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11 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
12 OF THE STATE OF CALIFORNIA

13 In the Matter of:) NMLS LICENSE NO.: 233703
14)
15 THE COMMISSIONER OF FINANCIAL) ACCUSATION
PROTECTION AND INNOVATION,)
16)
Complainant,)
17)
18 v.)
19 MARK L. BRANDENBURGER,)
20 Respondent.)
21)
22)

23 Clothilde V. Hewlett, the Commissioner of Financial Protection and Innovation
24 (Commissioner), is informed and believes, and based on such information and belief, alleges and
25 charges Respondent Mark L. Brandenburger (Brandenburger) as follows.

26 I.

27 **Jurisdiction**

28 1. The Commissioner has jurisdiction over the licensing and regulation of persons

1 engaged in the business of making, servicing, or brokering residential mortgage loans, including
2 mortgage loan originators (hereinafter, MLO or MLOs), under the California Financing Law (CFL)
3 (Fin. Code, § 22000 et seq.) and the California Residential Mortgage Lending Act (CRMLA) (Fin.
4 Code, § 50000 et seq.). The Commissioner is authorized to administer the CFL, CRMLA, and the
5 rules and regulations promulgated in title 10 of the California Code of Regulations (CCR).

6 2. Brandenburger first received his MLO license from the Commissioner on June 3,
7 2020.

8 3. Since December 2019, Brandenburger has been the designated control person at Clear
9 Capital Mortgage, Inc., a CFL-licensed lender.

10 4. Under the provisions of Financial Code sections 22109.1, 22172, and 22755 of the
11 CFL, the Commissioner brings this action to revoke Brandenburger's MLO license because
12 Brandenburger violated the Nationwide Mortgage Licensing System and Registry (NMLS) student
13 Rules of Conduct (ROC) by using the services of Danny Yen, d/b/a Real Estate Educational Services
14 (REES) to complete his NMLS-approved online pre-licensure (PE) and/or continuing education (CE)
15 courses, which in turn constitutes a violation of the licensing requirements of the Department of
16 Financial Protection and Innovation under the CFL and under federal law. Specifically,
17 Brandenburger used and compensated REES to complete one course during 2020 on his behalf. All
18 of the courses for which Brandenburger received course credit were completed by REES through an
19 IP address associated with REES.

20 II.

21 Statement of Facts

22 *NMLS Pre-Licensing and Continuing Education*

23 5. The State Regulatory Registry LLC (SRR), which owns and operates the NMLS,
24 administers PE and CE and Uniform State Test protocols. Title V of Public Law 110-289, the Secure
25 and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act), requires that state-
26 licensed MLOs complete PE prior to initial licensure and annual CE thereafter. (See Fin. Code, §§
27 22109.2 and 22109.5.)

28 6. In order to meet PE requirements contemplated under the SAFE Act, state-licensed

1 MLOs must complete 20 hours of NMLS–approved education. (Fin. Code, § 22109.2.)

2 7. In order to meet CE requirements contemplated under the SAFE Act, state-licensed
3 MLOs must complete eight hours of NMLS–approved education. (Fin. Code, § 22109.5.)

4 *REES*

5 8. REES, NMLS course provider number 1405046, was an NMLS–approved course
6 provider during the years 2017 to 2020.

7 9. The NMLS had approved REES to offer one in-person 8-hour “DBO-SAFE Act
8 Comprehensive: Mortgage Continuing Education” course.

9 10. REES was never approved by the NMLS to offer online PE or CE to MLOs.

10 11. During all times relevant herein, REES had its primary place of business located at
11 3643 Adams Street, Carlsbad, California.

12 12. During all times relevant herein, REES, by and through Danny Yen, maintained with
13 his Internet Service Provider an IP address at 76.88.84.139 (the IP Address). The IP Address assigned
14 to Danny Yen is associated with REES’ business address, 3643 Adams Street, Carlsbad, California.

15 *REES Investigation*

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

20 14. The AAP also extends administrative authority to the MTEB and SRR to investigate
21 alleged violations of the NMLS Standards of Conduct (SOC), which apply to all NMLS–Approved
22 course providers.

23 15. In late 2020, SRR obtained information concerning suspicious activity and that that
24 information identified a possible MLO education cheating scheme coordinated by and implemented
25 through REES and its owners and operators, including Danny Yen. Based on that information, and
26 pursuant to the AAP, SRR initiated an investigation into the matter.

27 *Findings of SRR and Department of Financial Protection & Innovation Investigation*

28 16. On or about December 15, 2020, SRR staff received a “suspicious relations” report

1 involving suspected individuals completing online NMLS–approved education courses on behalf of
2 another.

3 17. Subsequent SRR research found at least 113 education students associated with taking
4 online PE and/or CE courses from the IP Address in Carlsbad, California (the SRR report).

5 18. Brandenburger was identified in the SRR report as one of the 113 students that had
6 completed PE and/or CE from the IP Address in Carlsbad, California and who received NMLS
7 course credit.

8 19. The Commissioner has determined that the IP Address in question belonged to Danny
9 Yen, REES’ owner and operator.

10 20. Brandenburger neither resides nor works at 3643 Adams Street, Carlsbad, California,
11 the physical address associated with the IP Address identified by the Commissioner as belonging to
12 REES.

13 21. Based upon the results of the SRR report and the IP Address information, it was
14 determined that Brandenburger had used the services of REES and compensated REES to complete
15 one class during 2020 in violation of the ROC.

16 22. The ROC provides in relevant part:

17
18 ROC 4: I will not divulge my login ID or password or other login
19 credential(s) to another individual for any online course.

20
21 ROC 5: I will not seek or attempt to seek outside assistance to complete
22 the course.

23
24 ROC 9: I will not engage in any conduct that is dishonest, fraudulent,
25 or would adversely impact the integrity of the course(s) I am
26 completing and the conditions for which I am seeking licensure or
27 renewal of licensure.

28 23. By using the services of another to complete his PE and/or CE, Brandenburger
violated ROC 4, 5, and 9, and engaged in conduct that was dishonest, fraudulent, and that adversely
impacted the integrity of the courses Brandenburger completed and the conditions and qualifications
for which Brandenburger sought licensure or renewal of licensure.

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III.

Violations of the CFL

24. The Commissioner may revoke an MLO license if a licensee violates any provision of the CFL, or any rules or regulations adopted thereunder. (Fin. Code, § 22172, subd. (a)(1).)

25. As described in paragraphs 13. through 23., above, Brandenburger used another to complete his PE and/or CE in violation of the ROC. In using another to complete his required education, Brandenburger violated Financial Code section 22755, subdivisions (b), (g), (h), and (j), which provide in pertinent part:

It is a violation of this division for a mortgage loan originator to do any of the following:

(b) Engage in any unfair or deceptive practice toward any person.

(g) Fail to make disclosures as required by this division and any other applicable state or federal law, including regulations thereunder.

(h) Fail to comply with this division or rules or regulations promulgated under this division or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this division.

(j) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the [NMLS] or in connection with any investigation conducted by the commissioner or another governmental agency.

26. Thus, Brandenburger violated provisions of the CFL, and under Financial Code section 22172, subdivision (a)(1), Brandenburger’s MLO license must be revoked.

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IV.

Financial Responsibility, Character, and General Fitness

27. The Commissioner must deny a MLO license if the licensee fails to meet the minimum criteria for licensure, which includes a requirement that the applicant “has demonstrated such financial responsibility, character and general fitness as to command the confidence of the community and to warrant a determination that the [MLO] will operate honestly, fairly, and efficiently within the purposes of this division.” (Fin. Code, § 22109.1, subd. (a)(3).)

28. As described in paragraphs 13. through 23., above, Brandenburger violated ROC 4, 5, and 9 by using the services of another, REES, to complete his PE and/or CE during 2020.

29. In violating the ROC by using the services of another to complete his PE and/or CE, Brandenburger does not meet the minimum criteria for licensure under the CFL and corresponding federal law, and his license must be revoked.

V.

Applicable Statutes

30. Financial Code section 22109.1 provides in pertinent part:
(a) The commissioner shall deny an application for a mortgage loan originator license unless the commissioner makes, at a minimum, the following findings:

(3) The applicant has demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that the [MLO] will operate honestly, fairly, and efficiently within the purposes of this division.

31. Financial Code section 22172 provides in pertinent part:
(a) The commissioner may do one or more of the following:
(1) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license for a violation of this division, or any rules or regulations adopted thereunder.
(2) Deny, suspend, revoke, condition, or decline to renew a [MLO] license if an applicant or licensee fails at any time to meet the

1 requirements of [state statute], or withholds information or makes a
2 material misstatement in an application for a license or license renewal.

3 **V.**

4 **Prayer**

5 For the reasons set forth above and under Financial Code section 22172, subdivisions (a)(1)
6 and (a)(2), the Commissioner finds that Brandenburger participated in an education fraud scheme by
7 using REES to complete his online PE and/or CE coursework in violation of the ROC and Financial
8 Code section 22755, subdivisions (b), (g), (h), and (j). Furthermore, Brandenburger has not
9 demonstrated the financial responsibility, character, and general fitness required under Financial
10 Code section 22109.1, subdivision (a)(3) of the CFL to continue to hold an MLO license.

11 Accordingly, the Commissioner has grounds to revoke Brandenburger’s MLO license under
12 Financial Code section 22712, subdivision (a)(2).

13 WHEREFORE IT IS PRAYED that the MLO license issued to Mark L. Brandenburger be
14 revoked.

15 Dated: December 20, 2021
16 Los Angeles, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection &
Innovation

18 By: _____
19 Allard C Chu
20 Senior Counsel
21 Enforcement Division
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