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DEPT. OF REAL ESTATE
By [signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation against MARTHA ROSA HIGGS, Respondent.	DRE No. H-05312 SD <u>ACCUSATION</u>

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department of Real Estate ("DRE" or "Department") of the State of California, for cause of Accusation against MARTHA ROSA HIGGS ("Respondent"), is informed and alleges as follows:

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

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

<u>LICENSE HISTORY</u>

3. Respondent is presently licensed and/or has license rights under the Code, as a real estate salesperson with Department of Real Estate (Department) license ID 01204921.

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4. Respondent's real estate salesperson license was originally issued on or about January 12, 1996, and is scheduled to expire on January 11, 2024, unless renewed. Respondent has renewal rights pursuant to Code section 10201. The Department retains jurisdiction pursuant to Code section 10103.

5. On or about December 18, 2010, an individual Mortgage Loan Originator ("MLO") license endorsement was originally issued to Respondent with the assigned National Mortgage Licensing System and Registry ("NMLS") No. 310915.

STATEMENT OF FACTS

6. Respondent violated the NMLS student Rules of Conduct ("ROC") by using the services of Danny Yen dba Real Estate Educational Services ("REES") to complete Respondent's NMLS-approved continuing education ("CE") courses, which constitutes a violation of the licensing requirements of this state and under federal law. Specifically, Respondent used and compensated REES to obtain credit through an in-person fraud scheme. Under the in-person fraud scheme, Respondent used REES to annually report completion of an in-person course for one (1) year in 2020. REES did not teach the in-person course and Respondent never attended the in-person course nor completed the required exam or course work to receive course credit.

NMLS Pre-Licensing and Continuing Education

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

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

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

REES

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

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

12. REES was never approved by the NMLS to offer online or in-home / home study PE or CE to MLOs.

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

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

REES Investigation

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

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

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

<u>Findings of SRR and Department Investigation</u>

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

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

20. Respondent was identified in NMLS records as receiving course credit for REES' 8-hour in-person CE course in 2020. It was determined that this in-person course never took place and Respondent never attended an in-person course corresponding to the course credits Respondent received. Consequently, Respondent never took a knowledge examination required for course credit.. It was determined that Respondent had used REES to obtain one (1) year of course credits in 2020 in violation of the ROC under the in-person fraud scheme.

21. The ROC provide in relevant part:

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

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

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

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

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

Financial Responsibility, Character, and General Fitness

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

24. As described in paragraphs 18 through 23 above, Respondent violated ROC 3, 5, 8 and 9 by using the services of another, REES, to falsely obtain course credits through an in-person course that Respondent never attended for the year 2020.

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

GROUNDS FOR DISCIPLINARY ACTION

26. Code section 10166.05 provides in pertinent part, "Notwithstanding any other provision of law, the commissioner shall not issue a license endorsement to act as a mortgage

loan originator to an applicant unless the commissioner makes all of the following findings:

...

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

27. Code section 10166.051 provides in pertinent part, "...the commissioner may do one or more of the following, after appropriate notice and opportunity for hearing:

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

(b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan 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."

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

...

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

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

. . .

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

COSTS

(INVESTIGATION AND ENFORCEMENT COSTS)

29. Code section 10106 provides in pertinent part that in any order issued in resolution of a disciplinary proceeding before the Department of Real Estate, 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.

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

Dated Sep 27, 2022 at San Diego, California.

Veronica Kilpatrick

Veronica Kilpatrick
Supervising Special Investigator

cc: Martha Rosa Higgs
Casas Loans Corp.
Veronica Kilpatrick
Sacto.