

FILED

SEP 20 2022

DEPT. OF REAL ESTATE

By _____

DIANE LEE, Counsel (SBN 247222)
California Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
Direct: (213) 576-6907
Attorney for Complainant

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against)	DRE No. H-05337 SD
)	
)	
KHASHAYAR FAILY,)	<u>ACCUSATION</u>
)	
Respondent.)	
)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against KHASHAYAR FAILY aka Khash Faily (“Respondent”) 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, unless otherwise specified.

///

///

///

1 RESPONDENT'S LICENSE HISTORY

2 3.

3 a. Respondent is presently licensed and/or has license rights under the Code, as
4 a real estate salesperson with Department of Real Estate ("Department") license number
5 01802681. Respondent's salesperson license was originally issued on August 23, 2007, and
6 Respondent has been so licensed from August 23, 2007 through the present.

7 b. Respondent currently holds a Mortgage Loan Originator ("MLO") license
8 endorsement with the Department with the assigned National Mortgage Licensing System and
9 Registry ("NMLS") number 236159. Respondent's MLO license endorsement was originally
10 issued on or about June 29, 2018. Respondent is currently authorized to represent C2 Financial
11 Corporation with Department license number 01821025 and NMLS number 135622.

12 STATEMENT OF FACTS

13 4.

14 Respondent is currently, and at the time of the violations described herein, was
15 employed by and authorized to represent C2 Financial Corporation, a mortgage company.
16

17 5.

18 Respondent violated the NMLS student Rules of Conduct ("ROC") by using the
19 services of Danny Yen dba Real Estate Educational Services ("REES") to complete his NMLS-
20 approved continuing education ("CE") courses, which constitutes a violation of the licensing
21 requirements of this state and under federal law. Specifically, Respondent used and
22 compensated REES to obtain credit through an in-person fraud scheme. Under the in-person
23 fraud scheme, Respondent used REES to annually report completion of an in-person course for
24 one year in 2019. However, REES did not teach the in-person courses, and Respondent neither
25 attended any in-person course nor completed the required exam or course work to receive
26 course credit.

27 ///

1 NMLS Pre-Licensing and Continuing Education

2 6.

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

8 7.

9 In order to meet PE requirements contemplated under the SAFE Act, state-
10 licensed MLOs must complete twenty (20) hours of NMLS–approved education. (Code section
11 10166.06(a).)

12 8.

13 In order to meet CE requirements contemplated under the SAFE Act, state-
14 licensed MLOs must complete eight (8) hours of NMLS–approved education. (Code section
15 10166.10(a).)

16
17 REES

18 9.

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

21 10.

22 The NMLS had approved REES to offer one in-person 8-hour “DBO-SAFE Act
23 Comprehensive: Mortgage Continuing Education” course in a classroom format located at
24 15751 Brookhurst Street, Suite 230, Westminster, CA 92683.

25 11.

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

27 ///

1 12.

2 During all times relevant herein, REES had its primary place of business located
3 at 3643 Adams Street, Carlsbad, CA 92008 (“Carlsbad address”).
4

5 REES Investigation

6 13.

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

12 14.

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

16 15.

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

21 Findings of SRR and Department Investigation

22 16.

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

25 ///

26 ///

27 ///

1 17.

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

5 18.

6 Respondent was identified in NMLS records as receiving course credit for
7 REES' 8-hour in-person CE course in 2019. It was determined that this in-person course did
8 not take place, and Respondent never attended an in-person course corresponding to the course
9 credits Respondent received. Consequently, Respondent never took a knowledge examination
10 required for course credit. It was determined that Respondent had used REES to obtain one
11 year of course credits in 2019 in violation of the ROC under the in-person fraud scheme.

12 19.

13 The ROC provide in relevant part:

14 ROC 4: I will not divulge my login ID or password or other login credential(s)
15 to another individual for any online course.

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

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

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

24 20.

25 By using the services of another to complete his CE and receiving fraudulent
26 course credits through a non-existent course, Respondent violated ROC 4, 5, and 9, and
27 engaged in conduct that was dishonest, fraudulent, and that adversely impacted the integrity of

1 the courses and the conditions and qualifications for which Respondent sought licensure or
2 renewal of licensure.

3
4 Voluntary Survey

5 21.

6 On or about August 11, 2021, Respondent was provided an opportunity via a
7 survey to disclose information about his participation in the REES online PE and CE education
8 fraud. On or about August 25, 2021, Respondent responded to the survey request. In his
9 response to the survey, Respondent stated, in part, that he attended in person the CA-DBO
10 SAFE Comprehensive course in which he enrolled. Respondent also indicated that he took this
11 course on December 9, 2019 at the Carlsbad address.

12
13 Financial Responsibility, Character, and General Fitness

14 22.

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

21 23.

22 As described in paragraphs 16 through 21 above, Respondent violated ROC 4, 5,
23 and 9 by using the services of another, REES, to falsely obtain course credits through an in-
24 person course that Respondent never attended for the year 2019.

25 ///

26 ///

27 ///

1 material misstatement in an application for a license endorsement or license endorsement
2 renewal.”

3 27.

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

8 ...

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

13 ...

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

16 ...

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

19
20 COSTS

21 (INVESTIGATION AND ENFORCEMENT COSTS)

22 28.

23 Code section 10106, provides, in pertinent part, that in any order issued in
24 resolution of a disciplinary proceeding before the Department, the Commissioner may request
25 the administrative law judge to direct a licensee found to have committed a violation of this
26 part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the
27 case.

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

7 Dated at San Diego, California: September 19, 2022.

8
9
10 Veronica Kilpatrick
11 Veronica Kilpatrick
12 Supervising Special Investigator
13
14
15
16
17
18
19
20
21
22
23
24

25 cc: KHASHAYAR FAILY
26 C2 Financial Corporation
27 Veronica Kilpatrick
 Sacto.