

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

FILED

AUG 09 2022

DEPT. OF REAL ESTATE
By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Investigation of)

DRE Nos. H-05307 SD
H-42356 LA

12)
13 SELVIN OSWALDO HERRERA,)

14 Respondent.)

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

15)
16) (Bus. & Prof. Code § 10100.4)

17 Respondent SELVIN OSWALDO HERRERA ("Respondent") is currently licensed
18 and/or has license rights under the Real Estate Law, Part 1, of Division 4, of the California
19 Business and Professions Code as a real estate broker (License ID 01519976). Respondent
20 currently holds a Mortgage Loan Originator ("MLO") license endorsement with the Department
21 of Real Estate ("Department") with the assigned National Mortgage Licensing System and
22 Registry ("NMLS") No. 329041.

23 FACTUAL BASIS

24 The State Regulatory Registry LLC ("SRR") owns and operates the NMLS. SRR
25 administers pre-licensure ("PE") and continuing education ("CE") and Uniform State Test
26 protocols. Title V of Public Law 110-289, the Secure and Fair Enforcement for Mortgage
27 Licensing Act of 2008 (the "SAFE Act"), requires that MLOs complete PE prior to initial

1 licensure and annual CE thereafter. In order to meet PE requirements contemplated under the
2 SAFE Act, MLOs must complete 20 hours of NMLS–approved education. In order to meet CE
3 requirements contemplated under the SAFE Act, MLOs must complete eight hours of NMLS
4 approved education.

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

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

12 In late 2020, MTEB obtained information concerning suspicious activity and that
13 information identified a possible MLO education cheating scheme coordinated by and
14 implemented through Danny Yen, d/b/a Real Estate Educational Services, an NMLS-Approved
15 course provider that is assigned an NMLS-Approved course provider identifier number of
16 1405046 (“REES”). Based on that information, and pursuant to the AAP, the Investigative
17 Review Committee (“IRC”) approved opening and pursuing an investigation into this matter.
18 The IRC found that REES fraudulently provided course credit to MLOs who had never attended
19 and completed REES’s eight-hour in-person CE course in Westminster, California (the “In-
20 person Education Scheme”). The IRC also found that REES helped MLOs cheat on online PE
21 and/or CE courses by taking those courses on behalf of those MLOs. In each of the schemes
22 orchestrated by REES, the MLOs accepted credit for SAFE-Act-required education courses that
23 they had either not taken or completed on their own behalf in violation of the ROC, and state and
24 federal law (collectively, the “MLO Education Schemes”).

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1 Based on the initial findings of the IRC, this matter was referred from the IRC for further
2 investigation and possible enforcement action, and to which the CSBS Non-Depository
3 Supervisory Committee authorized the creation of a regulator taskforce to coordinate the multi-
4 state investigation and enforcement activity in this matter ("REES Regulatory Taskforce").
5 Specifically, the REES Regulatory Taskforce, which includes the California Department of Real
6 Estate, adopted the work of the IRC investigation and engaged in additional investigatory work
7 that included a demand from Respondent for a statement in writing under oath as to all the facts
8 and circumstances concerning the MLO Education Schemes coordinated by and implemented
9 through REES.

10 Respondent has been informed by the Department that Respondent is subject to an
11 investigation and possible enforcement action. As a result of the investigation as it pertains to
12 Respondent, the following relevant facts and determinations were made, including but not
13 limited to:

- 14 1. That Respondent was a knowing and active participant in the In-person Education
15 Scheme coordinated by and implemented through REES;
- 16 2. That Respondent used REES to annually report completion of an in-person course for
17 four years from 2017 to 2020 in violation of federal and state law. Specifically, that
18 REES did not teach the in-person course and Respondent never attended the in-person
19 course nor completed the required exam or course work to receive course credit under
20 the In-person Education Scheme;
- 21 3. That by participating in the In-person Education Scheme coordinated by and
22 implemented through REES, Respondent had in fact violated the ROC; and
- 23 4. That by participating in the In-person Education Scheme coordinated by and
24 implemented through REES, Respondent violated state and federal laws concerning
25 competing certain CE requirements as a mandatory qualification for licensure.

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1 ACKNOWLEDGEMENTS AND VOLUNTARY WAIVER OF RIGHTS

2 It is hereby stipulated by and between Respondent and the Department of Real Estate,
3 acting by and through Judith B. Vasan, Counsel for the Department of Real Estate, as follows:

4 1. All issues relating to the Department's investigation, and all evidence which may
5 be presented by the Department and Respondent at a formal disciplinary hearing held in
6 accordance with the provisions of the Administrative Procedure Act ("APA") resulting from the
7 Department's investigation shall instead and in place thereof be submitted solely on the basis of
8 the provisions of this Stipulation and Agreement ("Stipulation").

9 2. Respondent hereby waives his right to a formal hearing under the provisions of
10 the APA regarding the factual basis set forth above, and the Determination of Issues set forth
11 below.

12 3. Respondent acknowledges that he understands that by waiving his right to notice
13 of the charges brought against him by the Department, and his right to file a Notice of Defense
14 requesting a formal hearing under the APA, Respondent will thereby waive his right to require
15 the Real Estate Commissioner ("Commissioner") to prove the allegations which would be
16 alleged in a formal Accusation at a contested hearing held in accordance with the provisions of
17 the APA and that Respondent will waive other rights afforded to Respondent in connection with
18 a hearing, such as the right to present evidence in defense of the allegations in the Accusation
19 and the right to cross-examine witnesses.

20 4. It is understood that if the Commissioner adopts this Stipulation as his decision in
21 this matter thereby imposing the penalty and sanctions on Respondent's real estate licenses,
22 MLO license endorsement, and license rights as set forth in the "Order" below, the
23 Commissioner will not file an Accusation based on the grounds herein.

24 5. The "Order" or any subsequent Order of the Commissioner made pursuant to this
25 Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or civil
26 proceedings by the Department with respect to any matters which were not specifically alleged
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1 as grounds for discipline in this matter.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and waivers and solely for the
4 purpose of settlement of the Department's investigation without a hearing, it is stipulated and
5 agreed that the following Determination of Issues shall be made:

6 The conduct, acts or omissions of Respondent SELVIN OSWALDO HERRERA, as set
7 forth above, are a basis for discipline of Respondent's real estate license(s), MLO license
8 endorsement, and license rights pursuant to the Real Estate Law, Part 1 of Division 4 of the
9 California Business and Professions Code ("Code") sections 10166.05(c), 10166.051(a),
10 10166.051(b), 10177(d), 10177(g) and/or 10177(j).

11 ORDER

12 WHEREFORE, THE FOLLOWING ORDER is hereby made:

13 I. SUSPENSION OF MLO LICENSE ENDORSEMENT

14 All MLO license endorsements and endorsement rights of Respondent under the Real
15 Estate Law are suspended for a period of one hundred and eighty (180) days from the Effective
16 Date of this Decision and Order.

17 II. MORTGAGE LOAN ORIGINATION EDUCATION

18 I. Respondent shall, within ninety (90) days from the Effective Date of this Decision and
19 Order, take and complete the following mortgage loan originator education requirements:

- 20 a) Twenty (20) hours of NMLS approved PE which shall consist of fourteen (14)
21 hours of federal law curriculum, three (3) hours of ethics curriculum, and three (3)
22 hours of non-traditional mortgage lending curriculum. None of these twenty (20)
23 hours of PE may be state-specific curriculum;
- 24 b) Eight (8) hours of CE, which shall consist of four (4) hours of federal law
25 curriculum, two (2) hours of ethics curriculum, and two (2) hours of non-
26 traditional mortgage lending curriculum. None of these eight (8) hours of CE may
27 be state-specific curriculum.

2. Respondent may not take any of the PE or CE provided for in Paragraph 1 of this Section in an online self-study format (“OSS”).

3. For a period of three (3) years from the Effective Date of this Order, Respondent shall be required to complete any additional required PE and/or CE in a format other than OSS.

4. If Respondent fails to timely satisfy this condition, Respondent's MLO license endorsement shall remain suspended until Respondent presents evidence satisfactory to the Commissioner of having taken and successfully completed the education requirements.

III. ADMINISTRATIVE PENALTY

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

IV. STAYED SUSPENSION OF REAL ESTATE LICENSE

All licenses and licensing rights of Respondent under the Real Estate Law, with the exception of the MLO license endorsement (NMLS ID 329041) referenced in Section I above, are suspended for a period of ninety (90) days from the Effective Date of this Decision; provided, however, that all ninety (90) days of said suspension shall be stayed for one (1) year upon the following terms and conditions:

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

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within one (1) year from the effective date of this Decision and Order. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

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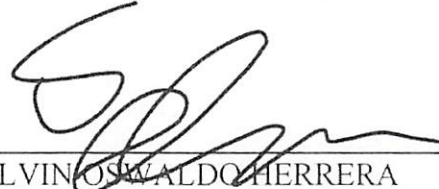
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1 scan by the Department shall be binding on Respondent as if the Department had received the
2 original signed Stipulation and Agreement.

3 Respondent's signature below constitutes acceptance and approval of the terms and
4 conditions of this Stipulation. Respondent agrees, acknowledges and understands that by signing
5 this Stipulation, Respondent is bound by its terms as of the date of such signatures and that this
6 agreement is not subject to rescission or amendment at a later date except by a separate Decision
7 and Order of the Real Estate Commissioner.

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9 DATED: **07.01.2022**


SELVIN OSWALDO HERRERA
Respondent

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12 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
13 Respondent SELVIN OSWALDO HERRERA and shall become effective at 12 o'clock noon on
14 SEP 12 2022

15 IT IS SO ORDERED 8.3.22

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17 DOUGLAS R. McCAULEY
18 REAL ESTATE COMMISSIONER

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