BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of:	DRE No. H-43001 LA
JOSE MANUEL RODRIGUEZ,	OAH No. 2025020347
Respondent.	

DECISION

The Proposed Decision dated June 2, 2025, 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 28, paragraph 1, "Roriguez" should be written as "Rodriguez".

The Decision revokes one or more real estate licenses.

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 thirty (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 August 25, 2025.

IT IS SO ORDERED July 29, 2025

Chika Sunquist
REAL ESTATE COMMISSIONER

[redacted]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JOSE MANUEL RODRIGUEZ,

Respondent.

Agency Case No. H-43001 LA

OAH No. 2025020347

PROPOSED DECISION

Administrative Law Judge (ALJ) Chantal M. Sampogna, Office of Administrative Hearings, State of California, heard this matter by videoconference on April 16, 2025.

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

Respondent Jose Manuel Rodriguez appeared and represented himself.

Testimony and documents were received in evidence. The record was held open until April 23, 2025, for complainant to submit proof of its investigation and enforcement costs and for respondent to submit character reference letters and copies of email communications with the California Department of Insurance (DOI). The record remained open until April 30, 2025, for the parties to submit written objections to the opposing party's submissions.

Complainant timely submitted its Cost Recovery Declaration Regarding Enforcement Costs (Enforcement Costs Declaration) and its Certified Statement of Investigative Costs, with Attachment A, Good Faith Estimate of Reasonable Costs (Investigative Costs Declaration and Attachment) (collectively, Costs Declarations), marked as Exhibit 10.

Respondent timely filed the following documents: (1) character reference letter written by Paul Porras (Porras letter), marked as Exhibit B; (2) December 2023 email exchange between respondent and the DOI (DOI email exchange), marked as Exhibit C; (3) respondent's written statement, written after the hearing concluded, offered to clarify and expand on his testimony (respondent's post-hearing statement), marked as Exhibit D; and (4) respondent's acknowledgement he had reviewed complainant's Costs Declaration, had no objection to its admission, and his request for a payment plan (request for payment plan), marked as Exhibit E.

Complainant timely submitted Complainant's Reply to Respondent's Additional Documents (Complainant's Reply), marked as Exhibit 11. The record closed and the matter was submitted for decision on April 30, 2025.

In Complainant's Reply, complainant lodged no objection to Exhibit C, the DOI email exchange, or Exhibit E, respondent's request for payment plan. Accordingly, Exhibits C and E are admitted. Complainant lodged a hearsay objection to Exhibit B, the Porras letter, but added there was no objection to Exhibit B being admitted pursuant to Government Code section 11513, subdivision (d) (administrative hearsay). Complainant's hearsay objection is sustained and Exhibit B is admitted as administrative hearsay. Finally, complainant lodged a hearsay objection to the admission of Exhibit D, respondent's post hearing statement. Complainant's hearsay objection is sustained, but over complainant's objection the ALJ admits Exhibit D as administrative hearsay.

In addition to respondent's confidential information identified and redacted during hearing, exhibits 8 and 9 presented respondent's confidential driver's license number. On her own motion, the ALJ redacted the confidential information.

SUMMARY

Complainant seeks to revoke respondent's real estate salesperson license and Mortgage Loan Originator (MLO) license endorsement (collectively, respondent's real estate licenses) based on (1) the revocation of respondent's Texas insurance license by the Texas Department of Insurance (TDI) (prior license discipline); (2) respondent's failure to report his prior license discipline to the Department; and (3) respondent's failure to disclose his prior license discipline to the Department in his subsequent MLO license endorsement application (MLO application).

Respondent admits his violations but attributes them to his misunderstandings rather than to violations of Texas insurance law or an intent to withhold information from the Department. Respondent denies the underlying TDI violations, related to forgery and fraud, and claims his TDI license was revoked by a default order due to his belief he did not need to appear at the scheduled TDI hearing. Regarding his failure to report and disclose his prior license discipline, respondent asserts that because he continues to dispute the underlying TDI license revocation he did not believe it constituted pending or finalized license discipline which required reporting or disclosure.

///

Respondent's testimony and post-hearing evidence were inconsistent and unreliable and demonstrated respondent's continued willingness to be dishonest with the Department regarding matters affecting his licensure. Respondent failed to establish his rehabilitation or that protection of the public would be served if his real estate licenses were restricted. Accordingly, respondent's real estate licenses are revoked. Respondent is ordered to pay reasonable costs to the Department.

FACTUAL FINDINGS

Jurisdiction

1. On December 11, 2013, the Department issued respondent real estate salesperson license number S/01943764 (salesperson license). Respondent's salesperson license is scheduled to expire on July 19, 2026.

2. On December 7, 2023, the Department approved respondent's MLO license endorsement, Nationwide Mortgage Licensing System ID No. 2519595.

3. On January 7, 2025, complainant filed the Accusation while acting in his official capacity as a Supervising Special Investigator (Supervising SI). Respondent timely filed a notice of defense.

Respondent's Prior Discipline

4. On April 4, 2016, the TDI issued respondent life agent license number 2080503. Respondent's Texas life agent license was terminated by the TDI Commissioner effective October 19, 2023. (Exh. 3, pp. A53-A54.)

///

5. On March 16, 2023, Manfred Stinehour, a TDI Investigator, sent respondent a Request for Information (March 2023 letter) regarding complaints the TDI had received involving respondent's activities as an insurance life agent in Texas. (Exh. 3, pp. A73-A74.) Respondent failed to respond to this request for information.

6. Investigator Stinehour sent a follow-up May 9, 2023 letter (May 2023 letter) to respondent. The May 2023 letter provided as follows:

> We have not received your written response to [the March 2023 letter]. In this letter, you were requested to furnish the [TDI] with certain information. A copy of the letter is enclosed for your reference.
>
> Article 38.001 of the Texas Insurance Code requires you to promptly provide us with written answers to such inquiries. In accordance with Article 38.001 we again request that the answers and documentation be furnished no later than fifteen (15) days following receipt of this letter. Currently, the Department considers you in violation of the Texas Insurance Code and if we do not receive your answers to our request within the time specified by law, we will have no choice but to proceed in administrative actions.

(Exh. 3, p. A75.)

7. Both the March and May 2023 letters were properly served on respondent at his physical and email addresses on file with the TDI.

///

8. On May 16, 2023, Investigator Stinehour sent an email to respondent informing him the TDI had received respondent's partial written and voice mail response to the March 2023 letter, but these responses were partial and respondent was required to provide complete responses, as previously communicated in the March 2023 letter, in no more than 15 days. (Exh. 3, p. A91.) Respondent did not provide additional information to Investigator Stinehour or otherwise to the TDI.

9. On September 11, 2023, the TDI filed a Request to Docket Case and Original Petition, in Texas's State Office of Administrative Hearings (TOAH) case number 2023-8294 and TDI file number 31397 (collectively, TDI 2023 case documents). That same day, the TDI 2023 case documents were e-mailed to respondent at his e-mail address of record with the TDI. On September 12, 2023, the TDI 2023 case documents were mailed to Respondent at his physical address of record with the TDI by regular, first-class mail and by certified mail, return receipt requested.

10. TDI's Original Petition, filed September 11, 2023, and included with the TDI 2023 case documents, alleges the following:

> 1. [Respondent] holds a life agent license issued by TDI on April 4, 2016.
>
> 2. Between November 1, 2022, and December 30, 2022, [Respondent] submitted five fraudulent withdrawal request forms without the authorization of the policyholders of the Life Insurance Company of the Southwest.
>
> 3. [Respondent] submitted the withdrawal request forms to the Life Insurance Company of Southwest with forged and unauthorized signatures.

> 4. [Respondent] altered checks for three bank accounts intended to receive the disbursed funds from the policy withdrawals.
>
> 5. TDI sent a request for information to [Respondent] on March 16, 2023, pursuant to Tex. Ins. Code § 38.001, and [Respondent] failed to respond in writing not later than the 15th day after the date the inquiry was received.

(Exh. 3, pp. A66-A67.)

11. Based on the foregoing factual allegations, the TDI alleged the following legal violations:

> 1. [Respondent] has willfully violated an insurance law of this state, as contemplated in Tex. Inc. Code § 4005.101(b)(1) [willfully violating an insurance law of the State of Texas].
>
> 2. [Respondent] engaged in fraudulent or dishonest acts or practices, as contemplated by Tex. Ins. Code § 4005.101(b)(4) [misappropriating or converting to the applicant's or license holder's own use, or illegally withholding money belonging to an insurer, health maintenance organization or an insured, enrollee, or beneficiary]

///

///

> 3. [Respondent] violated Tex. Ins. Code § 38.001 by failing to respond to a [TDI] inquiry in writing no later than the 15th day after the date the inquiry was received.

(Exh. 3, p. A35.)

12. On September 12, 2023, the TDI filed the Notice of Hearing (TDI NOH) in the TDI 2023 case against respondent. That same day, the TDI served respondent with the TDI NOH both by mail to his address of record with the TDI by regular, first-class mail and by certified mail, return receipt requested, and by e-mail to his e-mail address of record with the TDI. (Exh. 3, pp. A61-65, 70.)

13. The TDI NOH explicitly informed respondent of the following: (1) the TDI sought to take disciplinary action against respondent; (2) a public hearing would be held via videoconference on December 5, 2023, at 9:00 a.m.; (3) respondent was required to file a written response to the TDI NOH within 20 days of the date it was mailed to respondent; and (3) a failure to file a timely written response would (a) entitle the TDI to seek a disposition by default, (b) could result in the scheduled hearing being cancelled without further notice; and (c) could result in an order issued by the TDI Commissioner which would deem the allegations in the Original Petition true and would impose the relief sought in the TDI NOH, including the revocation of respondent's TDI license. (Exh. 3, pp. A35-A36.) Respondent failed to file a written response to the TDI NOH.

14. On October 19, 2023, the TDI Commissioner filed a Default Order in case no. 2023-8294, revoking respondent's life agent license. That same day, the Default Order was sent to respondent both by mail to his address of record with the TDI by

regular, first-class mail and by certified mail, return receipt requested, and by e-mail to his e-mail address of record with the TDI.

15. The Default Order found proper notice was given and affirmed the factual allegations and legal violations as contained in the Original Petition. (Exh. 3, pp. A56-A59; see Factual Findings 10 & 11.) Included in the Default Order is the TDI Commissioner's following statement of cause for license revocation:

> This is a default order taken against [respondent] because he submitted fraudulent withdrawal request forms on life insurance policies without the authorization of the policyholders. Respondent did not respond to [the TDI NOH]. This order revokes Respondent's [TDI] license.

(*Id.* at p. A56.)

Failure to Report TDI License Discipline

16. On July 30, 2024, the Department made a diligent search of its records and found no record or written notice received from respondent notifying the Department within 30 days of the license discipline imposed by the TDI. (Exh. 4.)

17. On August 25, 2023, respondent submitted a Salesperson Renewal Application (2023 Renewal Application) to the Department. On this application, respondent answered "No" to question 15, "Are there any license disciplinary actions pending against a business or professional license you hold?" (Exh. 6, p. A132.) In his 2023 Renewal Application respondent had an opportunity to report the TDI discipline pending at the time of his 2023 Renewal Application but failed to do so.

///

Failure to Disclose TDI License Discipline on MLO License Endorsement Application

18. On November 13, 2023, respondent submitted his MLO license endorsement application to the Department requesting an individual (MU4) MLO license endorsement. (Exh. 5.)

19. On his MLO application, respondent answered, "No" to all of the following questions:

> (K) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:
>
> (1) found you to have made a false statement or omission or been dishonest, unfair or unethical?
>
> (2) found you to be involved in a violation of a financial services-related business regulation(s) or statute(s)?
>
> (3) found you to have been a cause of a financial-services related business having its authorization to do business denied, suspended, revoked or restricted?
>
> (4) entered an order against you in connection with a financial-services related activity?
>
> (5) revoked your registration or license?
>
> (6) 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?

(7) barred you from association with an entity regulated by such commissions, authority, agency, or officer, or from engaging in a financial-services related business?

(8) issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?

(9) entered an order concerning you in connection with any license or registration? [¶] . . . [¶]

(N) Is there a pending regulatory action proceeding against you for any alleged violation described in (K) through (L)?

(Exh. 4, p. A129.)

20. At the conclusion of his MLO application, respondent attested to, among other affirmations, the following: he completed the application on November 13, 2023; the entirety of the information and statements contained in, and any attachments to, his MLO application were current, true, accurate and complete and were made under the penalty of perjury; he would maintain the accuracy and completeness of all information he provided in his MLO application by submitting supplementary information on a timely basis to the Department to do so; and finally that he knows if he were to make a false statement of a material fact in his MLO application or in any documentation provided to support his MLO application, the foregoing MLO application may be denied. (Exh. 5, p. A130.)

Respondent's Evidence

21. Respondent admits his TDI license was revoked but denies the underlying allegations regarding fraudulent withdrawals, forged signatures, and altered checks. Respondent first asserts his TDI license was revoked pursuant to a default order, issued because he failed to appear at the hearing, and not because the truth of the underlying allegations was established. Respondent then claims he failed to appear at the TDI license discipline hearing because he believed his attendance was not necessary. Finally, respondent claims he failed to report his TDI license revocation to the Department and failed to disclose it on his MLO application because he did not understand that either the pending TDI disciplinary action, or the ultimate license revocation pursuant to the default order, constituted pending or actual administrative proceedings or license discipline against respondent.

22. Respondent's denials and claimed misunderstandings were not supported by credible evidence and are not credited. Respondent's testimony was at times self-contradictory, making it unreliable. In addition, respondent readily modified his testimony when he was presented with credible evidence which showed his denials or claimed misunderstandings were implausible, if not impossible. Respondent's willingness to provide untruthful testimony, and to change his testimony in a self-serving fashion, demonstrated a lack of honesty and integrity.

TDI Cause for Discipline

23. At hearing, respondent denied the factual allegations and legal conclusions contained in the Original Petition found true by the TDI Commissioner. On May 3, 2024, Department Special Investigator (SI) Albert Perez conducted a phone interview with respondent regarding his TDI license discipline, memorialized in SI

Perez's Memorandum (Exh. 7). Respondent's statements to SI Perez were consistent with his testimony at hearing regarding his conduct which led to the TDI license discipline.

24. Respondent acknowledged moving cash values without a wet signature for five of his TDI clients. Respondent explained that some of his TDI clients had index universal policies which serve the purpose of both life insurance and cash accumulation. For five of his clients with this type of policy, the cash values were not growing. Respondent asserted the industry standard is to move cash values as necessary to maintain growth. He acknowledged using the DocuSign signature option, rather than wet signatures, to move cash values for these clients using a 10-35 Exchange Form. Respondent denied forging or altering checks and did not provide an explanation as to why the TDI would have alleged such conduct or why the TDI Commissioner concluded such allegations were true.

25. In support of his assertion that the acts leading to his TDI license revocation do not warrant license discipline by the Department, respondent presented Exhibit A, a warning letter from the South Dakota Department of Labor and Regulation (South Dakota DLR), dated May 22, 2024. In this letter, the South Dakota DLR informed respondent it was aware of the TDI license discipline against respondent and respondent failed to timely report the TDI final disposition to the South Dakota DLR. Nonetheless, pursuant to the letter, the South Dakota DLR issued respondent a warning letter, and did not take further action against respondent's South Dakota DLR license. (Exh. A.)

///

///

RESPONDENT'S COMMUNICATION WITH THE TDI

26. Respondent provided inconsistent and contradictory evidence regarding his communication with the TDI during its investigation and disciplinary action process against respondent's TDI license.

27. At hearing, respondent asserted that in May 2023 he responded to TDI Investigator Stinehour's March 2023 request for information regarding the complaints lodged against him. Respondent alleged he did not hear back from Investigator Stinehour and so believed his response was satisfactory and addressed any of the TDI's concerns.

28. However, during his testimony respondent acknowledged he received a May 16, 2023 email from Investigator Stinehour stating respondent's response was incomplete and respondent was required to provide a complete response or the TDI would take disciplinary action against his TDI license. (Exh. 3, p. A91.) Respondent also acknowledged he received a July 10, 2023 email from TDI Staff Attorney Sydney Moore which informed respondent a Notice of Intent was sent to respondent on June 19, 2023, which informed respondent he was required to provide a complete response to the allegations within 15 days. Mr. Moore further informed respondent if no response was received the TDI would file a Petition against respondent and set the case for hearing.

29. Respondent did not provide a response to Investigator Stinehour or Mr. Moore and the TDI set the matter for hearing. Despite the TDI NOH informing respondent he was required to file a written response within 20 days of the mailing of the TDI NOH, and despite Investigator Stinehour and Mr. Moore informing respondent his responses were incomplete, respondent claims he presumed his May 2023

response to Investigator Stinehour satisfied the TDI NOH request for additional information; based on this presumption respondent concluded he did not need to appear for the December 5, 2023, TDI hearing. Respondent's presumptions and conclusions were unwarranted and unprofessional and contrary to the information he acknowledged he received from the TDI.

COMMUNICATION WITH THE DEPARTMENT

Knowledge of TDI License Discipline

30. During the hearing, respondent presented contradictory testimony regarding whether and when he knew the TDI Commissioner revoked his Texas life agent license.

31. At hearing, respondent submitted a February 26, 2024 letter written by Betty Smith, Attorney at Law (licensed in Texas), Lype, Dest & Smith, PLLC, to Haley Johnson, Staff Services Analyst with the Department, on behalf of respondent. In this letter, Ms. Smith presented that respondent did not receive the TDI NOH and that was his cause for failing to appear at the TDI disciplinary hearing. (Exh. 8, p. A139.) Ms. Smith further presented her office has filed a motion to set aside the TDI default order. During his testimony, respondent initially agreed with Ms. Smith's representation that he did not receive the TDI NOH, but later acknowledged he had received it but failed to read it and so failed to appear at his December 5, 2023, TDI disciplinary hearing.

32. Respondent made multiple contradictory statements at hearing regarding his knowledge and understanding of the TDI disciplinary process. Respondent claimed he did not receive any of the TDI communications in hard copy because he moved offices during 2023 and failed to provide TDI with his proper address. Later in his testimony he claimed he experienced email-server issues, not

discovered until 2024, which caused many emails to go to his junk mail. However, when confronted with the properly served TDI documents, respondent ultimately acknowledged he received the documents timely but claimed he misunderstood them.

33. During his testimony respondent further claimed he was unaware of the TDI's October 19, 2023, license revocation until he received an email from Jenee Solis, Background Analyst (BA) with the DOI, informing him the DOI had received information that respondent's TDI license had been revoked. Respondent added he received BA Solis's email in December 2023 but did not respond until after the first week of January 2024, due to the holidays. Respondent further claimed this was the first he learned of the TDI license revocation and he soon after obtained counsel to represent him in the TDI matters.

34. At hearing, respondent asked to leave the record open to submit the email exchange between him and BA Solis to corroborate his testimony on this subject. However, contrary to respondent's testimony, the email exchange (Exh. C) demonstrates respondent responded to BA Solis's email on the same date it was sent, December 26, 2023, and in his response he informed BA Solis he and his attorney were recently made aware of the TDI license revocation and had already begun working to address it. (Exh. C, p. B3.) Here, respondent's documentary evidence contradicts his testimony as it demonstrates he knew of his TDI license revocation before receiving contact from BA Solis.

35. In his post hearing statement respondent acknowledges the email exchange contradicts his testimony but claims it demonstrates his accountability and diligent attention to the issues raised by BA Solis. However, contrary to respondent's assertions, the email exchange rather demonstrates respondent's willingness to testify falsely under oath.

MLO Application

36. Respondent claimed that he failed to disclose his October 19, 2023, TDI license revocation on his November 13, 2023, MLO application because he allegedly was unaware his TDI license had been revoked when he submitted his MLO application and because he did not believe he had to disclose license revocation imposed pursuant to a default order. As provided above, respondent's claim he was unaware his TDI license had been revoked at the time of its revocation is baseless as he acknowledged his receipt of information from the TDI and his failure to read it. Further, upon signature of his MLO application he agreed to amend the application as necessary. Even were it true that respondent did not learn of his TDI license revocation until December 2023, respondent never amended his MLO application in violation of the terms he agreed to when signing his MLO application. Finally, respondent's belief he was not required to report license revocation imposed pursuant to a default order is unwarranted.

Interview Information Statement

37. Respondent submitted a completed Department form RE 515, Interview Information Statement (Statement), dated February 28, 2024, submitted under penalty of perjury. (Exh. 8, pp. A158-A162.) In his Statement respondent provided multiple misleading statements.

38. In the section provided to explain any civil court actions, respondent named the TDI matter but left the section "Brief Description of Suit" blank. (Exh. 8, p. A159.) In the section which asks whether any named matter resulted in a "judgement for fraud, misrepresentation, dishonesty, dishonesty dealing, and/or mishandling of trust funds?" (capitalization omitted) respondent answered as follows:

> The revocation of my TDI license was a result of the outcome of the aforementioned case. However, it's important to note that the current situation is being actively addressed through legal proceedings, and my attorney is working to seek a reversal of the decision. As such, the final outcome is yet to be determined.

(*Id.*)

39. Respondent's answers to the Department regarding the TDI action against his license were misleading and dishonest. He again failed to report his TDI license had been revoked because of findings of fraud and dishonest dealing related to the handling of client funds, and he falsely presented the status of his TDI license as pending a final outcome.

Rehabilitation

40. Respondent is married and has three sons, approximately two, nine, and 10-years-old. Respondent is a certified soccer coach with the American Youth Soccer Organization and regularly coaches soccer for his sons' teams. Respondent's primary source of income is through his work as an insurance and real estate licensee.

41. Respondent submitted a character reference letter dated April 17, 2025, from Paul Porras (the Porras letter), respondent's client and friend for over 15 years. (Exh. B.) Mr. Porras explained he has had the opportunity to observe respondent in his professional and personal life and has found respondent to have a professional, ethical, and noble character in business and private matters. Respondent is kind and generous and upholds a sense of duty to his community, work, family and friends. Mr. Porras did not state he is aware of the TDI license discipline against respondent, or of

the allegations brought by the Department against respondent. Accordingly, Mr. Porras's conclusions about respondent's character are given minimal weight.

42. Respondent claims he takes full responsibility for his violations but attributes his violations to procedural errors and not to any intent to withhold information from the Department. Respondent further asserts he remains licensed as an insurance agent in many states and he is taking measures to set aside the TDI Commissioner's revocation of his license. Finally, respondent explained he is currently attending law school to improve his understanding of legal and ethical principles. Respondent believes these factors support his claim that his violations were procedural and do not warrant discipline of his real estate licenses.

43. However, respondent did not submit evidence corroborating these claims. For example, although over 18 months have passed since the revocation of his TDI license, respondent did not submit evidence he has begun the process to request the revocation of his TDI license be set aside. Similarly, respondent did not submit evidence establishing which other states he remains licensed in to practice insurance. Finally, respondent did not submit evidence establishing his attendance in law school. Without corroborating evidence, respondent's claims are given little weight and do not mitigate against the seriousness of respondent's violations.

Costs

44. Pursuant to Business and Professions Code section 10106, complainant requests costs of enforcement in the amount of $1,380 and costs of investigation in the amount of $2,406.95, totaling $3,786.95. (Undesignated statutory references are to the Business and Professions Code.) Complainant established the total cost amount of $3,786.95 is reasonable.

45. Complainant's Enforcement Costs Declaration, signed by Ms. Lee on April 22, 2025, includes a description of the work Ms. Lee performed and the amount of time she spent working on this case through April 16, 2025. The Enforcement Costs Declaration shows a total of 11.5 hours worked at a rate of $120 per hour, totaling $1,380 in enforcement costs.

46. Complainant's Investigative Costs Declaration, signed by complainant on April 22, 2025, includes a description of the work performed and the amount of time Department investigators worked on this matter through November 24, 2024. The Attachment shows Supervising SI Jason Parson worked a total of .10 hours on this matter at a rate of $97 per hour, and SIs Wotzvely Perez and Anna Li worked a total of 29.65 hours at a rate of $79 per hour, amounting to a total of $2,406.95 in enforcement costs.

47. Respondent voiced no objection to complainant's requests for costs. Respondent request he be permitted to pay the costs on a six- month payment plan.

LEGAL CONCLUSIONS

Authority

1. Under the Real Estate Law (§ 10000 et seq.) the Real Estate Commissioner (Commissioner) "has full power to regulate and control the issuance and revocation . . . of all licenses to be issued . . . ." (§ 10071.)

2. "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." (§ 10050.1.)

3. "Honesty and truthfulness are two qualities deemed by the Legislature to bear on one's fitness and qualification to be a real estate licensee. If appellant's offenses reflect unfavorably on his honesty, it may be said he lacks the necessary qualifications to become a real estate salesperson." (*Harrington v. Department of Real Estate* (1989) 214 Cal.App.3d 394, 402, citing *Golde v. Fox* (1979) 98 Cal.App.3d 167, 176.)

Burden and Standard of Proof

4. Complainant bears the burden of proof. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 113.) The standard of proof for the Department to prevail on the Accusation is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 857.) This means the burden rests with complainant to offer proof that is clear, explicit, and unequivocal, "so clear as to leave no substantial doubt" and "sufficiently strong to command the unhesitating assent of every reasonable mind." (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487; citations omitted.)

Real Estate Salesperson and MLO License Endorsement Requirements

5. Section 10176, subdivision (i), provides the Commissioner may discipline a real estate license if the licensee has engaged in any conduct which constitutes fraud or dishonest dealing.

6. Section 10177 provides the Commissioner may discipline the license of a real estate licensee, who has done any of the following:

> (f) . . . [H]ad a license issued by . . . another state . . . revoked, surrendered, or suspended . . . for acts that, if done by a real estate licensee, would be grounds for the suspension or revocation of a California real estate license, if the action of denial, revocation, surrender, suspension, or debarment by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act [citations] and only upon an express finding of a violation of law by the agency or entity.
>
> (g) Demonstrated negligence or incompetence in performing an act for which the officer, director, or person is required to hold a license. [¶] . . . [¶]
>
> (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.

7. Section 10186.2, subd. (a)(1)(C), provides that a Department licensee must report to the Department "any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government." Section 101862 further provides the licensee must make such a report to the Department within 30 days of the date of the bringing of the disciplinary actions and that a failure to do so constitutes cause for discipline. (*Id.* at subds. (a)(2) & (b).)

///

8. The Commissioner must not issue a license endorsement to act as an MLO to an applicant unless the Commissioner finds 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. (§ 10166.05, subd. (c).)

9. The Commissioner may discipline 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 withholds information or makes a material misstatement in an application for a license endorsement or license endorsement renewal. (§ 10166.051, subd. (b).)

Cause for Discipline

10. Cause exists under section 10177, subdivision (f), to discipline respondent's salesperson license. Complainant established by clear and convincing evidence respondent's TDI license was revoked based on respondent's fraudulent and dishonest conduct committed while acting as a life insurance agent under this TDI issued license. This conduct included the withdrawal of funds from clients' accounts using forged signatures and altering checks for three bank accounts intended to receive the funds. The TDI provided respondent the opportunity for a hearing and other due process protections and he failed to timely and properly respond to the TDI's inquiries and notices. (Factual Findings 4-15.)

11. Cause exists under section 10166.05, subdivision (c), to discipline respondent's MLO license endorsement. Complainant established by clear and convincing evidence respondent did not conduct himself honestly, professionally, or

with financial responsibility when he committed the acts warranting TDI license discipline. (Factual Findings 4-15.)

12. Cause exists under section 10186.2 to discipline respondent's real estate salesperson license. Complainant established by clear and convincing evidence respondent failed to report to the Department the TDI disciplinary action taken against respondent's TDI license within 30 days. (Factual Finding 16.)

13. Cause exists under sections 10176, subdivision (i), and 10177, subdivisions (g) and (j), to discipline respondent's real estate salesperson license. Complainant established by clear and convincing evidence his failure to disclose his TDI license discipline on his MLO license endorsement application constitutes negligence and dishonest dealings with the Department. (Factual Findings 4-15, 18-20.)

14. Cause exists under sections 10166.05, subdivision (c), and 10166.051, subdivision (b), to discipline respondent's MLO license endorsement. Complainant established by clear and convincing evidence respondent's failure to disclose his TDI license discipline on his MLO application, and his failure to amend said application with accurate information, constitutes a material misstatement to the Department and demonstrates respondent will not operate honestly, fairly, and efficiently within the purposes of the Real Estate Law. (Factual Findings 4-15, 18-20.)

Assessment of Rehabilitation

Rehabilitation Criteria

15. Respondent bears the burden of establishing rehabilitation sufficient to warrant his continued licensure. (*In the Matter of Brown* (1993) 2 Cal. State Bar Ct.

Rptr. 309.) Rehabilitation is a state of mind, and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940), but mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.)

16. The Department does not provide rehabilitation criteria for matters that do not arise from an applicant or licensee committing a crime. However, the Department's rehabilitation criteria set forth at California Code of Regulations, title 10, section 2912, to be considered when an applicant or licensee has committed a crime, provide guidance for the purpose of evaluating whether a licensee who has committed acts which provide cause for license discipline is rehabilitated.

17. The rehabilitation factors include the time that has elapsed since commission of the act, with the passage of less than two years being inadequate to demonstrate rehabilitation; new and different social and business relationships from those which existed at the time of the commission of the acts; stability of family life and fulfillment of parental and familial responsibilities subsequent to the act; completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement; significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems; and a change in attitude from that which existed at the time of the acts in question.

///

Analysis

18. Respondent demonstrated a commitment to his family and community and to furtherance of his education. Respondent volunteers in his community as a soccer coach and respondent is pursuing a law degree. However, when considering all the rehabilitation factors, respondent has not demonstrated his rehabilitation.

19. Respondent did not express remorse for his TDI misconduct but rather attributes the findings of misconduct to his claimed, but disproved, misunderstanding of the TDI disciplinary process. Respondent minimizes his TDI misconduct and continues to present that the TDI license revocation is not final, and that the allegations found true by the TDI are not true, based on his uncorroborated assertion he is acting to set aside the Default Order.

20. Less than two years have passed since respondent's failure to report his TDI license revocation and since he failed to disclose this information on his MLO application. In addition, respondent's dishonest testimony regarding his receipt of information from the TDI and knowledge of his TDI license revocation, and his feigned misunderstanding of the requirements to report and disclose this information to the Department, demonstrate respondent's propensity toward dishonest acts and communication. Such dishonest testimony establishes respondent is not rehabilitated at this time. Accordingly, protection of the public requires respondent's real estate salesperson license and MLO license endorsement, and any and all other licensing rights issued to respondent by the Department be revoked.

Award of Costs

21. The Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of Part 1 of the Real Estate Law,

addressing licensing of persons, to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. (§ 10106, subd. (a).)

22. A certified copy of the actual costs signed by the Commissioner or the Commissioner's designated representative is prima facie evidence of reasonable costs of investigation and enforcement of the case. The costs must include the amount of investigative and enforcement costs up to the date of the hearing. (§ 10106, subd. (a).) Complainant established the total enforcement and investigative costs incurred in this matter of $3,786.95 are reasonable. (Factual Findings 44-46.)

23. The Board must exercise its discretion to reduce or eliminate cost awards in order to not deter licensees with meritorious claims or defenses from exercising their right to a hearing and must not assess full costs when to do so would unfairly penalize the respondent. (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45.) Factors to be considered in determining whether the Board must assess the full costs sought include: the licentiate's success in getting the charges dismissed or reduced; the licentiate's subjective good faith belief in the merits of his or her position; whether the licentiate raised a colorable challenge to the proposed discipline; the licentiate's financial ability to pay; and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Ibid.*)

24. Complainant established the scope of the investigation was appropriate in light of the alleged misconduct. Respondent did not dispute the amount of complainant's enforcement or investigative costs. Respondent has not been successful in getting the charges dismissed or reduced. Respondent had a subjective good faith belief in the merits of his position but did not raise colorable challenges to the proposed discipline. Respondent has agreed to pay the total costs but requests to do

so pursuant to a payment plan. Accordingly, respondent must pay the reasonable enforcement and investigation costs of $3,786.95 to the Department.

ORDER

1. All licensing rights of respondent Jose Manuel Roriguez under the Real Estate Law are revoked.

2. As a condition precedent to any reinstatement of his licenses under the Real Estate Law, Respondent Jose Manuel Rodriguez must pay the Department's investigation and enforcement costs of $3,786.95 at such time and in such manner as the Department may direct.

DATE: 06/02/2025

Chantal Sampogna (Jun 2, 2025 11:20 PDT)

CHANTAL M. SAMPOGNA

Administrative Law Judge

Office of Administrative Hearings