



This Decision shall become effective at 12 o'clock noon on FEB 28 2023.

IT IS SO ORDERED 1/24/23.

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:**

**JONATHAN RAMIREZ MARQUEZ, Respondent.**

**Agency Case No. H-42442 LA**

**OAH No. 2022100281**

**PROPOSED DECISION**

Julie Cabos-Owen, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on December 7, 2022. Ruth Corral (Complainant) was represented by Kathy Yi, Counsel for the Department of Real Estate (Department). Jonathan Ramirez Marquez (Respondent) appeared and was represented by Alan Castillo, Attorney at Law.

Testimony and documents were received in evidence. The record closed and the matter was submitted for decision on December 7, 2022.

## **FACTUAL FINDINGS**

### **Jurisdiction**

1. On March 10, 2021, the Department issued Respondent real estate salesperson (RES) license number 02118267. Respondent's license is scheduled to expire on March 9, 2025.

2. On February 15, 2022, Respondent signed and subsequently submitted an online application for a Real Estate Salesperson Mortgage Loan Originator (MLO) license endorsement (MLO application).

3. The Department denied the MLO application, and Respondent requested a hearing. (Although the Department's denial letter was not submitted as evidence, the totality of the evidence established the Department denied the application, prompting the filing of the Statement of Issues and request for hearing.)

4. On September 14, 2022, Complainant filed the Statement of Issues while acting in her official capacity as a Supervising Special Investigator of the State of California. Respondent filed a Notice of Defense, and this hearing ensued.

### **Respondent's 2007 and 2008 Felony Convictions**

#### **2007 FELONY CONVICTIONS**

5. On October 3, 2007, Respondent was convicted, on his guilty plea, of felony violations of Penal Code sections 487, subdivision (d)(1) (grand theft auto); 532, subdivision (a)(1) (false financial statement); and 476a, subdivision (a) (non-sufficient fund check). Respondent's crimes occurred on September 11, 2007, when he took his

foster brother's identification and his foster mother's checkbook to a vehicle dealership, and he wrote a \$5,000 check to purchase a new vehicle.

6. Respondent was sentenced to serve 16 months in state prison. He was paroled on May 28, 2008.

### **2008 FELONY CONVICTION**

7. On July 28, 2008, Respondent was convicted, on his nolo contendere plea, of a felony violation of Penal Code section 476 (forgery). Respondent's crime occurred on July 24, 2008, when he wrote a fraudulent check by signing another person's name.

8. Respondent was sentenced to serve 16 months in state prison. Respondent was paroled on March 30, 2009.

### **2021 CERTIFICATE OF REHABILITATION**

9. On July 31, 2019, Respondent filed a Petition for Certificate of Rehabilitation for all his felony convictions. On January 14, 2021, the court signed a Certificate of Rehabilitation finding Respondent "has demonstrated by the course of conduct his/her rehabilitation and fitness to exercise all the civil and political rights of citizenship." (Exhibit A, p. B3.)

## **Respondent's History of Civil Judgments**

### **2012 JUDGMENT – CASE No. ALH12J00999 (RAMIREZ)**

10. On May 24, 2012, plaintiff Armando Ramirez filed a small claims lawsuit against Respondent. (Super. Ct. Los Angeles County, 2012, No. ALH12J00999.) Ramirez alleged Respondent failed to pay him for remodeling work completed on

Respondent's residence, in that Respondent paid Ramirez with two checks that were returned for non-sufficient funds. On June 26, 2012, the court entered a judgment against Respondent and ordered Respondent to pay Ramirez a total of \$5,085.28.

11. On April 1, 2022, Ramirez purportedly signed a typewritten statement that specified, "I made an agreement with [Respondent] to settle a lien[,] I received [\$]5,000.00 from [Respondent]." (Exhibit 7.)

### **2012 JUDGMENT – CASE No. ALH12J01040 (NAVAJO PAINTING)**

12. On June 1, 2012, plaintiff Navajo Painting filed a small claims lawsuit against Respondent. (Super. Ct. Los Angeles County, 2012, No. ALH12J01040.) Navajo Painting alleged Respondent failed to pay the company a deposit for Respondent's home remodeling project, in that Respondent paid Navajo Painting with a check that was returned for non-sufficient funds. On July 9, 2012, the court entered a judgment against Respondent and ordered Respondent to pay Navajo Painting a total of \$4,090.

13. On May 26, 2022, an Acknowledgment of Satisfaction of Judgment was entered and filed to indicate full satisfaction of the judgment in Case No. ALH12J01040.

### **2014 JUDGMENT – CASE No. ALH13G07591 (PAVGO)**

14. On December 16, 2013, plaintiff Pavgo filed a small claims lawsuit against Respondent. (Super. Ct. Los Angeles County, 2013, No. ALH13G07591.) Pavgo alleged Respondent failed to pay Pavgo for handyman services provided, in that Respondent paid Pavgo with two checks and then placed stop payment orders on those checks. On March 7, 2014, the parties settled the matter, and the court dismissed the case without prejudice and retained jurisdiction to enforce the settlement agreement. Pursuant to

the mediation agreement, Respondent was to pay Pavgo \$1,474.67, in eight monthly installment checks mailed to Pavgo. On May 5, 2014, Pavgo filed a motion for the court to enter judgment in Pavgo's favor, and the court set a July 22, 2014 hearing date. On July 22, 2014, the court set aside the prior dismissal, entered a judgment against Respondent, and ordered Respondent to pay Pavgo a total of \$1,474.67.

15. The judgment in Case No. ALH13G07591 remains unsatisfied.

**2014 JUDGMENT – CASE No. ALH14G02024 (ASI ELECTRIC)**

16. On March 12, 2014, plaintiff ASI Electric (ASI) filed a small claims lawsuit against Respondent and Monica Ortiz. (Super. Ct. Los Angeles County, 2014, No. ALH14G02024.) ASI alleged Respondent failed to pay ASI for electrical work provided, in that Respondent paid ASI with two checks and then placed stop payment orders on those checks. On May 28, 2014, the court entered judgment against Respondent and Monica Ortiz and ordered them, jointly and severally, to pay ASI a total of \$4,390.

17. On June 20, 2022, an Acknowledgment of Satisfaction of Judgment was entered and filed to indicate full satisfaction of the judgment in Case No. ALH14G02024. The Acknowledgment of Satisfaction of Judgment was signed on April 13, 2022.

**2016 JUDGMENT – CASE No. ALH15N08422 (CREATIVE RECOVERY CONCEPTS, INC.)**

18. On June 1, 2015, Creative Recovery Concepts, Inc. (Creative Recovery), a collection agency, filed a civil lawsuit against Respondent. (Super. Ct. Los Angeles County, 2015, No. ALH15N08422.) Creative Recovery sought money owed, in that Respondent paid Creative Recovery's assignor for decorating services with a check that

was returned for non-sufficient funds. The complaint was served on Respondent, and his default was entered on December 16, 2015. On January 26, 2016, the court entered judgment against Respondent and ordered Respondent to pay Creative Recovery a total of \$3,745.80.

19. On April 8, 2022, an Acknowledgment of Satisfaction of Judgment was entered and filed to indicate full satisfaction of the judgment in Case No. ALH15N08422.

**2019 JUDGMENT – CASE No. 19NWLC35326 (ONEMAIN FINANCIAL GROUP, LLC)**

20. On September 4, 2019, Onemain Financial Group, LLC, as servicer for Wells Fargo Bank, filed a civil lawsuit against Respondent. (Super. Ct. Los Angeles County, 2014, No. 19NWLC35326.) Onemain alleged Respondent was in breach of contract, in that Respondent refused to pay the balance due on a loan. On December 9, 2019, a default was entered against Respondent. On December 11, 2019, the court entered judgment against Respondent and ordered him to pay Onemain a total of \$10,234.

21. The judgment in Case No. 19NWLC35326 remains unsatisfied.

**MLO Application**

22. To obtain a license endorsement as an MLO, an individual must submit a Form MU4 through the Nationwide Mortgage Licensing System and Registry (NMLS). The NMLS contains a detailed set of instructions for filing license applications, including answering the Disclosure Questions, and a checklist of items to be completed and uploaded by the applicant, who is fully responsible for meeting all the

requirements of the license. The Disclosure Questions in Form MU4 must be answered truthfully and correctly. Further clarification in the Disclosure Explanations section is required for any "Yes" responses and certain "No" responses. When material changes occur, all MLO applicants and licensees are required to promptly update their responses by submitting an amended Form MU4.

23. On February 15, 2022, Respondent submitted his MLO application to the Department by filing a Form MU4 through the NMLS. Thereafter, Respondent did not file any amended Form MU4s.

24. In his MLO application, Respondent disclosed felony convictions from 2007 and 2008. His disclosure conflated his 2007 and 2008 criminal convictions, but this was apparently because they involved similar crimes and identical sentences.

25. In his MLO application, Respondent explained his felony convictions as follows:

On 7/24/2008 I had all the right intentions by my own account including making car payments. At my home, I gained possession of my mother's [California Identification Card, Social Security Card,] and checkbook. In addition, I gained possession of my stepbrother's [California Identification Card (CADL) and Social Security Card]. I went to the Norm Reeves West Covina dealership and asked to test-drive a vehicle with my stepbrother's CADL- mind you he was/is 15 years older than me. I then asked to finance the vehicle under his information and stated that my mom would be signing a check for the down payment. I left for a

couple of minutes, then came back with a personal check that belonged to my mother. Minutes later after waiting, police arrived, and I was arrested.

(Exhibit 3, p. A51.)

26. In his February 15, 2022 MLO application, Respondent answered "No" to Question (D), which asks: "Do you have any unsatisfied judgments or liens against you?" (Exhibit 3, p. A49.)

27. Respondent's answer to Question (D) was false and constitutes a material misstatement in an MLO application.

28. On February 15, 2022, the date of Respondent's MLO application, all the civil judgments set forth in Factual Findings 10 through 21 remained unsatisfied. Specifically, Case No. ALH12J00999 (Ramirez) was not acknowledged as paid until April 1, 2022; Case No. Case No. ALH12J01040 (Navajo Painting) was not satisfied until May 26, 2022; Case No. ALH13G07591 (Pavgo) remains unsatisfied; Case No. ALH14G02024 (ASI) was not satisfied until June 20, 2022; Case No. ALH15N08422 (Creative Recovery) was not satisfied until April 8, 2022; and Case No. 19NWLC35326 (Onemain) remains unsatisfied.

### **Respondent's Evidence at Hearing**

29. Respondent testified at the administrative hearing. He often seemed confused by the questions posed, and he provided evidently erroneous and contradictory responses, prompting his attorney to seek clarification. It is unclear whether Respondent was being lax or insincere in his responses. Regardless, he presented as a less than credible witness.

30. Respondent noted he committed his felonies when he was 18 to 19 years old. He explained he lost his biological parents by age 12, and he was raised by foster parents. When he moved to his college dormitory, he had "no parents there like the others, and that bothered [him]." Consequently, he "grabbed [his] adoptive parent's checkbook," and committed his crimes. Respondent's explanation for his felony convictions was dubious, self-serving, and unpersuasive to establish mitigation.

31. In his submission of Conviction Detail Reports to the Commissioner, Respondent provided explanations for his misdemeanor DUI convictions in 2010 and 2012. Those criminal convictions were not bases for the denial of Respondent's MLO application.

32. Respondent is 33 years old. He has been married for 11 years and has two children. Respondent testified he is now a "whole different person" than when he committed his felonies. He explained that, when he committed his crimes, he had not "gained the wisdom necessary to refrain from doing unlawful activities." He insisted he has now "gained the wisdom needed to know what is right from wrong in terms of all life choices especially those including moral and ethical grounds."

33. According to Respondent, he obtained bachelor's and master's degrees, and he has worked steadily for many years. As set forth in his MLO application: from January 2010 to May 2015, Respondent was employed as General Manager at Pottery Manufacturing; from June 2015 to May 2020, Respondent worked as Director of Operations at Douglas Steel Supply; since February 2020, he has been employed as Chief Executive Officer at Welkin Foundation; and since May 10, 2021, Respondent has been a partner at the Abode Club providing real estate advising. Although not listed in his MLO application, at some point between 2015 and 2020, he was employed as the Chief Operating Officer of Playwright Corp.

34. Respondent previously volunteered as a tutor for Schools on Wheels and as a scribe at Kaiser Permanente. He also helped create a foundation providing services to those in need including the homeless.

35. Respondent explained why he failed to disclose the unsatisfied judgments in his MLO application. However, his explanations were not persuasive.

36. Respondent insisted that, at the time of his MLO application on February 15, 2022, he believed there were no outstanding civil judgments against him. According to Respondent, before submitting his MLO application, he hired a mortgage company that "vetted [his] name for refinance," and the Pavgo and Onemain judgments did not appear on his record.

37. Regarding the other four outstanding judgments that appeared on his record (Ramirez, Navajo Painting, ASI, and Creative Recovery), Respondent asserted the mortgage refinance company opened an escrow account in January 2022, and "they asked [him] to deposit \$100, 000." Respondent believed "they would pay off all [outstanding] judgments in a timely fashion."

38. Respondent insisted the Ramirez, Navajo Painting, ASI, and Creative Recovery judgments were satisfied before he submitted his February 15, 2022 MLO application. This assertion was contrary to the evidence. Despite being a real estate licensee, Respondent confused payment of a judgment with the filing of a satisfaction of judgment.

39. Respondent initially testified a satisfaction of judgment was filed in the Ramirez case (No. ALH12J00999). However, he admitted he did not have a copy of the court document but instead "just a letter from Ramirez confirming receipt of the money." He later admitted the April 1, 2022 acknowledgement of payment signed by

Ramirez was not a satisfaction of judgment. Respondent then testified he "tried to get Ramirez to sign off on a satisfaction of judgment, and he would not." Respondent stated Ramirez was "hard to contact," and would "not answer the door," so Respondent sent Ramirez a letter stating he would pay notary fees.

40. Respondent initially asserted that he understood the Navajo Painting case (No. ALH12J01040) was satisfied before his February 15, 2022 MLO application. However, the Navajo Painting satisfaction of judgment was not filed until May 26, 2022. Once again conflating payment and satisfaction of judgment, Respondent asserted it was his understanding that Navajo Painting was paid before February 15, 2022. However, Respondent admitted he did not know when Navajo Painting was paid, and he did not know if that judgment was paid before February 15, 2022.

41. Respondent also initially conflated payment and satisfaction of judgment when testifying about the ASI case (No. ALH14G02024) which was not satisfied until June 20, 2022, and the Creative Recovery case (No. ALH15N08422) which was not satisfied until April 8, 2022. Respondent did not provide evidence of when those judgments were paid, but it would have been after January 2022, when they appeared during the mortgage company's "vetting."

42. Respondent testified he believed the Pavgo judgment (No. ALH13G07591) was satisfied. However, that judgment remains unsatisfied. Respondent testified this judgment did not appear on the mortgage company's vetting, and he learned about it when a Department investigator notified him after the submission of his MLO application. Respondent insisted he paid the plaintiff cash outside the courtroom, and when they "went back into the courtroom the judge declared the judgment satisfied." Respondent initially testified he did not know when the purported acknowledgment of satisfaction of judgment was filed with the court. He later testified

he was unable to secure a signed acknowledgment of satisfaction of judgment in that case. Respondent initially testified he did not recall if the judgment was paid before February 15, 2022, and later testified he understood it was paid before that date. He insisted "the escrow company had the responsibility to send out those checks." Respondent's explanation is confused, contrary to the court documents in evidence, and unpersuasive. Respondent failed to establish the Pavgo judgment has been satisfied. He also failed to credibly establish he was unaware of the outstanding Pavgo judgment at the time of his MLO application.

43. Respondent testified he did not disclose the unsatisfied Onemain judgment (No. 19NWLC35326) in his MLO application because "it is in dispute," and he did not consider it an outstanding judgment. Respondent testified the judgment arose from identity theft, and he was unaware of the judgment until 2019 or 2020. Respondent insisted he did not apply for the loan that resulted in the default judgment. According to Respondent, upon learning of the judgment, he contacted Onemain, and he was referred to Wells Fargo. He submitted a fraud claim to Wells Fargo, and he was contacted by a Wells Fargo attorney who provided him with documents regarding the identity theft to sign and get notarized. Respondent contended he provided those notarized documents to the attorney. Respondent recalled, "One month later, the attorney served [him] with a summons for a lawsuit." That case is still pending, and Respondent did not reveal the subject matter of that lawsuit. Respondent does not know if the initial judgment against him has been rescinded or satisfied.

44. Respondent submitted letters from two friends who wrote letters on his behalf in 2020 to support his Petition for a Certificate of Rehabilitation. Respondent's employer at Playwright Corp., Chris Haus, characterized Respondent as a dedicated

and bright employee, and he commended Respondent for personally sponsoring Christmas parties for children in foster care. Respondent's friend, Monica Ortiz, characterized him as hardworking, and a devoted community and family member. Although not noted by Respondent, Ms. Ortiz was his co-defendant in the ASI case. (Exhibits B and 10, p. A147.)

## LEGAL CONCLUSIONS

1. Complainant has the initial burden of producing evidence of the grounds for which Respondent's application was denied by filing a statement of issues. (Gov. Code, § 11504 ["A hearing to determine whether a right, authority, license, or privilege should be granted, issued, or renewed shall be initiated by filing a statement of issues"].) "The statement of issues shall be a written statement specifying the statutes and rules with which the respondent must show compliance by producing proof at the hearing and, in addition, any particular matters that have come to the attention of the initiating party and that would authorize a denial of the agency action sought." (*Ibid.*)

2. Once Complainant meets the initial threshold burden, Respondent bears the burden of proving he meets all the prerequisites necessary for the license he requests. (*Breakzone Billiards v. City of Torrance* (2000) 81 Cal.App.4th 1205, 1221.) That burden requires proof by a preponderance of the evidence (Evid. Code, § 115), which means evidence that has more convincing force than that opposed to it (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567).

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3. Business and Professions Code section 10166.05 mandates denial of an MLO license endorsement if the applicant fails to meet specified requirements. Section 10166.05 provides, in pertinent part:

Notwithstanding any other provision of law, the commissioner shall not issue a license endorsement to act as a mortgage loan originator to an applicant unless the commissioner makes all of the following findings:

(a) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of a revocation shall not be deemed a revocation.

(b)(1) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for licensing, or at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, a breach of trust, or money laundering. Whether a particular crime is classified as a felony shall be determined by the law of the jurisdiction in which an individual is convicted.

(2) For purposes of this subdivision, an expunged or pardoned felony conviction shall not require denial of an application. However, the commissioner may consider the underlying crime, facts, or circumstances of an expunged or

pardoned felony conviction when determining the eligibility of an applicant for licensure under this subdivision or subdivision (c).

(c) The applicant 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.

4. Business and Professions Code section 10166.051 provides, in pertinent part:

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

5. Respondent incurred felony convictions in 2007 and 2008 involving dishonesty. These felony convictions mandate the Commissioner's denial of Respondent's MLO license endorsement under Business and Professions Code section 10166.05, subdivision (b)(1). Respondent was issued a Certificate of Rehabilitation for his felony convictions in 2021. Although the Certificate of Rehabilitation did not "expunge[e] or pardo[n]" Respondent's felony convictions, an analysis under section 10166.05, subdivision (b)(2), was conducted, and this decision has considered the facts and circumstances of the underlying crimes in determining Respondent's eligibility for licensure. Respondent's felonies, for which he established no mitigation, demonstrated Respondent's lack of character and general fitness "to command the confidence of the community" or to "warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently." Consequently, cause exists to deny Respondent's application for an MLO license endorsement, pursuant to Business and Professions Code section 10166.05, subdivisions (b)(2) and (c), based on his 2007 and 2008 felony criminal convictions involving dishonesty, which demonstrate a lack of character and general fitness as to command the confidence of the community that he would operate honestly, fairly, and efficiently. (Factual Findings 5 through 9, 22 through 25, 29 through 32, and 44; Legal Conclusions 3 and 4.)

6. Nevertheless, 24 years have elapsed since Respondent committed his felonies. In that time, Respondent has earned college degrees, been involved in community service, and obtained a Certificate of Rehabilitation. He currently has a stable family life and steady employment. Given the foregoing, Respondent appears to be rehabilitated from his prior criminal conduct. Thus, his felony convictions are weighed less heavily in the overall determination of his current character and general fitness.

7. Respondent incurred six civil judgments from 2012 through 2019, and several involved Respondent's writing checks which were returned for non-sufficient funds. All six judgments remained unsatisfied at the time of Respondent's February 15, 2022 MLO application. Four were not satisfied until April through June 2022, and the evidence failed to establish that the remaining two have been satisfied. This history demonstrates a lack of financial responsibility, character, and general fitness to command the confidence of the community and to warrant a determination that Respondent would operate honestly, fairly, and efficiently. Consequently, cause exists to deny Respondent's application for an MLO license endorsement, pursuant to Business and Professions Code section 10166.05, subdivision (c), based on Respondent's history of civil judgments as set forth above which demonstrates a lack of financial responsibility, character, and general fitness as to command the confidence of the community that he would operate honestly, fairly, and efficiently. (Factual Findings 10 through 23, 26 through 29, and 35 through 43; Legal Conclusions 3 and 4.)

8. In his February 15, 2022 MLO application, Respondent answered "No" to the question asking whether he had "any unsatisfied judgments or liens" against him. On the date of Respondent's MLO application, Respondent had six unsatisfied civil judgments against him. Respondent's explanation for his nondisclosure of the outstanding judgments was unconvincing. Moreover, even if Respondent's misstatement was based on his misunderstanding of what constitutes an unsatisfied judgment, Business and Professions Code section 10166.051, subdivision (b), does not require any intent to deceive when making the material misstatement. Thus, Respondent's false answer constitutes a material misstatement in an MLO application. Therefore, cause exists to deny Respondent's application for an MLO license endorsement, pursuant to Business and Professions Code section 10166.051, subdivision (b), based on Respondent's material misstatement in his MLO application

by failing to disclose unsatisfied civil judgments at the time of his February 15, 2022 application. (Factual Findings 10 through 23, 26 through 29, and 35 through 43; Legal Conclusion 4.)

9. Complainant has proven several grounds for denial of Respondent's MLO application. The totality of the evidence demonstrated Respondent lacks the necessary financial responsibility, character, and fitness to operate honestly, fairly, and efficiently.

10. However, Respondent asserts he deserves the MLO license endorsement, at least on a restricted basis. Respondent's temporally remote felony convictions weigh less against him, and they did not hinder his obtaining a real estate salesperson license in 2021. However, Respondent's civil judgments remained unsatisfied for many years until after his February 15, 2022 MLO application, and two remain outstanding without sufficient explanation. This history, combined with Respondent's material misstatement on his MLO application indicate a continued lack of financial responsibility, character, and fitness to operate honestly, fairly, and efficiently. Respondent provided insufficient evidence in mitigation or rehabilitation to warrant the issuance of an MLO license endorsement, even on a restricted basis.

11. Given the foregoing, denial of Respondent's MLO application is warranted.

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**ORDER**

Respondent Jonathan Ramirez Marquez's application for a mortgage loan originator license endorsement is denied.

DATE: 12/21/2022

*Julie Cabos-Owen*

JULIE CABOS-OWEN

Administrative Law Judge

Office of Administrative Hearings