

1 Department of Real Estate
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3 Los Angeles, CA 90013-1105
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FILED
DEC 07 2022
DEPT. OF REAL ESTATE
By Zou - J

8 **DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 ***

11 In the Matter of the Accusation of) DRE No. H-42259 LA
12)
13 LEGACY PRIVATE FUNDING, INC., and)
14 RAUL CRUZ, individually and as designated)
15 officer of Legacy Private Funding, Inc.,)
16 Respondents.)

17 In the Matter of the Accusation Against) DRE No. H-42407 LA
18) OAH No. 2022080688
19 RAUL CRUZ,)
20 Respondent.)

21
22 **STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER**

23 It is hereby stipulated by and between Respondents LEGACY PRIVATE
24 FUNDING, INC. and RAUL CRUZ (sometimes collectively referred to as "Respondents"), and
25 their attorney of record, Adeline Tungate, and the Complainant, acting by and through Kevin H.
26 Sun, Counsel for the Department of Real Estate ("Department" or "DRE") in the matter of the
27 Accusation filed on February 24, 2022 against Respondents LEGACY PRIVATE FUNDING. INC.

1 and RAUL CRUZ in DRE Case No. H-42259 LA, and Kathy Yi, Counsel for the Department in the
2 matter of the Accusation filed on August 9, 2022 against Respondent RAUL CRUZ in DRE Case
3 No. H-42407 LA¹, as follows for the purpose of settling and disposing of the aforementioned
4 Accusations:

5 1. All issues which were to be contested and all evidence which was to be presented
6 by Complainant and Respondents at a formal hearing on the Accusations, which hearings were to
7 be held in accordance with the provisions of the Administrative Procedure Act (“APA”), shall
8 instead and in place thereof be submitted on the basis of the provisions of this Stipulation and
9 Agreement in Settlement and Order (“Stipulation”).

10 2. Respondents have received, read and understand the respective Statement to
11 Respondents, the Discovery Provisions of the APA and the Accusation filed by the Department of
12 Real Estate in DRE Case No. 42256 LA and in DRE Case No. 42407 LA.

13 3. On March 11, 2022, Respondents LEGACY PRIVATE FUNDING, INC. and
14 RAUL CRUZ filed Notices of Defense, in DRE Case No. H-42259 LA, pursuant to Section 11506
15 of the Government Code for the purpose of requesting a hearing on the allegations in the
16 Accusation. Respondents LEGACY PRIVATE FUNDING, INC. and RAUL CRUZ hereby freely
17 and voluntarily withdraw said Notices of Defense in DRE Case No. H-42259 LA. Respondents
18 LEGACY PRIVATE FUNDING, INC. and RAUL CRUZ acknowledge that they understand that
19 by withdrawing said Notices of Defense they will thereby waive their rights to require the
20 Commissioner to prove the allegations in the Accusation in DRE Case No. H-42259 LA at a
21 contested hearing held in accordance with the provisions of the APA and that they will waive other
22 rights afforded to them in connection with the hearing such as the right to present evidence in
23 defense of the allegations in the Accusation in DRE Case No. H-42259 LA and the right to cross-
24 examine witnesses.

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27 ¹ Respondent RAUL CRUZ is represented by attorney Adeline Tungate in DRE Case No. H-42259 LA only. In DRE
Case No. H-42407-LA, CRUZ is in pro per.

1 4. On August 19, 2022, Respondent RAUL CRUZ filed a Notice of Defense, in
2 DRE Case No. H-42407 LA, pursuant to Section 11506 of the Government Code for the purpose of
3 requesting a hearing on the allegations in the Accusation. Respondent RAUL CRUZ hereby freely
4 and voluntarily withdraws said Notice of Defense in DRE Case No. H-42407 LA. Respondent
5 RAUL CRUZ acknowledges that he understands that by withdrawing said Notice of Defense he
6 will thereby waive his right to require the Commissioner to prove the allegations in the Accusation
7 in DRE Case No. H-42407 LA at a contested hearing held in accordance with the provisions of the
8 APA and that he will waive other rights afforded to him in connection with the hearing such as the
9 right to present evidence in defense of the allegations in the Accusation in DRE Case No. H-42407
10 LA and the right to cross-examine witnesses.

11 5. This Stipulation is based on the factual allegations contained in the Accusations
12 in DRE Case Nos. H-42259 LA and H-42407 LA. In the interest of expedience and economy,
13 Respondents choose not to contest these allegations, but to remain silent, and understand that, as a
14 result thereof, these factual allegations, without being admitted or denied, will serve as a prima
15 facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not
16 be required to provide further evidence to prove said factual allegations.

17 6. This Stipulation is made for the purpose of reaching an agreed disposition of the
18 proceedings in DRE Case Nos. H-42259 LA and H-42407 LA and is expressly limited to the said
19 proceedings and any other proceedings or cases in which the Department or another licensing
20 agency of this state, another state, or if the federal government is involved, and otherwise shall not
21 be admissible in any other criminal or civil proceeding.

22 7. It is understood by the parties that the Real Estate Commissioner may adopt the
23 Stipulation as his Decision in the matters in DRE Case Nos. H-42259 LA and H-42407 LA, thereby
24 imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set
25 forth in the below "Order." In the event that the Commissioner in his discretion does not adopt the
26 Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the right
27 to a hearing and proceeding on the respective Accusations under all the provisions of the APA and

1 shall not be bound by any admission or waiver made herein.

2 8. The Order or any subsequent Order of the Real Estate Commissioner made
3 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
4 administrative or civil proceedings by the Department of Real Estate with respect to any matters
5 which were not specifically alleged to be causes for accusations in these proceedings.

6 **DETERMINATION OF ISSUES**

7 By reason of the foregoing stipulations, admissions and waivers and solely for the
8 purpose of settlement of the pending Accusations in DRE Case Nos. H-42259 LA and H-42407 LA
9 without a hearing, it is stipulated and agreed that the following determination of issues shall be
10 made:

11 The conduct, acts, or omissions of Respondents LEGACY PRIVATE FUNDING,
12 INC. and RAUL CRUZ, as described in the Accusation in DRE Case No. H-42259 LA, are in
13 violation of the Real Estate Law, Part 1 of Division 4 of California Business and Professions Code
14 Sections 10159.5, 10166.02, 10232, 10232.2, 10232.25, 10232.3, 10232.4, 10232.45, 10238,
15 10240, and Title 10, Chapter 6, California Code of Regulations (“Regulations”) Sections 2731,
16 2773, 2846.8, 2847.3, 2848, 2849.01, 2849.1 and are grounds for the suspension or revocation of
17 all of the real estate license and license rights of Respondents under the provision of Code Sections
18 10177(d), (g), and (h) of the Code.

19 The conduct, acts, or omissions of Respondent RAUL CRUZ, as described in the
20 Accusation in DRE Case No. H-42407 LA, are a basis for discipline of Respondent’s real estate
21 license, mortgage loan originator (“MLO”) license endorsement, and license rights pursuant to the
22 Real Estate Law, Part 1 of Division 4 of California Business and Professions Code (“Code”)
23 Sections 10166.05(c), 10166.051(a), 10166.051(b), 10177(d), 10177(g) and/or 10177(j).

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1 **ORDER**

2 WHEREFORE, THE FOLLOWING ORDER is hereby made:

3 I.

4 (LEGACY PRIVATE FUNDING, INC. in DRE Case No. H-42259 LA)

5 A. SUSPENSION OF LICENSE:

6 All licenses and license rights of Respondent LEGACY PRIVATE FUNDING, INC.
7 under the Real Estate Law are suspended for a period of **sixty (60) days** from the effective date of
8 this Decision. Provided, however, the sixty (60) day suspension shall be **stayed** for two (2) years
9 upon the following terms and conditions:

10 1. That Respondent LEGACY PRIVATE FUNDING, INC. shall obey all laws,
11 rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the
12 State of California; and

13 2. That no final subsequent determination be made after hearing or upon stipulation,
14 that cause for disciplinary action occurred within two (2) years from the effective date of this
15 Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate
16 and set aside the stay order and re-impose all or a portion of the stayed suspension. Should no such
17 determination be made under this section, the stay imposed herein shall become permanent.

18 II.

19 (RAUL CRUZ in DRE Case Nos. H-42259 LA and H-42407 LA)

20 A. SUSPENSION OF LICENSE

21 All licenses and license rights of Respondent RAUL CRUZ under the Real Estate
22 Law are suspended for a period of **ninety (90) days** from the effective date of this Decision.
23 Provided, however, ninety (90) day suspension shall be **stayed** for two (2) years upon the following
24 terms and conditions:

25 1. That Respondent RAUL CRUZ shall obey all laws, rules and regulations
26 governing the rights, duties and responsibilities of a real estate licensee in the State of California;
27 and

1 2. That no final subsequent determination be made after hearing or upon stipulation,
2 that cause for disciplinary action occurred within two (2) years from the effective date of this
3 Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate
4 and set aside the stay order and re-impose all or a portion of the stayed suspension. Should no such
5 determination be made under this section, the stay imposed herein shall become permanent.

6 B. SUSPENSION OF MLO LICENSE ENDORSEMENT

7 All MLO license endorsements and endorsements rights of Respondent RAUL
8 CRUZ under the Real Estate Law are suspended for a period of **ninety (90) days** from the effective
9 date of this Decision. Provided, during the ninety (90) day suspension of the MLO endorsement of
10 Respondent RAUL CRUZ, are the following:

11 1. If the suspension of the MLO license endorsement expires after December
12 31, 2022, Respondent RAUL CRUZ may submit a renewal application for an MLO license
13 endorsement through the NMLS during the renewal and/or reinstatement periods occurring between
14 November 1, 2022, and February 28, 2023, with the understanding that the Department reserves the
15 rights to fully investigate such renewal application for MLO license endorsement and may either
16 approve or deny such application pursuant to the normal process for endorsement investigations.

17 2. Respondent RAUL CRUZ understands that if Respondent fails to submit a
18 renewal application before March 1, 2023, Respondent must submit a new application through
19 NMLS, and may be subject to payment of filing fees, background and credit checks, fingerprinting,
20 and other NMLS requirements.

21 3. Respondent RAUL CRUZ further agrees that Respondent must satisfy the
22 education and administrative penalty provisions prior to reinstatement of their MLO license
23 endorsement or issuance of another MLO license endorsement.

24 4. Respondent RAUL CRUZ shall, within ninety (90) days from the Effective Date
25 of this Decision and Order, take and complete the following mortgage loan originator education
26 requirements:

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1 a) Twenty (20) hours of NMLS approved pre-licensure education (“PE”),
2 which shall consist of fourteen (14) hours of federal law curriculum, three (3) hours of ethics
3 curriculum, and three (3) hours of non-traditional mortgage lending curriculum. None of these
4 twenty (20) hours of PE may be state-specific curriculum;

5 b) Eight (8) hours of continuing education (“CE”), which shall consist of
6 four (4) hours of federal law curriculum, two (2) hours of ethics curriculum, and two (2) hours of
7 non-traditional mortgage lending curriculum. None of these eight (8) hours of CE may be state-
8 specific curriculum;

9 c) Respondent may not take any of the PE or CE provided for in this section
10 in an online self-study format (“OSS”);

11 5. For a period of three (3) years from the Effective Date of this Order, Respondent
12 RAUL CRUZ shall be required to complete any additional required PE and/or CE in a format other
13 than OSS. If Respondent RAUL CRUZ fails to comply with this condition, the renewal application
14 or new application of Respondent will be deemed incomplete by the Department;

15 6. If Respondent RAUL CRUZ fails to timely satisfy the education provided for in
16 this section, Respondent RAUL CRUZ’s MLO license endorsement shall remain suspended until
17 Respondent presents evidence satisfactory to the Commissioner of having taken and successfully
18 completed the education requirements;

19 7. Respondent RAUL CRUZ agrees that the CE provided for in this section is in
20 addition to any NMLS education required for licensure under the SAFE Act. The CE provided for
21 in this section will not count toward satisfying 2023 or 2024 standard SAFE Act CE requirements;
22 and

23 8. Respondent RAUL CRUZ further agrees that the Department may exercise its
24 examination or investigative authority pursuant to the normal process for such authorized under the
25 Real Estate Law and Commissioner’s Regulations in the instance a determination is made wherein
26 Respondent is found to be in violation of the education requirements under this section.

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1 C. RESTRICTED REAL ESTATE LICENSE

2 Upon the successful completion of the ninety (90) day suspension of the MLO
3 license endorsement, the MLO endorsement of Respondent RAUL CRUZ under the Real Estate
4 Law shall be revoked; provided, however, a restricted MLO license endorsement shall be issued,
5 subject to the provisions of Section 10156.7 of the Code and to the following limitations,
6 conditions and restrictions imposed under authority of Section 10156.6 of the Code:

7 1. The restricted MLO license endorsement shall not confer any property right in
8 the privileges to be exercised including the right of renewal, and the Commissioner may by
9 appropriate order suspend the right to exercise any privileges granted under the restricted license in
10 the event of:

11 a) Respondent RAUL CRUZ's conviction (including a plea of nolo
12 contendere) of a crime that bears a substantial relationship to Respondent's fitness or capacity as a
13 real estate licensee; or

14 b) The receipt of evidence that Respondent RAUL CRUZ has violated
15 provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the
16 Commissioner, or conditions attaching to the restricted license.

17 2. Respondent RAUL CRUZ shall not be eligible to petition for the issuance of an
18 unrestricted MLO license endorsement, nor the removal of any of the conditions, limitations, or
19 restrictions attaching to the restricted MLO license endorsement until **two (2) years** have elapsed
20 from the date of issuance of the restricted MLO license endorsement to Respondent. Respondent
21 RAUL CRUZ shall not be eligible to apply for any unrestricted MLO license endorsements until all
22 restrictions attaching to the MLO license endorsement have been removed.

23 3. Respondent RAUL CRUZ shall, within nine (9) months from the effective date
24 of this Order, present evidence satisfactory to the Commissioner that Respondent RAUL CRUZ
25 has, since the most recent issuance of an original or renewal real estate license, taken and
26 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
27 Real Estate Law for renewal of a real estate license. If Respondent RAUL CRUZ fails to satisfy

1 this condition, his real estate license shall automatically be suspended until he presents evidence
2 satisfactory to the Commissioner of having taken and successfully completed the continuing
3 education requirements. Proof of completion of the continuing education courses must be delivered
4 to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

5 4. Respondent RAUL CRUZ shall, within six (6) months from the effective date of
6 this Order, take and pass the Professional Responsibility Examination administered by the
7 Department of Real Estate including the payment of the appropriate examination fee. If
8 Respondent RAUL CRUZ fails to satisfy this condition, Respondent's real estate license shall
9 automatically be suspended until Respondent passes the examination.

10 III.

11 (RAUL CRUZ in DRE Case No. H-42407 LA)

12 A. ADMINISTRATIVE PENALTY

13 All licenses and licensing rights of Respondent RAUL CRUZ are indefinitely
14 suspended unless or until Respondent RAUL CRUZ pays an administrative penalty of **\$1,500.00**.
15 Said payment shall be in the form of a cashier's check made payable to the Department of Real
16 Estate. The payment must be delivered to the Department of Real Estate, Flag Section, at P.O. Box
17 137013, Sacramento, CA 95813-7013, **prior to the Effective Date of this Decision and Order.**

18 IV.

19 (LEGACY PRIVATE FUNDING, INC. and RAUL CRUZ
20 in DRE Case Nos. H-42259 LA and H-42407 LA)

21 A. INVESTIGATION AND ENFORCEMENT COSTS

22 All licenses and licensing rights of Respondents LEGACY PRIVATE FUNDING,
23 INC. and RAUL CRUZ are indefinitely suspended unless or until Respondents pays the
24 Commissioner's reasonable costs of the investigation and enforcement for a total sum of **\$4,583.65**
25 (\$3,594.25 in DRE Case No. H-42259 LA and \$989.40 in DRE Case No. H-42407 LA), which led
26 to these disciplinary actions. Respondents are jointly and severally liable for the costs of the
27 investigation and enforcement. Said payment shall be in the form of a cashier's check made


1 payable to the Department of Real Estate. The payment of the investigative and enforcement costs
2 must be delivered to the Department of Real Estate, Flag Section, at P.O. Box 137013, Sacramento,
3 CA 95813-7013, **prior to the Effective Date of this Decision and Order.** If Respondents fail to
4 satisfy this condition, the Commissioner shall order suspension of Respondents' licenses and
5 license rights until the sum is paid.

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7 DATED: 11/4/2022



Kevin H. Sun, Counsel for
Department of Real Estate

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10 DATED: 11/02/2022



KATHY YI, Counsel for
Department of Real Estate

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13 **EXECUTION OF THE STIPULATION**

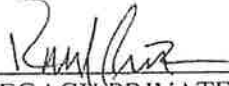
14 We have read the Stipulation, have discussed it with our counsel, and its terms are
15 understood by us and are agreeable and acceptable to us. We understand that we are waiving rights
16 given to us by the California Administrative Procedure Act (including but not limited to Sections
17 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and
18 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
19 allegations in the Accusation at a hearing at which we would have the right to cross-examine
20 witnesses against us and to present evidence in defense and mitigation of the charges.

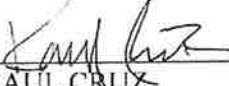
21 Respondents shall mail the original signed signature page of the stipulation herein to
22 Kevin H. Sun/Kathy Yi, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
23 Suite 350, Los Angeles, California 90013-1105.

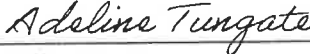
24 Respondents can, alternatively, signify acceptance and approval of the terms and
25 conditions of this Stipulation and Agreement by emailing a scanned copy of the signature page, as
26 actually signed by Respondents, to the Department counsels assigned to this case. Respondents
27 agree, acknowledge and understand that by electronically sending the Department a scan of

1 Respondents' actual signature as it appears on the Stipulation and Agreement that receipt of the
2 scan by the Department shall be binding on Respondents as if the Department had received the
3 original signed Stipulation. Respondents shall also mail the original signed signature page of this
4 Stipulation to the Department counsels.

5 Respondents' signatures below constitute acceptance and approval of the terms and
6 conditions of this Stipulation. Respondents agree, acknowledge and understand that by signing this
7 Stipulation, Respondents are bound by its terms as of the date of such signatures and that this
8 agreement is not subject to rescission or amendment at a later date except by a separate Decision
9 and Order of the Real Estate Commissioner.

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11 DATED: 10/20/22 
12 LEGACY PRIVATE FUNDING, INC.
13 Respondent
14 By: Raul Cruz

15 DATED: 10/20/22 
16 RAUL CRUZ
17 Respondent

18 DATED: 10/20/22 
19 Adeline Tungate, Esq.
20 Counsel for Respondents
21 Approved as to Form

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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents LEGACY PRIVATE FUNDING, INC. and RAUL CRUZ in DRE Case No. H-42259 LA, and as to Respondent RAUL CRUZ in DRE Case No. H-42407 LA, and shall become effective at 12 o'clock noon on JAN 06 2023, 2023.

IT IS SO ORDERED 12.2.22, 2022.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

