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

14
 15 In the Matter of:) NMLS Course Provider ID: 1405046
)
 16 THE COMMISSIONER OF FINANCIAL)
 PROTECTION AND INNOVATION,) CITATION AND DESIST AND REFRAIN
 17) ORDER
 Complainant,)
)
 18 v.)
)
 19 DANNY YEN, d/b/a REAL ESTATE)
 EDUCATIONAL SERVICES,)
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 20 Respondent.)
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1 Complainant, the Commissioner of Financial Protection and Innovation for the State of
2 California (Commissioner), is informed and believes as follows.

3 **I.**

4 **FACTUAL BACKGROUND**

5 1. The Commissioner is the head of the Department of Financial Protection and
6 Innovation (Department) and is responsible for administering and enforcing the California Financing
7 Law (Fin. Code, § 22000 et seq.) and the California Residential Mortgage Lending Act (Fin. Code, §
8 50000 et seq.). In this role, the Commissioner is responsible for enforcing the education and licensing
9 requirements for residential mortgage loan origination.

10 2. Danny Yen is an individual in the state of California who offered education courses to
11 mortgage loan originators (MLO or MLOs) licensed by the Department. Operating under a fictitious
12 business name of Real Estate Educational Services (REES, collectively Yen), Yen was approved by
13 the Nationwide Mortgage Licensing System and Registry (NMLS) as a course provider with a course
14 provider identification number of 1405046 during the years 2017 to 2020.

15 3. In the wake of the 2007 subprime mortgage crisis, Congress passed the Secure and
16 Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) in 2008 to regulate the mortgage
17 industry and to better protect consumers. The SAFE Act mandated a nationwide licensing and
18 registration system for MLOs.

19 4. California subsequently adopted provisions of the SAFE Act under the California
20 Financing Law and California Residential Mortgage Lending Act.

21 5. As part of the regulatory scheme, the SAFE Act established that the NMLS is to set
22 the education standards for MLOs. The SAFE Act governs both the standards for education courses
23 offered to MLOs as well as the MLOs' educational requirements that the MLOs must satisfy to
24 ensure that they are properly educated prior to originating loans or negotiating terms with consumers.

25 6. Under the authority granted by the SAFE Act to set standards for course approval, the
26 NMLS enacted a Standards of Conduct for Approved Course Providers (SOC) by which all course
27 providers must abide. As part of the SOC, course providers must satisfy the NMLS Approved Course
28 Data and Document Retention Policy (Document Retention Policy). Accordingly, course providers

1 agree to maintain all records relating to their NMLS-approved courses for the preceding five years,
2 including executed sign-in sheets and student signed NMLS Rules of Conduct (ROC)

3 Acknowledgements.

4 7. Subsection 2(D) of the SOC, which is agreed to by course providers such as Yen,
5 specifically states:

6 Credits may only be banked for students who have actually completed a
7 course. It will be considered a violation of the Standards of Conduct and
8 will be considered fraud if an Approved Course Provider reports credits
completed for a student who has not completed the entire course.

9 8. Subsection 3(B) of the SOC provides, in part:

10 Approved course providers and their instructors are prohibited from
11 engaging in any unlawful, misleading, or unethical activities or from
engaging in any activity of moral turpitude under federal or state law.

12 9. It is under this regulatory framework that Yen was approved by the NMLS to teach an
13 eight-hour, live, in-person course on the SAFE Act to MLOs. Yen purportedly taught or conducted
14 56 eight-hour classes on the SAFE Act from 2017 to 2020. As part of the approval and renewal
15 process for the course, Yen executed documents attesting to his adherence to the SOC.

16 10. In late 2020, the Mortgage Testing and Education Board (MTEB) of the State
17 Regulatory Registry LLC (SRR), a wholly owned subsidiary of the Conference of State Bank
18 Supervisors (CSBS), obtained information about suspicious activity that indicated a possible MLO
19 education cheating scheme coordinated by and implemented through Yen. SRR owns and operates
20 the NMLS, which approves the education course providers and the courses offered by the education
21 course providers.

22 11. The SRR's Investigative Review Committee (IRC) approved opening and pursuing an
23 investigation into the possible cheating schemes conducted by Yen. The IRC's investigation included
24 requesting Yen produce copies of the required records for his 56 classes purportedly conducted
25 between 2017 and 2020. Although Yen told an IRC investigator that he had those records, he never
26 provided them to the IRC.

27 12. In addition to Yen's agreement to the SOC, all MLO students are required to sign the
28 ROC Acknowledgement at the start of an education course. The ROC Acknowledgement sets out the

1 rules that the MLOs are required to follow, and the MLOs attest, in part:

- 2 1. I attest that I am the person who I say I am and that all my course
- 3 registration information is accurate.
- 4 . . .
- 5 3. I understand that the SAFE Act and state laws require me to spend a
- 6 specific amount of time in specific subject areas. Accordingly, I will not
- 7 attempt to circumvent the requirements of any NMLS approved course.
- 8 4. I will not divulge my login ID or password or other login credential(s)
- 9 to another individual for any online course.
- 10 5. I will not seek or attempt to seek outside assistance to complete the
- 11 course.
- 12 . . .
- 13 8. I will not engage in any conduct that would be contrary to good
- 14 character or reputation, or engage in any behavior that would cause the
- 15 public to believe that I would not operate in the mortgage loan business
- 16 lawfully, honestly or fairly.
- 17 9. I will not engage in any conduct that is dishonest, fraudulent, or would
- 18 adversely impact the integrity of the course(s) I am completing and the
- 19 conditions for which I am seeking licensure or renewal of licensure.

20 13. Through its investigation, the IRC believed that Yen had intentionally and with
21 knowledge of the falsity, provided course credit to MLOs who had allegedly completed an eight-hour
22 in-person continuing education (CE) course in Southern California (the In-person Education Fraud
23 Scheme), and that Yen took online pre-licensure education (PE) and/or CE courses on behalf of
24 numerous MLOs (the Online Education Fraud Scheme and collectively with the In-person Fraud
25 Scheme are referred to as the Education Fraud Schemes).

26 14. Based on the initial findings of the IRC, this matter was referred from the IRC for
27 further investigation and possible enforcement action. Consequently, the CSBS Non-Depository
28 Supervisory Committee (NDSC) authorized the creation of a regulator taskforce to coordinate the
multi-state investigation and enforcement activity in this matter (REES Regulatory Taskforce).

15. The Department was designated as the lead agency for the REES Regulatory
Taskforce. The REES Regulatory Taskforce engaged in additional investigatory work that included
requests for documentation and statements from Yen and implicated MLOs regarding the facts and

1 circumstances concerning the Education Fraud Schemes.

2 16. During the course of the investigation, the Commissioner sought copies of all required
3 records that Yen was mandated to retain pursuant to the SOC and Document Retention Policy.

4 17. But Yen refused to cooperate and refused to produce records for his courses. Yen gave
5 factually questionable excuses for his inability to produce the required records. Such excuses
6 included statements that a flood had occurred at his residence in Carlsbad, California, in early 2018,
7 which destroyed the requested records. However, Yen had previously attested that the records were
8 maintained at his business in Westminster, California. More importantly, a flood in 2018 could not
9 have destroyed records from 2019 and 2020.

10 18. Ultimately, upon the Commissioner's obtaining of a court order, Yen attested that he
11 did not have any required records evidencing that any of the 56 purported courses ever took place.

12 19. Separately, the REES Regulatory Taskforce communicated with the hundreds of
13 MLOs implicated in the Education Fraud Schemes. Hundreds of the MLOs were forthright in
14 disclosing that they received course credit from Yen despite having never attended or completed the
15 courses.

16 20. MLOs further provided evidence that Yen received payments for education courses
17 that he was not approved to teach. These payments were several times higher than the normal rate for
18 such education courses. MLOs stated that Yen would sign up for the education courses from other
19 course providers and pretend to be the MLO in order to complete the course. Yen would then send
20 the certificate of completion to the MLO.

21 21. Consequently, MLOs did not attend all of the requisite education courses for their
22 licensure requirements.

23 **II.**

24 **FINDINGS**

25 22. On information and belief, the Commissioner finds as follows:

26 23. That Yen knowingly and actively coordinated with at least 606 MLOs from across the
27 United States, of whom 187 were licensed by the Department, to implement the Education Fraud
28 Schemes during the relevant time period of 2017 through 2020. MLOs coordinated with and paid

1 Yen to take courses on behalf of MLOs under the Online Education Fraud Scheme. Additionally,
2 MLOs used Yen to obtain course credits for courses that the MLOs did not attend under the In-person
3 Education Fraud Scheme.

4 24. That Yen fraudulently completed PE and/or CE requirements on behalf of the MLOs
5 in violation of federal and state law under both the In-person Education Fraud Scheme and the Online
6 Education Fraud Scheme. Yen uploaded course credit hours to the NMLS for courses that he knew
7 the MLOs never attended under the In-person Education Fraud Scheme. Under the Online Education
8 Fraud Scheme, Yen obtained course credit banked hours for MLOs by taking and completing courses
9 on the MLOs' behalf for elevated fees.

10 25. That Yen received payments from MLOs that were deposited into REES' and Yen's
11 bank accounts in exchange for Yen's services in the MLO Education Fraud Schemes. Of note,
12 Wendy Yen, Yen's spouse, was also a signatory to at least one REES bank account that received such
13 monetary payments. These payments were made to Yen by various methods including, but not
14 limited to, cash payments, Zelle transfers, Venmo transfers, and checks.

15 26. That, under the Online Education Fraud Scheme, Yen fraudulently completed PE and
16 CE courses on behalf of MLOs from his Carlsbad residential address with an Internet Protocol (IP)
17 address of 76.88.84.139, which Yen had leased from Charter Communications during the relevant
18 time period of 2017 through 2020. The MLOs were not physically present at the Carlsbad address
19 and did not take, participate in, or complete the PE and CE courses at or from the Carlsbad address.
20 Yen completed 319 courses for MLOs licensed by the Department.

21 27. That, under the In-person Education Fraud Scheme, Yen gave banked credit hours for
22 course credit corresponding to completion of eight hours of NMLS-approved education. Yen falsely
23 and with knowledge and intent to deceive provided credit to MLOs for the REES NMLS-approved
24 course but Yen did not actually teach the course. At no point did Yen ever teach the REES NMLS-
25 approved course. Yen did not require MLOs to attend a course for eight hours of instruction in order
26 to receive course credit. Yen did not require MLOs to sign ROC Acknowledgements. Yen did not
27 require MLOs to take a graded final exam. Effectively, the MLOs were provided education credit for
28 pay without completing any actual education or coursework. All MLOs that received banked credit

1 hours for the REES NMLS-approved course obtained course credit without having ever attended the
2 class. Yen provided credit banked hours for 417 courses for MLOs licensed by the Department.

3 28. That Yen knowingly and willfully aided and abetted MLOs in violating the ROC and
4 the CFL by participating in the MLO Education Fraud Schemes.

5 29. That Yen knowingly and willfully aided and abetted the MLOs that participated in the
6 Education Fraud Schemes with violating state and federal laws concerning the completion of certain
7 PE and/or CE requirements.

8 30. That Yen knowingly and willfully violated the NMLS course provider SOC by
9 fraudulently obtaining course credits for MLOs.

10 31. That Yen knowingly and willfully violated the NMLS course provider SOC by failing
11 to maintain and produce required records associated with the granting of course credits for 56
12 purported REES courses.

13 32. That by knowingly and willingly coordinating and implementing the Education Fraud
14 Schemes, Yen violated the SOC, federal law, and California law.

15 **III.**

16 **DESIST AND REFRAIN ORDER**

17 33. Financial Code section 22109.2 provides in relevant part:

18 (a) An applicant for a mortgage loan originator license shall complete at
19 least 20 hours of education approved in accordance with subdivision (b).

20 . . .

21 (b) For purposes of subdivision (a), prelicensing education courses shall
22 be reviewed and approved by the Nationwide Mortgage Licensing System
23 and Registry. Review and approval of a prelicensing education course
24 shall include review and approval of the course provider.

25 . . .

26 (d) Prelicensing education may be offered either in a classroom, online, or
27 by any other means approved by the Nationwide Mortgage Licensing
28 System and Registry.

34. Financial Code section 22109.5 provides in relevant part:

(a) A licensed mortgage loan originator shall complete at least eight hours
of continuing education approved in accordance with subdivision (b).

. . .

(b) For purposes of this section, continuing education courses shall be
reviewed and approved by the Nationwide Mortgage Licensing System

1 and Registry. Review and approval of a continuing education course shall
2 include review and approval of the course provider.

3 . . .
4 (d) Continuing education may be offered in a classroom, online, and by
5 any other means approved by the Nationwide Mortgage Licensing System
6 and Registry.

7 35. Based on the foregoing findings, the Commissioner is of the opinion that Yen willfully
8 and knowingly gave course credit to MLOs without offering education by means approved by the
9 NMLS. The Commissioner is also of the opinion that Yen willfully and knowingly obtained course
10 credit for MLOs through fraudulent misrepresentation by taking education courses on behalf of
11 MLOs. In doing so, Yen violated the requirements that education courses be provided and completed
12 in the means or formats approved by the NMLS.

13 36. Financial Code section 22712, subdivision (a) provides:

14 Whenever, in the opinion of the commissioner, any person . . . violates
15 any provision of this division, any provision of an order, or any
16 regulation adopted pursuant to this division, the commissioner may
17 order that person or licensee to desist and to refrain from engaging in
18 the business or further continuing that violation. In addition, the
19 commissioner may include a claim for ancillary relief. The ancillary
20 relief may include, but not be limited to, refunds, restitution or
21 disgorgement, or damages on behalf of the persons injured by the act or
22 practice constituting the subject matter of the action. If, within 30 days
23 after the order is served, a written request for a hearing is filed and no
24 hearing is held within 30 days thereafter, the order is rescinded. For
25 purposes of this section, "licensee" includes a mortgage loan originator.

26 37. Pursuant to Financial Code section 22712, subdivision (a), Yen is hereby ordered to
27 desist and refrain from further violations of the California Financing Law, including sections 22109.2
28 and 22109.5.

38. This order is necessary, in the public interest, for the protection of the general public
and mortgage consumers, and consistent with the purposes, policies, and provisions of the California
Financing Law.

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IV.
CITATION

39. Financial Code section 22707.5 provides in relevant part:

(a) If, upon inspection, examination, or investigation, the commissioner has cause to believe that a . . . person is violating any provision of this division or any rule or order thereunder, the commissioner or his or her designee, may issue a citation to the . . . person in writing, describing with particularity the basis of the citation . . . In addition, each citation may assess an administrative fine not to exceed two thousand five hundred dollars (\$2,500) [.]

(b) Notwithstanding subdivision (a), nothing in this section shall prevent the commissioner from issuing an order to desist and refrain from engaging in a specific business or activity or activities, or an order to suspend all business operations to a person or licensee who is engaged in or who has engaged in continued or repeated violations of this division. In any of these circumstances, the sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.

(c) If, within 30 days from the receipt of the citation, the licensee or person cited fails to notify the department that they intend to request a hearing as described in subdivision (d), the citation shall be deemed final.

(d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code[.]

40. Based on the foregoing, the Commissioner is of the opinion that Yen willfully and knowingly violated the California Financing Law by fraudulently granting course credit to MLOs when the MLOs did not attend nor complete said courses. In doing so, Yen violated the requirements that education courses be provided and completed in their means or formats approved by the NMLS. The Commissioner is of the opinion that Yen willfully and knowingly gave or obtained fraudulent course credit under the In-person Education Fraud Scheme to MLOs on 417 separate occasions. The Commissioner hereby assesses Yen administrative fines of \$1,042,500 pursuant to Financial Code section 22707.5, subdivision (a).

41. Yen is hereby ordered to pay the Commissioner an administrative fine of \$1,042,500

1 for the above citation within 30 days from the date of this citation. Yen shall pay this fine with a
2 cashier’s check made payable to the Department of Financial Protection and Innovation and shall
3 submit that check to the following address within thirty (30) days from the date of this citation:
4 Accounting – Litigation, Department of Financial Protection and Innovation, 2101 Arena Boulevard,
5 Sacramento, California 95834-2036. Notice of the payment shall be sent to: Blaine Noblett, Senior
6 Counsel, Department of Financial Protection and Innovation, 320 W. 4th Street, Suite 750, Los
7 Angeles, California 90013.

8 Dated: January 14, 2022
9 Los Angeles, CA

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and
Innovation



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11 By: _____
12 MARY ANN SMITH
13 Deputy Commissioner
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