



**FILED**

**SEP 20 2022**

**DEPT. OF REAL ESTATE**

By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of: ) DRE No. H-42261 LA  
MARIA DE JESUS ABUNDIS, )  
 ) OAH No. 2022050118  
 )  
Respondent. )

DECISION

The Proposed Decision dated August 3, 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 with the following corrections: the broker license number on page 3, paragraphs 3 and 4 shall be changed from "0144026" to "01444026."

The application for a mortgage loan originator license endorsement is denied. The earliest date on which the applicant may reapply for a license is one year from the effective date of this Decision. If and when application is again made for this license, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

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. 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 October 10, 2022.

IT IS SO ORDERED 9.16.22.

DOUGLAS R. McCAULEY  
REAL ESTATE COMMISSIONER

Douglas R. McCauley

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

**In the Matter of the Statement of Issues Against (Mortgage  
Loan Originator License Endorsement):**

**MARIA DE JESUS ABUNDIS,**

**Respondent.**

**Agency Case No. H-42261 LA**

**OAH No. 2022050118**

**PROPOSED DECISION**

Eileen Cohn, Administrative Law Judge, of the Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 13, 2022.

Diane Lee, Counsel, Department of Real Estate (Department) represented Ruth Corral, Supervising Special Investigator of the State of California (complainant).

Peter C. Wander, Attorney at Law, represented Maria De Jesus Abundis, also known as Maria De Jesus Navarro (respondent). Mr. Wander made his first appearance as counsel at the start of the hearing, without objection.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on July 13, 2022.

## **SUMMARY**

Respondent, a licensed real estate broker, applied for endorsement of her license as a mortgage loan originator (MLO). Complainant denied the endorsement based upon respondent's civil judgment as a co-defendant with her employing broker for fraud in the sale and financing of a residential property. Respondent has successfully worked as a licensed real estate broker without incident and provided compelling evidence in mitigation and rehabilitation. Nevertheless, given the stringent requirements of a MLO license endorsement, and the attention to detail required, respondent failed to provide sufficient evidence public protection would be served at this time by granting her a MLO license endorsement.

## **FINDINGS OF FACT**

### **Jurisdiction**

1. On April 21, 2022, the Department served respondent with the Statement of Issues, Statement to Respondent and Notice of Defense. Respondent timely responded and was served with a Notice of Hearing. All jurisdictional requirements have been satisfied.

### **License and Employment History**

2. On July 17, 2004, the Department issued respondent real estate sales person license number 01444026. Respondent's license was renewed on June 20, 2012 and remains active. (Ex. 2 & 5.)

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3. On June 20, 2012, the Department issued respondent broker license number 0144026. Respondent's licenses were originally issued in the name of Maria De Jesus Navarro, her name before marriage. Respondent's broker license expires June 19, 2024 unless renewed. (Exs. 2 & 5.)

4. From October 26, 2011 through November 23, 2011, the Department suspended respondent's license number 0144026 (Department Case No. R-04518) pending payment of a portion of her outstanding debt to the Department, as more fully described below. Respondent's license was reinstated once payment was received. Once payment was received the Department lifted her suspension. (Exs. 2 & 5.)

5. On June 24, 2021, respondent applied for an MLO license endorsement by filing as required with the Nationwide Mortgage Licensing System & Registry (NMLS). The information provided in the NMLS application is accurate and details respondent's license and work history. Respondent has been affiliated as a broker associate with RE/MAX Gold Coast Realtors since March 2017. Prior to that, respondent worked in her own business, Maria De Jesus Abundis Real Estate Broker, from June 2012 and March 2017. Between May 2008 and June 2012, respondent worked as a real estate agent with Century 21 Buena Vista. (Ex. 3.)

### **Civil Judgment**

6. Respondent's MLO application was denied based upon a civil judgment resulting from a complaint filed on February 20, 2007, by purchasers of a residential property, against respondent, her broker-employer at the time, a home loan company and another individual, the real estate appraiser, for fraud, among other causes of action. (Superior Court of California, County of Ventura, Case No. CIV 246682.)

7. The First Amended Complaint was filed on September 10, 2008. The First Amended Complaint accused the defendants of deceiving Spanish-speaking home-sellers into participating in an illusory real estate transaction involving a "straw man" for the singular purpose of generating real estate commissions and loan fees. Respondent was a real estate salesperson at the time working with her employer-broker. The employer-broker was the broker for both sides of the transaction, acted as the loan agent and received a commission. As co-defendant, respondent was charged with using a friend as a "straw man." The First Amended charged the defendants with closing the transaction and selling it back to the sellers' wife as a "gift." Respondent was charged with making false representations that the sellers would obtain the benefits of a lower interest rate and lower monthly payments; however, the payments and interest rate increased after the transaction. The First Amended Complaint further charged the defendants with taking advantage of "monolingual" Spanish-speaking consumers of Mexican descent, who did not fully understand contract terms written in English. (Ex. 4.)

8. On September 3, 2010, the Superior Court, after a bench trial held on February 5, 2010, issued its Final Judgment. Respondent appeared at the trial pro se and her employer failed to appear, either pro se or through counsel. Respondent was held to be jointly and severally liable for damages in the amount of \$135,000 for fraud and breach of fiduciary duties, jointly and severally liable for to the plaintiffs for attorneys' fees in the amount of \$142,245, and for costs in the amount of \$11,959.00. (Ex. 4.)

9. Plaintiffs assigned their rights to the Department pursuant to Business and Professions Code sections 10471, subdivision (a), applicable to civil judgements for fraud, in concert with the California Code of Regulations, title 10, section 3100 -

3101. Plaintiffs received payment from the Department pursuant to Business and Professions Code section 10474, subdivisions (b) and (c) which limit payment to the aggrieved to \$50,000 for any one transaction. The Department suspended respondent's license until she made payment in the amount of \$50,400, which was the principal and interest at the time. Respondent did so within a month of her suspension and once payment was made the Department set aside her suspension.

10. The Department renewed the judgment against respondent and her employer on October 3, 2017. As of the renewal, the total judgment was \$426,563.33, which included \$289,204.40 in principal minus credits of \$50,400.00, and interest in the amount of \$187,768.72. (Ex. 4.)

### **Respondent's Mitigation and Rehabilitation Evidence**

11. Respondent was a newly-licensed real estate salesperson at the time of the sale which was the basis of the civil judgment. She worked under the license of an employer-broker with a one-year contract, (Exhibit E), and the plaintiffs-sellers were her first clients. Respondent insisted she was young and naïve. She was referred to the plaintiffs by her employing broker. She succumbed to the sellers' pressure to close the sale because the seller needed money. She was told the property was being sold to their friend. She admitted only to having a small number of communications with the parties with whom she spoke English and Spanish and operated under the direction of her employer. She did not receive a commission for the real estate transaction. Respondent further said she was prejudiced by appearing at the trial without a lawyer after she released counsel who also represented her employer. Plaintiffs were represented by a law firm and from the record it appeared many settlement conferences were held prior to trial, one defendant settled, and respondent's employer

failed to appear at trial. The Superior Court Judge issued findings after the bench trial which were not part of the record.

12. Respondent was 29 the time of the transaction which resulted in the civil judgement against her. She is now 45 years of age, a mother and wife, a responsible and active member of her church and community and a seasoned real estate broker , a mother and wife, and responsible. At the time she paid the Department \$50,400, she was a new mother and made the payment at great sacrifice to her and her young family. Her employing-broker has never paid the Department any money. She obtained an Acknowledgement of Partial Satisfaction of Judgment on February 23, 2012, after the Department opposed her motion for Acknowledgment of Full Satisfaction of Judgment. (Ex. C.) The Department obtained from the Superior Court a Renewal of Judgment on July 7, 2017 in the amount of \$426,563.22. (Ex. D.)

13. Respondent has taken to heart the lessons learned through her participation in courses in ethics and morals sponsored by her church.

14. Respondent has no history of discipline as a real estate broker and as a broker associated with Re/Max since April 20, 2017. Respondent has been praised as a skilled real estate broker and provided character references lauding her skill, integrity and compassionate service. Jesus Ojeda III of Gem Mortgage works with respondent to help her clients obtain mortgages and describes her as professional with an "unparalleled work ethic and care for others," a "woman of high integrity and great values and principles" who helps those in need. (*Ibid.*) He was unaware of her application to become a MLO. Kay Wilson-Bolton, President, Real Estate Magic Inc. counts her as one of the "gems in the real estate business with a stellar career as a business leader." Roon Baltazar (sic), respondent's "assistant/coordinator in the real estate business," has observed respondent "treat her clients and people around her

with respect, honesty and integrity." Miguel Guzman, a sales manager for Ventura Pacific Co., who knows respondent as his real estate agent and member of the church, described respondent's excellent service to his family in 2009 working with them for over a year to secure a residence. (Ex. A.)

15. As a member of her church community, respondent has received accolades for her faith and community service. Mr. Guzman noted her position as a "role model" and insisted she has earned her rehabilitation. Reverend Edgar A. Mohorko, M.A. and Ed.D. candidate, President of the National Police Clergy Council has known respondent since 2008 after she married her spouse, an active member of the church. He has witnessed her great "enthusiasm" for her faith, and her positive reputation in the community.

16. Respondent testified with passion and sincerity about her life, reformation as a religious woman and wrote a statement consistent with her testimony. (Ex. A.) Through her church respondent was introduced to courses in ethics and morality. She also successfully completed on-line ethics training sponsored by the National Association of Realtors and home/study continuing education courses supporting her real estate license in the area of consumer protection (disclosure, contracts, 8-hour survey course, investment property analysis, recognizing real estate red flags.) (Ex. B.) She volunteers as a teacher in her church and is dedicated to the Spanish-speaking community. She is trusted and obtains numerous referrals based upon her reputation as a fair and honest broker.

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## **LEGAL CONCLUSIONS**

1. The applicant has the burden of proof to show she meets the qualifications for issuance of an MLO license endorsement. (Gov. Code, § 11504.) The standard of proof is the preponderance of the evidence. (Evid. Code, § 115.) As set out in Regulation 2758.3, the requisite fitness is the “applicant’s propensity to operate honestly, fairly, and efficiently when engaging in the fiduciary role of an [MLO].”

2. The real estate commissioner “has full power to regulate and control the issuance and revocation . . . of all licenses to be issued . . . .” (Bus. & Prof. Code, § 10071.) “Protection of the public shall be the highest priority for the Department of Real Estate 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.)

3. To engage in business as a MLO, a real estate broker or salesperson must maintain licensure and obtain an MLO license endorsement. (Bus. & Prof. Code, § 10166.02, subd. (b).)

4. The commissioner shall deny a MLO endorsement to an applicant unless the commissioner finds that the applicant (c) “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 the article” (Bus. & Prof. Code, § 10166.05, subd. (c).)

5. Business and Professions Code section 10166.051 provides:

In addition to any penalties authorized by regulations adopted pursuant to Section 10166.15, 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 applicant or endorsement holder fails at any time to meet the requirements of Section 10166.05 [quoted above] or 10166.09 [regarding renewal of licensure], or withholds information or makes a material misstatement in an application for a license endorsement or license endorsement renewal.

6. Regulation 2758.3 provides:

In order to apply for a mortgage loan originator license endorsement, an applicant shall authorize the Nationwide Mortgage Licensing System and Registry (NMLSR) to obtain the applicant's current credit report. The credit report will be used as needed to validate the applicant's responses to the NMLSR's electronic application form, in order to

support the Commissioner's finding required by Section 10166.05(c) of the Business and Professions Code.

(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

¶...¶

7. Cause exists for denial of respondent's MLO license endorsement by reason of factual findings 1-10 and legal conclusions 1-6. Respondent was the subject of a civil judgment for fraud which involved a real estate loan and although she was working under a real estate broker, she was adjudged to be joint and severally liable.

8. Cause for denial of respondent's application having been established, respondent bears the burden of proving sufficient mitigation and rehabilitation to warrant the license endorsement. (See *Martin v. Alcoholic Beverage Control Appeals Bd.* (1950) 52 Cal.2d 259, 264-265.) The "more serious the misconduct and the bad character evidence, the stronger the applicant's showing of rehabilitation must be." (*In re Gossage* (2000) 23 Cal.4th 1080, 1096.

9. Pertinent criteria for assessing the rehabilitation of a license endorsement applicant include whether at least two years have passed since respondent's most recent substantially related act warranting denial, any restitution respondent has made for any substantially related wrongful act, stability of family life and fulfillment of familial responsibilities, completion of educational courses taken for economic self-

improvement, correction of business practices resulting in injury to others, involvement in community programs designed to provide social benefits, and other evidence of rehabilitation. (Cal. Code Regs., tit. 10, § 2911.)

10. Applying the rehabilitation criteria, in respondent's favor are that her real estate license has not been disciplined by the Department, the act of fraud and the conviction are in the distant past, she was the only one of the defendants to make restitution to the Department, has a stable family life and is active in her church and community by reason of factual findings 11-16. On the other hand, the civil judgment established a degree of carelessness in real estate transactions involving Spanish-speaking clients, the very clients respondent intends to serve.

### **Disposition**

11. Respondent's evidence in mitigation and rehabilitation establishes her to be a trustworthy and competent real estate broker, but her activities as a real estate broker are segregated from the MLO, and given the circumstances of the civil judgment, there is insufficient evidence the public, especially the Spanish-speaking community she intends to serve, will be adequately protected by allowing her to combine her skills as a broker with that of a MLO which requires an attention to financial details.

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## ORDER

The application of respondent Maria De Jesus Abundis, also known as Maria De Jesus Navarro, for endorsement of the license as a mortgage loan originator (MLO) is denied.

DATE: **08/03/2022**

*Eileen Cohn*

EILEEN COHN

Administrative Law Judge

Office of Administrative Hearings