required to obtain a statement of qualifications from the investors for the Keenan Avenue loan. In the statement, the investor is required to confirm that their investment does not exceed 10 percent of their net worth or adjusted gross income. The investor must sign the statement, which must be maintained by the broker for four years. Respondent's transaction file for the Keenan Avenue loan did not contain an investor qualification statement for any of the investors, in violation of Code section 10238, subdivision (f)(1).

Applicable Law Disclosure

22. Pursuant to Code section 10236.7, respondent was required to "clearly indicate" in his transaction file for the Keenan Avenue loan the provisions of the Code "pertaining to qualification or exemption from qualification under which the

transaction is being conducted." Investigator Rodrigues found respondent's transaction file for the Keenan Avenue loan did not contain the Applicable Law Disclosure required by Code section 10236.7.

TRIBECA LANE LOAN

23. Respondent's transaction file for the Tribeca Lane loan included a Uniform Residential Loan Application dated August 10, 2020, completed by borrower M.A. (Exh. 5.) Respondent is listed in the loan application as the interviewer who obtained and completed the information contained in the loan application. (*Id.*, p. DRE 004.) The loan closed on August 24, 2020, with one investor.

24. Similar to respondent's transaction file for the Keenan Avenue loan, respondent's transaction file for the Tribeca Lane loan contained a Lender/Purchaser Disclosure Statement that was partially completed and not signed by the investor, in violation of Code section 10232.4; did not have an investor questionnaire/suitability, in violation of Code section 10232.45; and did not have an investor qualification statement, in violation of Code section 10238, subdivision (f)(1).

GALILEO LANE LOAN

25. Respondent's transaction file for the Galileo Lane loan included a Uniform Residential Loan Application dated August 8, 2020, completed by borrower T.W. (Exh. 6.) The loan application identified Sapan Vig as the loan originator. (*Id.*, p. DRE 004.) The Department's records indicate Sapan Vig is licensed as a real estate broker, number 01461770, with an MLO license endorsement. (*Id.*, p. DRE 005.) However, an Addendum to Promissory Note dated August 14, 2020, identified respondent, doing business as Christiansen Capital, as the real estate broker who

arranged the loan. (*Id.*, p. DRE 006.) The Galileo Lane loan closed on August 31, 2020, with one private lender.

26. Similar to respondent's transaction files for the Keenan Avenue and Tribeca Lane loans, respondent's transaction file for the Galileo Lane loan contained a Lender/Purchaser Disclosure Statement that was partially completed and not signed by the investor, in violation of Code section 10232.4; did not have an investor questionnaire/suitability, in violation of Code section 10232.45; and did not have an investor qualification statement, in violation of Code section 10238, subdivision (f)(1).

Notification and Activity Reporting

27. On August 14, 2020, Investigator Rodrigues sent respondent a Declaration form (RE 518A) on which he was to provide the following information for the period July 2019 through June 2020: (1) the number of private money/hard money loans closed per month, and the amount of the closed loans; (2) the total number of private money/hard money loans closed that were multi-lender loans (i.e., more than one investor per note); (3) whether any multi-lender loans contained more than 10 investors per note; and (4) information regarding any mortgage loan servicing activity. (Exh. 8, pp. DRE 002 to 003.) Respondent was required to sign the Declaration under penalty of perjury. (*Id.*, p. DRE 003.)

28. At hearing, Investigator Rodrigues explained that she sent the Declaration to respondent to obtain information about his private money loan activity, to determine if he was required to submit reports to the Department, and to determine if he was servicing the loans he originated.

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29. On September 9, 2020, respondent provided Investigator Rodrigues his completed and signed Declaration at the same time he provided her with the USB drive containing his transaction files for loans originated by Kengott.

30. In the Declaration, respondent indicated the number of private money and hard money loans that he closed per month, and the total dollar volume of the closed loans per month, during the period July 2019 through June 2020. Of the loans listed in the Declaration, respondent indicated five were multi-lender loans (i.e., more than one investor per note). Additionally, respondent indicated he did not engage in any mortgage loan servicing activity during the period July 2019 through June 2020.

31. Investigator Rodrigues determined respondent failed to timely complete and submit the following required notifications and reports to the Department:

A. Respondent failed to notify the Department of his private money loan activity, in violation of Code section 10232. Section 10232 requires that a real estate broker who negotiates transactions pursuant to section 10131, subdivision (d), involving loans secured directly or collaterally by liens on real property, must comply with certain reporting requirements, including but not limited to Code sections 10232.2 (fiscal year report) and 10232.25 (trust fund status report).

B. Respondent failed to provide quarterly, non-accountability threshold reports attesting to the fact that respondent did not receive any trust funds in cash or convertible to cash during the fiscal quarter, in violation of Code section 10232.25, subdivision (d). The Department has no record of any private money threshold and multi-lender reports submitted by or on behalf of respondent. (Exh. 7, p. DRE 001.)

C. Respondent failed to submit a Trust Fund Non-Accountability Report for the fiscal year ending December 31, 2020, which was required to be filed with the

Department no later than January 31, 2021, after the end of respondent's fiscal year, in violation of Code section 10232.2, subdivision (b).

D. Respondent failed to notify the Department upon arranging his first multi-lender loan transaction, in violation of Code section 10238.

E. Respondent failed to file an annual Business Activity Report for, at a minimum, the fiscal year ending on December 31, 2020, which was to be filed with the Department within 90 days after the end of respondent's fiscal year, in violation of Code section 10166.07. The Department has no record of any Business Activity Reports submitted by respondent pursuant to Code section 10166.07. (Exh. 7, p. DRE 002.)

Respondent's Testimony and Contentions

32. At hearing, respondent testified that Kengott put up the advertisement on the website without telling him. Respondent testified that, after he was contacted by Investigator Rodrigues, he told Kengott to take down the advertisement. On March 25, 2021, after the Department authorized respondent to use the fictitious business name www.CAHardMoneyNow.com, Kengott put the website back up.

33. Respondent testified the transaction files on the USB drive he sent to Investigator Rodrigues were draft documents that he put on the USB drive by mistake. Respondent uses computer software to create one draft document before he creates a final document. Respondent claims he selected the wrong documents to put on the USB drive. He attributes the mistake to being overwhelmed from having to work from home, with his three children also at home, because of Covid-19 restrictions, and because he is the sole breadwinner for the family. When Investigator Rodrigues asked for three transaction files, respondent thought she just wanted documents regarding the properties. Respondent testified he has the completed Lender/Purchaser

Disclosure Statements for the three loans, as well as the investor questionnaires and investor qualification statement. However, he did not present the documents at the hearing. He claimed the documents are on his computer, which was damaged from flooding in the garage of his apartment building where the computer was stored. Respondent claims his friend is currently working on repairing his computer. Respondent presented no documentation to corroborate these claims.

34. Respondent testified he has been arranging private money loans since 2016, when he received his MLO license endorsement. However, he was not closing private money loans the entire time. Respondent testified there were times when he did no business or sometimes had to do different things to make ends meet.

35. Respondent testified that, since July 2019, he did not provide any reporting to the Department of his private money loan transactions. Respondent testified he was not aware of any reporting or notification requirements. Respondent has not made any reporting to the Department since the Accusation was filed in February 2022 because he was waiting for this hearing to take place. Respondent testified he was aware of the requirements for investor questionnaires and investor qualification statements but was not aware of reporting requirements to the Department.

36. Respondent apologized for his violations and admitted he was not aware of the reporting and notification requirements to the Department regarding his MLO activities. He pledged that, if he is allowed to retain his license, going forward, he will make sure to comply.

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Cost Recovery

37. The Department incurred investigation costs of \$1,877.90 and enforcement costs of \$844.80, for a total cost recovery amount of \$2,722.70. (Exhs. 10, 11.) These costs are deemed reasonable.

38. Respondent testified he will require a payment plan if he is ordered to pay the Department's costs.

LEGAL CONCLUSIONS

Legal Principles

1. Complainant has the burden of proving cause for discipline against respondent by clear and convincing evidence to a reasonable certainty. (*The Grubb Co., Inc. v. Department of Real Estate* (2011) 194 Cal.App.4th 1494, 1505.) This means the burden rests on complainant to adduce proof that is clear, explicit, and unequivocal--so clear as to leave no substantial doubt and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

2. Code section 10177 provides, in pertinent part:

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

[¶ . . . ¶]

(d) Willfully disregarded or violated this part or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of this part and Chapter 1 (commencing with Section 11000) of Part 2.

[¶ . . . ¶]

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license.

3. Code section 10166.051 provides, in pertinent part:

In addition to any penalties authorized by regulations adopted pursuant to Section 10166.15, 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 hereunder.

(b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license endorsement, if an applicant or endorsement holder fails at any time to meet the requirements of Section 10166.05 or 10166.09,

4. Code section 10166.05 provides that the Real Estate Commissioner shall not issue a license endorsement to act as a mortgage loan originator unless the Commissioner makes all the findings specified in subdivisions (a) through (d). The finding specified in section 10166.05, subdivision (c), is stated as follows: "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."

5. California Code of Regulations, title 10 (CCR), section 2945.1 states: "Real estate license discipline, including a revocation, a suspension, a voluntary surrender of a real estate license, a public reproof, and/or a bar order, may be cause for the revocation and/or suspension of the real estate licensee's mortgage loan originator license endorsement. The disciplinary action on an existing license endorsement may be imposed via the same process and within the same order as the license discipline."

6. CCR section 2945.4 states: "The [Department] will apply parallel standards and process to mortgage loan originator license endorsements as the Real Estate Law and Regulations of the Real Estate Commissioner apply to real estate licenses with regard to disciplinary procedure, voluntary surrender of license, statute of limitations, and jurisdiction over lapsed and suspended licenses."

Causes for Discipline

7. Cause exists to suspend or revoke respondent's real estate broker license pursuant to Code section 10177, subdivision (d), in that respondent failed to maintain required documents in his transaction files and failed to make required reports to the

Department, in violation of the Real Estate Law or rules and regulations of the Real Estate Commissioner, based on Factual Findings 3-31.

8. Cause does not exist to suspend or revoke respondent's real estate broker license pursuant to Code section 10177, subdivision (g), for demonstrated negligence or incompetence. No evidence or argument was presented to establish this cause for discipline.

9. Cause exists to suspend, revoke, restrict, or decline to renew respondent's individual and company MLO license endorsements, pursuant to Code section 10166.051, subdivision (a), and CCR section 2945.1, in that respondent failed to make required reports to the Department regarding his MLO activity and failed to maintain required documents in his transaction files, in violation of the Real Estate Law or rules and regulations of the Real Estate Commissioner, based on Factual Findings 3-31.

10. Cause exists to suspend, revoke, condition, or decline to renew respondent's individual and company MLO license endorsements, pursuant to Code section 10166.051, subdivision (b), and CCR section 2945.1, in that respondent failed to meet the requirements of Code section 10166.05, subdivision (c), based on Factual Findings 3-31 and Legal Conclusion 11.

11. Respondent failed to make required reports to the Department regarding his MLO activity and failed to maintain required documents in his transaction files, in violation of the Real Estate Law or rules and regulations of the Real Estate Commissioner. Respondent's violations do not demonstrate such financial responsibility, character, and general fitness to command the confidence of the

community and do not warrant a determination that, as a MLO, he will operate honestly, fairly, and efficiently, as required by Code section 10166.05, subdivision (c).

Disposition

12. The objective of license disciplinary proceedings is to protect the public and the licensed profession or occupation, maintain integrity and high standards, and preserve public confidence in licensees. (*Clerici v. Department of Motor Vehicles* (1990) 224 Cal.App.3d, 1016, 1030-1031.) One of the purposes of the real estate licensing laws "is to ensure, as far as possible, that real estate brokers and salesmen will be honest, truthful and of good reputation." (*Arneson v. Fox* (1980) 28 Cal.3d, 440, 451, citing *Ring v. Smith* (1970) 5 Cal.App.3d 197, 205.)

13. As cause for discipline against respondent's real estate broker license and MLO license endorsements has been established, respondent bears the burden of establishing sufficient rehabilitation to justify his continued licensure. (See, *Martin v. Alcoholic Beverage Control Appeals Bd. of Cal.* (1950) 52 Cal.2d 259, 264-265; *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309.)

14. Rehabilitation is a state of mind and the law looks with favor upon one who has achieved reformation and regeneration with the reward of the opportunity to serve. (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940.) The evidentiary significance of misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.) Mere remorse does not demonstrate rehabilitation but can be considered as a mitigating factor. (*In re Demergian* (1989) 48 Cal.3d 284, 296.) A truer indication of rehabilitation

is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.)

15. The Department has developed criteria of rehabilitation that are to be considered in evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of a license has been initiated. The criteria are set forth at CCR section 2912, subdivisions (a) through (m). The criteria have been considered.

16. In this case, the appropriate level of discipline is a stayed revocation with a right to a restricted real estate broker license and restricted MLO license endorsements. Respondent's licensure should be restricted for three years, as set forth in the Order below.

17. Respondent's violations involved documentation deficiencies with three of his transaction files and his failure to make required reports to the Department regarding his MLO activities. No evidence was presented of any complaints made against respondent by the parties to the three transactions. Respondent apologized for his violations and pledged to do better if he is allowed to retain his license. Respondent's explanation that he mistakenly put draft documents, instead of final documents, on the USB drive he provided to Investigator Rodrigues was plausible and established some mitigation. But respondent's uncorroborated testimony that he had the missing and fully completed documents on a damaged computer that was being repaired by a friend, was insufficient to establish mitigation or excuse for his violations.

18. Respondent's violations reflect a lack of awareness and understanding of his duty to timely and accurately report his MLO activities to the Department as required by the real estate laws, rules and regulations. The Order below includes a

requirement that respondent provide written reports, as directed by the Department, concerning his activities for a which a real estate license and MLO endorsement is required. As a result of this administrative hearing, respondent is now fully aware of his documentation and reporting obligations as a Department licensee and of the serious consequences to his licensure that result from noncompliance. By his apologetic and sincere demeanor at hearing, respondent appears motivated, going forward, to comply with all licensing requirements.

Cost Recovery

19. Pursuant to Code section 10106, subdivision (a), in any order issued in resolution of a disciplinary proceeding before the Department, "the commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

20. It was established that the Department incurred investigative and enforcement costs in the total amount of \$2,722.70, which are reasonable. (Factual Finding 36.) Respondent shall be permitted to pay the cost recovery pursuant to a payment plan approved by the Department.

ORDER

All licenses and licensing rights of Respondent Jason Wesley Christiansen under the Real Estate Law, specifically his broker license and Mortgage Loan Originator endorsements, are revoked; provided, however, a restricted real estate broker license and Mortgage Loan Originator endorsements 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 and endorsements 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 and Mortgage Loan Originator endorsements 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 and Mortgage Loan Originator endorsements 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 and unrestricted Mortgage Loan Originator endorsement nor for the removal of any of the conditions, limitations or restrictions of a restricted license and endorsement until three 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 and Mortgage Loan Originator endorsements 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. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license and Mortgage Loan Originator endorsements are in effect such information concerning Respondent's activities for which a real estate license and Mortgage Loan Originator endorsement is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of Respondent and periodic summaries of salient information concerning each real estate transaction in which the Respondent engaged during the period covered by the report.

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
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6. Respondent shall pay the Department a total of \$2,722.70 in reimbursement of enforcement and investigation costs. Respondent may pay such reimbursement pursuant to an installment payment plan determined by the Department.

DATE: 07/18/2022



Erinda Shrenger (Jul 18, 2022 14:18 PDT)

ERLINDA G. SHRENGER

Administrative Law Judge

Office of Administrative Hearings