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DEPT. OF REAL ESTATE

By 

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
RIXON VATHA KIEN,
Respondent.

No. H-42463-LA
ACCUSATION

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department of Real Estate ("Department" or "DRE") of the State of California, for cause of Accusation against RIXON VATHA KIEN, also known as Rixon Vatna Kien ("KIEN" or "Respondent"), is informed and alleges as follows:

1. The Complainant, Veronica Kilpatrick, acting in her official capacity as a Supervising Special Investigator, makes this Accusation against Respondent.

2. All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

LICENSE HISTORY

3. Respondent KIEN is presently licensed and/or has license rights under the Code, as a real estate broker ("REB") with Department license ID 01246047. Respondent is the designated officer ("D.O.") for the following real estate corporations ("REC"): ARGI Corporation, Department license ID 01793333, and Lendingwide Inc., Department license ID 01920568.

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1 REES

2 10. REES, with NMLS course provider number 1405046, was an NMLS-approved
3 course provider during the years 2017 to 2020.

4 11. The NMLS had approved REES to offer one in-person 8-hour “DBO-SAFE Act
5 Comprehensive: Mortgage Continuing Education” course in a classroom format located at 15751
6 Brookhurst Street, Suite 230, Westminster, California (Westminster address).

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

8 13. During all times relevant herein, REES had its primary place of business located at
9 3643 Adams Street, Carlsbad, California.

10 REES Investigation

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

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

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

22 Findings of SRR and Department Investigation

23 17. On or about December 15, 2020, SRR staff were informed of suspected individuals
24 completing online NMLS-approved education courses on behalf of another.

25 18. Additional investigation revealed evidence that REES fraudulently provided course
26 credit to MLOs who had never attended and completed REES’ 8-hour in-person CE course in
27 Westminster, California in the in-person fraud scheme.

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1 19. Respondent was identified in NMLS records as receiving course credit for REES’
2 8-hour in-person CE course in 2018, 2019, and 2020. It was determined that this in-person course
3 never took place and Respondent never attended an in-person course corresponding to the course
4 credits Respondent received. Consequently, Respondent never took a knowledge examination
5 required for course credit. It was determined that Respondent had used REES to obtain three (3)
6 years of course credits in 2018, 2019, and 2020 in violation of the ROC under the in-person fraud
7 scheme.

8 20. The ROC provide in relevant part:

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

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

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

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

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

26 Financial Responsibility, Character, and General Fitness

27 22. Pursuant to Code section 10166.05(c), the Commissioner must deny a MLO license
28 endorsement if the licensee fails to meet the minimum criteria for licensure, which includes a

1 requirement that the applicant “has demonstrated such financial responsibility, character and
2 general fitness as to command the confidence of the community and to warrant a determination
3 that the [MLO] will operate honestly, fairly, and efficiently within the purposes of this division.”

4 23. As described in paragraphs 17 through 21 above, Respondent violated ROC 3, 5, 8
5 and 9 by using the services of another, REES, to falsely obtain course credits through an in-person
6 course that Respondent never attended for the years 2018., 2019, and 2020.

7 24. In violating the ROC by using the services of another to falsely obtain course
8 credits, Respondent does not meet the minimum criteria for licensure under **Code section**
9 **10166.05(c)**. The conduct of Respondent, as alleged above, is grounds for the suspension or
10 revocation of Respondent’s license, MLO license endorsement, and license rights pursuant to the
11 provisions of **Code sections 10166.051(a), 10166.051(b), 10177(d), 10177(g) and/or 10177(j)**.

12 **GROUND FOR DISCIPLINARY ACTION**

13 25. **Code Section 10166.05** provides in pertinent part:

14 Notwithstanding any other provision of law, the commissioner shall not
15 issue a license endorsement to act as a mortgage loan originator to an applicant
16 unless the commissioner makes all of the following findings:

17 (c) The applicant has demonstrated such financial responsibility, character,
18 and general fitness as to command the confidence of the community and
19 warrant a determination that the mortgage loan originator will operate
20 honestly, fairly, and efficiently within the purposes of this article.

21 26. **Code Section 10166.051** provides in pertinent part:

22 [T]he commissioner may do one or more of the following, after appropriate notice
23 and opportunity for hearing:

24 (a) Deny, suspend, revoke, restrict, or decline to renew a mortgage loan
25 originator license endorsement for a violation of this article, or any rules
26 or regulations adopted hereunder.

27 (b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan
28 originator license endorsement, if an application or endorsement holder
fails at any time to meet the requirements of Section 10166.05 or
10166.09, or withholds information or makes a material misstatement in
an application for a license endorsement or license endorsement renewal.

29 27. **Code section 10177** provides in pertinent part:

30 The Commissioner may suspend or revoke the license of a real estate
31 licensee, delay the renewal of a license of a real estate licensee, or deny the
32 issuance of a license to an applicant, who has done any of the following . . . :

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

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

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

11 COSTS

12 (COSTS OF INVESTIGATION AND ENFORCEMENT)

13 28. Code section 10106 provides in pertinent part that in any order issued in resolution
14 of a disciplinary proceeding before the Department of Real Estate, the Commissioner may request
15 the administrative law judge to direct a licensee found to have committed a violation of this part to
16 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

17 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this
18 Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
19 against all the licenses and license rights of Respondent RIXON VATHA KIEN under the Real
20 Estate Law, for the costs of investigation and enforcement as permitted by law, and for such other
21 and further relief as may be proper under other applicable provisions of law.

22 Dated at San Diego, California this 6th day of October, 2022.

23 *Maria Suarez for VKilpatrick*
24 Veronica Kilpatrick
25 Supervising Special Investigator

26 cc: RIXON VATHA KIEN
27 ARGI Corporation
28 Lendingwide Inc.
Veronica Kilpatrick
Sacto.