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DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:)	DRE No. H-41861 LA
)	
JEFFERY LEE DAVIS,)	OAH No. 2021040367
)	
Respondent.)	

DECISION

The Proposed Decision dated April 28, 2022, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517(c)(2) of the Government Code, the following corrections are made to the Proposed Decision.

Page 4, paragraph 7, “. . . a Statement of Issues . . .” shall be amended to “. . . the Statement of Issues . . .”

Page 4, paragraph 9, “. . . the department subsequently issued respondent conditional real estate salesperson’s license in 1994, a real estate salesperson’s license in 2002, and then a broker’s license in 2012” shall be amended to “. . . the department subsequently issued respondent a conditional real estate salesperson license in 1994, a real estate salesperson license in 2002, and then a real estate broker license in 2012.”

Page 5, paragraph 10, “On April 12, 2022 . . .” shall be amended to “On April 11, 2022 . . .”

Page 5, paragraph 11, “. . . December 28, 2017 . . .” shall be amended to “. . . December 29, 2017 . . .”

Page 5, paragraph 11, “. . . a 1993 criminal sentence . . .” shall be amended to “. . . a 2003 criminal sentence . . .”

Page 6, paragraph 12, “To operate a license with MLO, . . .” shall be amended to “To operate a real estate license with an MLO license endorsement in California, . . .”

Pages 7-8, paragraph 18, “In the ‘Disclosure Explanation’ section of the MU4 respondent added this detail in his response:

“All questions that were answered yes to were previously disclosed to the DRE back in 2011!!! Please see DRE NLMS Records!!!!!!!!!!!!!! Please see DRE NLMS Records!!!!!!!!!!!!!! Please see DRE NLMS Records!!!!!!!!!!!!!! 1) Please note there are no judgments on my credit report this box was checked in error. 2) Yes I did file Chapter 13 bankruptcy in November 2015 but it was dismissed because I never followed through with the petition. 3) Yes my real estate license. . . .”

shall be amended to “In the ‘Disclosure Explanation’ section of respondent’s MU4s, submitted through NMLS on March 27, 2017, and January 10, 2020:

“All questions that were answered yes to were previously disclosed to the DRE back in 2011!!! Please see DRE NMLS Records!!!!!!!!!!!!!! Please see DRE NMLS Records!!!!!!!!!!!!!! Please see DRE NMLS Records!!!!!!!!!!!!!! 1) Please note there are no judgments on my credit report. this box was checked in error. 2) Yes i did file Chapter 13 bankruptcy in November of 2015 but it was dismissed because I never followed through with the petition. 3) Yes, my real estate license. . . .”

Page 8, paragraph 19, “. . . December 28, 2017 . . .” shall be amended to “. . . December 29, 2017 . . .”

Page 14, paragraph 32, second sentence, “After complainant rested and before complainant could cross examination respondent . . .” shall be amended to “After complainant rested and before complainant could cross examine respondent . . .”

Page 17, paragraph 34, “. . . Chia Sunquist . . .” shall be amended to “. . . Chika Sunquist . . .”

Pages 24-25, paragraph 16, last sentence, “. . . mortgage originator . . .” shall be amended to “. . . mortgage loan originator . . .”

Pages 24-25, paragraph 16, last sentence “(Bus. & Prof. Code, § 10166.5, subd. (c).)” shall be amended to “(Bus. & Prof. Code, § 10166.05, subd. (c).)”

The Decision revokes one or more real estate licenses and mortgage loan originator license endorsements.

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.

As of March 7, 2022, and based on the Proposed Decision dated April 28, 2022, the Department has incurred recoverable investigation and enforcement costs of \$3,203.54. These costs are payable to the Department by Respondent upon reapplying for any license or before filing of a petition for reinstatement pursuant to Government Code Section 11522.

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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 06/29/2022.

IT IS SO ORDERED 6.6.22

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

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

In the Matter of the Second Amended Accusation Against:

JEFFERY LEE DAVIS, Respondent

Agency Case No. H-41861 LA

OAH No. 2021040367

PROPOSED DECISION

Abraham M. Levy, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on April 11 and 12, 2022.

Laurence D. Haveson, Counsel with the Department of Real Estate (department), represented complainant Ruth Corral, Supervising Special Investigator for the department.

Jeffery Lee Davis, respondent, represented himself. On April 12, 2022, respondent abruptly ended his participation in this proceeding. To allow respondent an opportunity to present additional evidence or argument on his behalf, the record was left open by order until April 18, 2022. Respondent did not submit any additional evidence or argument, the record was closed, and the matter was submitted on April 18, 2022.

SUMMARY

Complainant proved by clear and convincing evidence that respondent violated the Real Estate Law when he submitted false information regarding his bank accounts over a four year period in connection with the registration of his mortgage loan originator license ("MLO") endorsements, when he failed to disclose a civil judgment against him and that he incurred a misdemeanor conviction in 1985, and when he did not accurately state his MLO activity and corporate name on his website. For the reasons stated in this decision, revocation of respondent's licenses is necessary to ensure public protection.

FACTUAL FINDINGS

Jurisdictional Matters and Background

1. The department issued respondent a conditional real estate salesperson license on February 9, 1994. That license was suspended because respondent did not meet educational requirements, and it then expired on February 8, 1998. A salesperson license was later issued to respondent through examination on April 23, 2002.

2. On May 21, 2012, the department issued respondent a real estate broker license, License ID 01012272, with respondent's license scheduled to expire on July 6, 2024, unless renewed. The broker license was voided on July 6, 2012, due to failure to submit the required fee and reinstated from voided status on August 1, 2012. As of August 3, 2012, respondent has maintained the fictitious business name, "JDI Home Loans." He is the designated officer for the real estate corporation Jeff Davis International Realty & Mortgage Corp., License ID 02117150.

Per the certificate of licensure complainant submitted as evidence, respondent was designated as an officer of JDI Home Loans Inc. C/01930335 from March 18, 2013, to March 17, 2017, Jeff Davis International Inc. C/01930336 during this same time, and Jeff Davis International Realty & Mortgage Corp. C/02117150 from July 7, 2020, to July 6, 2024.

3. Respondent also has the following two MLO license endorsements with the department:

- Broker MLO Endorsement, National Mortgage Licensing System ("NMLS") ID 354387; and
- Company MLO Endorsement, NMLS ID 956577.

4. Respondent's Broker MLO Endorsement authorizes him to represent "Jeffery Lee Davis," also using the trade name "JDI Home Loans," NMLS ID 956577, from August 1, 2012, through the present.

Disciplinary History and Background

5. Prior to his licensure as a salesperson on December 12, 1988, respondent applied to the department for a real estate salesperson's license, and on December 27, 1988, the department issued a conditional real estate salesperson's license to respondent.

6. On March 20, 1989, the department filed a Statement of Issues regarding respondent's application for a real estate salesperson's license, charging respondent with having procured a real estate license by fraud, misrepresentation or deceit, and with knowingly having made a false statement of fact required to be revealed in the application for such license. In response to the question in his application for a

residential salesperson's license: "Have you ever been convicted of any violation of law? (You may omit any traffic violation where the disposition was a fine and the amount of the fine was \$100 or less)," respondent answered "No." This was inaccurate. On July 22, 1985, in the Municipal Court of the Compton Judicial District, L.A. County, Case No. M357746, respondent was convicted based on a plea of nolo contendere for violating Penal Code Section 148.9 (falsely identifying himself to a police officer), a misdemeanor, and Vehicle Code Section 14601.1, subdivision (a) (driving with a suspended license).

7. On March 27, 1989, the department issued an Order suspending respondent's real estate license pending final determination made after a hearing on a Statement of Issues filed on March 20, 1989.

8. Effective September 12, 1989, after a hearing, the Commissioner adopted the August 2, 1989, Proposed Decision, denying respondent's real estate salesperson's license. The Commissioner found that respondent was convicted of a crime involving moral turpitude that was substantially related to the duties, qualifications, and functions of a real estate salesperson, that respondent was found not to be rehabilitated, and that respondent did knowingly, with intent to deceive, fail to disclose a material fact in his application.

9. As noted above, the department subsequently issued respondent conditional real estate salesperson's license in 1994, a real estate salesperson's license in 2002, and then a broker's license in 2012.

Summary of Allegations in Second Amended Accusation

10. On April 12, 2022, complainant signed and filed the second amended accusation in her official capacity as a Supervising Special Investigator for the department. Respondent timely filed a notice of defense to the accusation.

11. Complainant alleges three causes for discipline: Respondent failed to disclose material information regarding his financial stability and background in attestations he submitted through the NMLS System on March 27, 2017; December 28, 2017; February 28, 2019; December 30, 2019; January 10, 2020; December 30, 2020; and December 30, 2021. In addition to these disclosures, respondent failed to state he had a June 29, 2016, civil judgment entered against him, he was convicted of a misdemeanor crime in 1985, and he did not accurately report a 1993 criminal sentence he incurred in his response concerning whether his license was ever suspended. (First Cause of Accusation.)

Respondent also is accused of engaging in a pattern, scheme, and course of conduct where 23 times he used false bank account numbers in conjunction with his use of correct bank routing numbers, and once used a bank account with insufficient funds, to pay fees to maintain use of his Nationwide Multistate Licensing System (NMLS) account without making the required payments. (Second Cause of Accusation.)

In addition, complainant alleges that respondent made materially false statements on a website August 12, 2019, when he advertised MLO activity using his department license ID 01012272 and his Company NMLS ID number 956577. According to the allegation, respondent's Individual NMLS ID number 354387 was not authorized to conduct business between April 23, 2019, and September 11, 2019. Also, as alleged, respondent used the name "JDI Home Loans, Inc, a Subsidiary of Jeff Davis

International Sports Agents, Inc.,” between April 23, 2019, and September 11, 2019, which is not a licensed corporation or a fictitious business name business. (Third Cause of Accusation.)

MLO Endorsement and Respondent’s Online Responses

12. To operate a license with MLO, a licensee must maintain an account in the NMLS. That account needs to be active and renewed on a yearly basis and needs to be in an approved active status to maintain the MLO endorsement. The NMLS is the system of record for non-depository financial services licensing or registration in participating state agencies. The Conference of State Bank Supervisors (CSBS) operates this system and forwards the fees paid by persons with MLO endorsements to their respective state licensing agencies.

13. On March 27, 2017, respondent submitted an application for an individual MLO endorsement by filing a “MU4” application with the NMLS. Respondent attested to the accuracy of his responses. At issue are respondent’s responses to the following three questions posed to him:

14. In response to the disclosure question (D) in the MU4, “Do you have any unsatisfied judgments or liens against you?” respondent answered, “No.” In fact on June 29, 2016, a civil judgment in default was entered against him as discussed below.

15. Respondent answered “No” in response to this question under section (H)(1) in the MU4, “Have you ever been convicted of or pled guilty or nolo contendere (“no contest”) in a domestic, foreign, or military court to committing or conspiring to commit a misdemeanor involving: (i) financial services or a financial services-related business, (ii) fraud, (iii) false statements or omissions, (iv) theft or wrongful taking of property, (v) bribery, (vi) perjury, (vii) forgery, (viii) counterfeiting, or (ix) extortion?”

Complainant alleges that respondent's response is contradicted by the July 22, 1985, conviction.

16. Respondent gave a detailed response to MU4 question (K)(6), "Has any State or federal regulatory agency . . . ever: . . . denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?" To this question respondent answered "Yes" and in his Disclosure Explanation to this question, he stated in part:

The arrest concerning case number 2bu03737 stemmed from me having a firearm magazine in my luggage while boarding a plane. . . I was convicted on a misdemeanor and I was offered community service but I opted for two days in jail.

17. Complainant asserts that respondent's response was less than candid because, in fact, the court suspended the imposition of sentence and placed respondent on probation for 24 months under the condition that he perform 20 days of work release and pay restitution of \$100 to the State restitution fund. On November 10, 2003, the court then revoked respondent's probation based on his failure to appear. On November 13, 2003, respondent stipulated to a violation of probation, and the court reinstated probation on the same conditions with the modification that respondent serve 20 days of jail time.

18. In the "Disclosure Explanation" section of the MU4 respondent added this detail in his response:

All questions that were answered yes to were previously disclosed to the DRE back in 2011!!! Please see DRE NLMS Records!!!!!!!!!!!! Please see DRE NLMS Records!!!!!!!!!!!! Please see DRE NLMS Records!!!!!!!!!!!! 1) Please note there are no judgments on my credit report this box was checked in error. 2) Yes I did file Chapter 13 bankruptcy in November 2015 but it was dismissed because I never followed through with the petition. 3) Yes my real estate license was suspended in 1988 by the California dept of real estate [*sic*] only for checking the wrong box and as a result they suspended my license and allowed me to take the exam again at which time I passed and became licensed again within 60 days of the suspension and I've been licensed ever since.

19. In subsequent MU4 renewal applications, respondent repopulated this explanation and his responses on December 28, 2017; February 28, 2019; December 30, 2019; January 10, 2020; December 30, 2020; and December 30, 2021; and he attested to the truth and accuracy of this information.

Complaint Regarding Respondent's Payment of Fees to NMLS

20. On or about April 22, 2019, the CSBS sent an email complaint to the department against respondent. The complaint alleged that respondent repeatedly violated the NMLS Terms of Use by failing to pay fees and by providing false bank account numbers. The complaint alleged that NMLS cannot verify bank account numbers, which they believe respondent became aware of and thus continued to

submit fraudulent bank account numbers to allow him to maintain use of his NMLS account without making the required payment.

21. The department conducted an investigation through Special Investigator Kristy Rodrigues. Inv. Rodrigues subpoenaed the bank records from three banks and obtained records from these banks. These records have been admitted as evidence in this matter.

22. As revealed in these records, 23 times respondent submitted false or incorrect bank account information. One time he submitted bank information for an account with insufficient funds. He used three different banks: Wells Fargo Bank; OneUnited Bank; and U.S. Bank. Additionally, all payments were made through respondent's NMLS account using respondent's login credentials; however, respondent used different names to make the payments through respondent's NMLS account. These names included "Jeffery L. Davis," "Jeffrey Davis," and "Justice Davis."

23. This account information is detailed as follows:

WELLS FARGO

24. When respondent entered bank account information for Wells Fargo Bank, he used the bank's routing number, 121000248. However, 19 times between December 28, 2015, and March 27, 2017, respondent used false bank account numbers with the Wells Fargo routing number. Each of the attempted payments were returned unpaid, with the reason for non-payment as "No Account / Unable to Locate Account." The following list identifies the dates respondent used false account numbers, the false account numbers used with the correct Wells Fargo Bank routing number, and the name of the person associated with the payment being made through respondent's NMLS account:

Date Submitted/False Account #/ Name Used for Payment through NMLS

1.	12/28/2015	972 663 8041	Justice Davis
2.	12/28/2015	972 663 8041	Justice Davis
3.	08/11/2016	972 663 8042	Jeffrey Davis
4.	08/17/2016	972 653 8043	Jeffrey Davis
5.	08/19/2016	972 564 8043	Jeffrey Davis
6.	08/29/2016	972 653 8403	Justice Davis
7.	09/01/2016	972 658 3043	Jeffrey Davis
8.	09/03/2016	972 653 8043	Jeffrey Davis
9.	09/29/2016	972 668 3403	Justice Davis
10.	10/18/2016	973 653 8043	Jeffrey Davis
11.	11/08/2016	973 664 8043	Justice Davis
12.	12/31/2016	973 664 8043	Justice Davis
13.	12/31/2016	973 663 0843	Justice Davis
14.	12/31/2016	973 668 3043	Justice Davis
15.	02/21/2017	973 668 3403	Justice Davis
16.	02/21/2017	976 236 0834	Justice Davis
17.	02/21/2017	976 236 0834	Jeffrey Davis

18. 02/21/2017 976 236 0834 Jeffrey Davis

19. 03/27/2017 976 663 8034 Justice Davis

ONEUNITED BANK

25. When respondent entered bank account information for OneUnited Bank, he used the same routing number, 067006762, which is the routing number for OneUnited Bank. Respondent made two separate attempted payments on January 31, 2018. On the first attempt, he used a false bank account ending in 7083 with OneUnited's routing number. On the second attempt, he used a correct bank account number, ending in 2405, which was associated with him; however, there were insufficient funds in the account.

The following list identifies the dates respondent used false account numbers, the account numbers used with the correct OneUnited Bank routing number, and the name of the person associated with the payment being made through respondent's NMLS account:

Date Submitted/Account #/Name Used for Payment through NMLS

20. 01/31/2018 100 352 7083 Jeffery L. Davis

21. 01/31/2018 XXX XXX 2405 (insufficient funds) Jeffery L. Davis

U.S. BANK

26. Regarding U.S. Bank, respondent entered bank account information for U.S. Bank, with the bank's correct routing number 122235821. But, three times on February 28, 2019, he entered false bank account numbers with U.S. Bank's routing

number. Each of the attempted payments were returned unpaid and stated that the reason for non-payment was, "No Account / Unable to Locate Account."

The following list details the dates that respondent used false account numbers, the false account numbers used with the correct U.S. Bank routing number, and the name of the person associated with the payment being made through respondent's NMLS account:

Date Submitted/False Account #/Name Used for Payment through NMLS

22.	02/28/2019	157 512 031 713	Jeffery L. Davis
23.	02/28/2019	157 512 031 173	Jeffery L. Davis
24.	02/28/2019	157 510 327 132	Jeffery L. Davis

27. Complainant called John Gorman, General Counsel, for CSBS, to testify at this hearing. Mr. Gorman confirmed the history detailed immediately above. He further stated that respondent was "locked out" of the NMLS registry system in 2019 because the false information respondent used to register his accounts violated NMLS's rules and terms of use. Mr. Gorman had about four conversations with respondent that respondent initiated with CSBS to resolve the matter. In his last conversation with respondent, Mr. Gorman said the matter was able to be resolved based on the recommendation that respondent use a credit card to pay for the NMLS registration. His account was then unlocked after four months.

Civil Judgment

28. On June 29, 2016, in the Superior Court, Los Angeles County, Case No. 16K04462, the court entered a default judgment against respondent in favor of the

plaintiff, the Los Angeles Federal Credit Union (LAFCU), in the amount of \$25,052.87. Plaintiff alleged in the civil action a breach of contract because respondent did not make timely payments on the loan agreement of \$28,583.68 for a 2007 Land Rover and failed to turn over the vehicle to plaintiff; respondent became indebted to plaintiff for the principal sum of \$21,602.75 and plaintiff was entitled to claim repossession of the car with any damages resulting from the wrongful detention of the car. Plaintiff alleged further that based on information and belief that the car is in the possession of other defendants.

The court in the default judgment dated June 29, 2016, entered judgment in plaintiff's favor for the total amount of \$25,052.87, which included prejudgment interest and attorney's fees. The court further adjudged that the security agreement between the LAFCU and respondent was foreclosed, and that possession of the Land Rover was awarded to LAFCU, with any net proceeds of the sale of the vehicle to be credited against the judgment.

29. On November 9, 2021, the court denied respondent's motion to quash service, and vacate default and the default judgment. Respondent appealed the court's ruling on December 8, 2021, and the appeal is pending. Per Alana B. Anaya, the attorney who represents LAFCU, there is no stay on the default judgment and the interest on the judgment continues to accrue.

Ms. Anaya testified at this hearing that respondent stated at the hearing to vacate the default that he had given the car to someone else, and he does not know what happened to it. She said she had discussions with respondent to reduce the amount owed under the default judgment.

Website Advertising

30. With regards to the false advertising allegation, complainant cites information from respondent's website as Inv. Rodrigues found it on August 12, 2019, when she went to the website as part of her investigation. This information contains a graphic with respondent's picture and the name "JDI Home Loans Inc." in large font with language in smaller font below: "JDI Home Loans Inc." "A Subsidiary of JeffDavis International Sports Agents Inc." The bottom of this webpage contains the language "JDI Home Loans with NMLS #956577." Per respondent's license certification, respondent has maintained the fictitious business name, "JDI Home Loans" with the NMLS number 956577. He was designated as an officer of JDI Home Loans Inc. C/01930335 from March 18, 2013, to March 17, 2017. The license certification, however, does not identify "JeffDavis International Sports Agents Inc." as a licensed entity.

31. A review of the license certification indicates that respondent's individual MLO license endorsement through NMLS was deemed "Approved-Inactive" on March 1, 2019, for failure to renew and then was "Approved" on September 10, 2019. Respondent's company MLO license endorsement, in turn, was identified as "Approved-Inactive" on March 3, 2019, and then "Approved" on September 10, 2019. This information was reported to have been taken from NMLS's License System and Registry.

Respondent's Evidence

32. Respondent elected not to testify and pursuant to Government Code Section 11513, subdivision (b), complainant wanted to cross examine respondent. After complainant rested and before complainant could cross examination respondent,

respondent offered a number of exhibits as evidence. While addressing the admissibility of his proposed evidence, respondent expressed frustration and abruptly left the hearing. At the undersigned's direction, complainant contacted respondent and respondent confirmed he would not be returning to the hearing. To ensure that respondent had the opportunity to present evidence or argument on his behalf, or make a motion for a reasonable accommodation under the Americans with Disabilities Act or another type of motion, the record was left open as noted until April 18, 2022, and an order notifying respondent of that fact was issued. Respondent did not present argument on his behalf or file a motion.

33. In respondent's absence a number of exhibits were admitted on his behalf. These documents are summarized as follows:

- The Notice of Appeal of the court's November 9, 2021, order denying respondent's motion to quash service and set aside the default judgment.
- A letter respondent sent to Los Angeles Federal Credit Union dated October 14, 2016, requested a detailed summary of account LFCU sent to reporting agencies.
- A letter dated April 4, 2022, from Iris Jimenez, Manager for Membership for Southland Regional Association of Realtors Inc., indicating respondent has been a member in good standing from 2013 through January 31, 2022.
- A copy of respondent's real estate salesperson's renewal license application dated June 28, 2006. In this application he disclosed information regarding his 2003 misdemeanor firearms conviction.

- A picture of respondent from 1985.
- An email communication dated March 20, 2018, from Mark Murphy, Licensing & Consumer Affairs Division Manager for the Arizona Department of Financial Institutions, to CSBS. In this letter he asked if he could waive any monies owed to Arizona so that respondent can reapply for his license.
- Respondent's declaration dated March 31, 2022. In this declaration respondent states the following in summary: He identified the correct spelling of his name, his business address, and social security number. He printed his credit reports once a quarter through March 31, 2022, and a "charge off" and not a judgment from LAFCU was recorded in these reports. He wrote checks knowing he did not have money in the bank but because of his relationship with his banks, all of his checks were honored. He added he "had the presumption" all the checks from his Chase account, including the one dated May 10, 2012, to the department, would be honored as the other checks were. The website for "jdiloans" was under construction and he did not have access to the site. His published site is "jdihomeloans.com." In his declaration respondent addresses his 1985 arrest. He states that he was the subject of racial profiling.
- An account statement from LAFCU for September 1, 2014, to September 30, 2014, for a 2007 Land Rover.
- A letter dated January 20, 2022, from Art Sookazian, Vice President of Collections at LAFCU. Mr. Sookazian states in his letter that LAFCU

conducted a review of respondent's case and found no inconsistencies or issues in LAFCU's legal process against respondent.

Costs

34. Complainant incurred investigation costs in the sum of \$2,612.68 for the work performed by Inv. Rodrigues and \$88.80 for the work performed by Chia Sunquist, Supervising Special Investigator, relating to the department's investigation in this matter for the total amount of \$2,701.48. In addition, complainant incurred enforcement costs in the sum of \$3,705.60 for legal work performed through March 7, 2022.

These costs, totaling \$6,407.08, are found reasonable consistent with the criteria under California Code of Regulations title 1, section 1042, based on the declaration signed by Luke Martin, Supervising Special Investigator II, with the department on January 19, 2021, and the declaration of counsel for complainant signed March 7, 2022. Both declarations detail the work performed in the investigation and prosecution of this matter.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. Complainant has the burden of proving each of the grounds for discipline alleged in the Second Amended Accusation by producing clear and convincing evidence to a reasonable certainty. (*Small v. Smith* (1971) 16 Cal.App.3d 450, 457; *Realty Projects, Inc. v. Smith* (1973) 32 Cal.App.3d 204, 212.)

2. Clear and convincing evidence is evidence that leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

Grounds for Discipline

3. The Commissioner is required to enforce the provisions of the Real Estate Law. (Bus. & Prof. Code, §§ 10071, 10000-10580.) Protection of the public is the highest priority for the department 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.)

Analysis of Causes for Discipline

FIRST CAUSE OF ACCUSATION: NON-DISCLOSURE OF REQUIRED INFORMATION/MATERIAL MISSTATEMENT OF FACT ON MLO APPLICATION

4. As the legal bases for its disciplinary action under the First Cause of Accusation, complainant cites the following Code sections and regulation:

5. Section 10166.051, subdivisions (a) and (b), provides as follows:

[T]he 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, withholds information or makes a material misstatement in an application for a license endorsement or license endorsement renewal.

Section 10177, subdivision (a), states as follows:

The 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, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for themselves or a salesperson, 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.

California Code of Regulations, title 10, section 2758.3, subdivision (a), provides in part:

The Commissioner's finding required by Section 10166.05(c) of the Business and Professions Code relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the fiduciary role of a mortgage loan originator.

[¶] . . . [¶]

(a) The applicant may be precluded from obtaining a mortgage loan originator license endorsement where his or her personal history includes:

(1) any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or

(2) other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

6. Complainant proved by clear and convincing evidence under the First Cause of Accusation that respondent's MLO endorsement and licenses are subject to discipline because he failed to disclose on his initial MU4 application he submitted, and subsequent renewal applications, that he had an unsatisfied June 29, 2016, civil judgement against him and a 1985 misdemeanor conviction. It is not found that respondent materially misrepresented the imposition of the sentence and the violation of probation he incurred relating to his 2003 misdemeanor conviction. The question respondent was asked to answer did not require him to give a complete explanation of his sentence for this misdemeanor violation.

**SECOND CAUSE OF ACCUSATION: FRAUD AND/OR DISHONEST
DEALING/PATTERN OF DISHONESTY**

7. As cause for the imposition of discipline against respondent's MLO license endorsements and real estate licenses and license rights in general, complainant cites under the Second Cause of Accusation Code section 10177, subdivision (j), in addition to the authority complainant cites as a basis for its action under the First Cause of Accusation. Section 10177, subdivision (j), provides as follows:

The 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, or may suspend or revoke the license of a corporation, delay the renewal of a license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

[1] . . . [1]

(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.

8. Complainant proved by clear and convincing evidence under the Second Cause of Accusation that cause exists pursuant to Section 10177, subdivision (j), to impose discipline on respondent's registration and licenses because 23 times respondent entered false bank account information to maintain use of his NMLS

account. One time, respondent entered correct information, but insufficient funds were in the account. His use of an account with insufficient funds is not found to be dishonest.

THIRD CAUSE OF ACCUSATION: ADVERTISEMENT OF MATERIALLY FALSE STATEMENT

9. As cause for the imposition of discipline against respondent's MLO license endorsements and real estate licenses and license rights in general, complainant cites under the Third Cause of Accusation sections 10166.051, subdivision (a), and 10177 subdivision (c). Section 10177, subdivision (c), authorizes the imposition of discipline against a department issued license if a corporate officer "[k]nowingly authorizes, directs. . . or aids in the publication, advertisement, distribution, or circulation of a materially false statement or representation" concerning the corporate entity's designation.

10. Complainant proved by clear and convincing evidence under the Third Cause of Accusation that respondent made a materially false statement by advertising MLO activity on his website on August 12, 2019, when Inv. Rodrigues reviewed his website advertisement. On this date, respondent's Individual NMLS ID number 354387 and Company NMLS ID number 956577 were inactive.

Respondent also made a materially false statement by advertising MLO activity on his website as "JDI Home Loans, Inc., a Subsidiary of Jeff Davis International Sports Agents, Inc." Per the certificate of license, the entity "JDI Home Loans, Inc., a Subsidiary of Jeff Davis International Sports Agents, Inc." was not a licensed corporation or fictitious business name.

Level of Discipline

11. Now that causes for the imposition of discipline have been found the issue is the degree of discipline to impose. The task in disciplinary cases is preventative, protective and remedial, not punitive. (*In re Kelley* (1990) 52 Cal.3d 487, 496.) In reaching a decision on the appropriate level of discipline, the Commissioner must consider criteria adopted under California Code of Regulations, title 10, section 2912. The criteria include the nature and severity of the conduct at issue, the criminal and disciplinary history of the licensee and restitution. (Cal. Code Regs., title 10, § 2910 subds. (a)(2)(A) and (B), and (b).)

12. In this case, considering these criteria and the record as a whole, the only resolution to ensure public protection is revocation of respondent's real estate licenses and privileges and his MLO endorsements.

This conclusion is reached for these reasons: Respondent engaged in serious misconduct in two respects: His submission over an extended time period of false banking information from several banks to renew his NMLS registration, and he repeatedly failed to disclose the default judgment.

13. With respect to the false bank information, respondent 23 times over a four year period in the context of renewing his NMLS registration made repeated and material misstatements of his financial information with the result that CSBS was compelled to lock him out of the NMLS registry and file a complaint against him with the department.

14. With respect to respondent's failure to disclose the June 29, 2016, default judgment in his initial NMLS application and subsequent renewals, his failure to disclose this judgment was a serious oversight on his part. He tried to explain why he

did not disclose this judgment in his declaration, but because he did not testify, conclusions regarding his understanding cannot be made. He stated he believed that he did not need to disclose it because it did not appear in credit reports he obtained. He further has challenged the default judgment and is appealing an adverse ruling denying his request to set aside the judgment.

15. Respondent's failure to disclose the 1985 misdemeanor conviction and the disclosures on his website on August 12, 2019, are not considered conduct that warrants the imposition of serious discipline. Regarding the 1985 conviction, the department has known about this conviction by the very fact that it denied his real estate application effective September 12, 1989, because of it. Since that time the department granted his real estate salesperson application after examination and issued respondent a broker license in 2012. The conviction is also remote in time and respondent has for the most part led a law-abiding life.

Regarding the material misrepresentations of his MLO activity and corporate name on his website, respondent was able to cure by September 2019 the problem with his NMLS registration to CSBS's satisfaction as discussed above. With regards to his use of the name "JDI Home Loans, Inc., a Subsidiary of Jeff Davis International Sports Agents, Inc." on the website, "JDI Home Loans" is registered as a fictitious business name with the department. His representation of the entity was partially correct. Further, complainant did not present evidence that "JDI Home Loans, Inc." is not an active corporation and registered as such with the Secretary of State. It thus cannot be concluded that it was inaccurate for respondent to identify that corporate entity.

16. Due consideration has been given to whether respondent should be permitted to hold a restricted license pursuant to Business and Professions Code

section 10156.5. In this regard it is recognized that respondent has not had a history of discipline since his licensure in 1994 and since 2003 respondent has not had contact with law enforcement. But, these considerations do not warrant issuance of a restricted license considering the nature and severity of respondent's conduct. By repeatedly submitting false banking information to maintain his NMLS registration and his failure to disclose the civil judgment respondent failed to show he has the required "financial responsibility" to warrant a determination that he will "operate honestly, fairly, and efficiently" as a mortgage originator under the Real Estate Law. (Bus. & Prof. Code, § 10166.5, subd. (c).)

Costs

17. A licensee's violation of the Real Estate Law entitles the department to recover all reasonable costs incurred to investigate and prosecute the violation. (Bus. & Prof. Code, § 10106.) Complainant has presented satisfactory proof that reasonable costs were incurred in the amount of \$6,407.08 to investigate and enforce the case against respondent.

18. The California Supreme Court has identified guidelines to determine whether the costs should be assessed based on the particular circumstances of each case. (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32.) These factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his position, whether the licensee has raised a colorable challenge to the proposed discipline, the licensee's financial ability to pay, and whether the scope of the investigation was appropriate to the alleged misconduct. (*Ibid.*)

19. In this case, a reduction by half of the amount of the assessed costs is warranted for these reasons: The evidence of record indicates that respondent has had financial difficulties and has a limited ability to pay the full amount of the assessed costs. He also has successfully challenged in part the proposed discipline. Respondent is ordered to pay the department the amount of \$3,203.54, one-half of complainant's reasonable costs under Business and Professions Code section 10106.

ORDER

All licenses, licensing rights and endorsements of respondent Jeffery Lee Davis under the Real Estate Law are revoked. Respondent shall pay the department the sum of \$3,203.54 before any licensing rights or privileges may be reinstated.

DATE: April 28, 2022


Abraham M. Levy (Apr 28, 2022 09:28 PDT)

ABRAHAM M. LEVY

Administrative Law Judge

Office of Administrative Hearings