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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.: 308196  
14 THE COMMISSIONER OF FINANCIAL ) ACCUSATION  
PROTECTION AND INNOVATION, )  
15 )  
16 Complainant, )  
17 v. )  
18 DAVID WESTLEY, )  
19 Respondent. )  
20 )  
21 )

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

25 I.

26 **Jurisdiction**

27 1. The Commissioner has jurisdiction over the licensing and regulation of persons  
28 engaged in the business of making, servicing, or brokering residential mortgage loans, including

1 mortgage loan originators (hereinafter, MLO or MLOs), under the California Financing Law (CFL)  
2 (Fin. Code, § 22000 et seq.) and the California Residential Mortgage Lending Act (CRMLA) (Fin.  
3 Code, § 50000 et seq.). The Commissioner is authorized to administer the CFL, CRMLA, and the  
4 rules and regulations promulgated in title 10 of the California Code of Regulations (CCR). The  
5 Commissioner has continuous authority to exercise the powers authorized by the CFL and CRMLA  
6 even after a license has been surrendered, suspended, or revoked.

7           2. Westley first received his MLO license from the Commissioner on May 21, 2013.

8           3. Westley currently holds an Approved-Inactive MLO license.

9           4. Under the provisions of Financial Code sections 22109.1, 22172, and 22755 of the  
10 CFL, the Commissioner brings this action to revoke Westley’s MLO license because Westley  
11 violated the Nationwide Mortgage Licensing System and Registry (NMLS) student Rules of Conduct  
12 (ROC) by using the services of Danny Yen, d/b/a Real Estate Educational Services (REES) to  
13 complete his NMLS-approved continuing education (CE) course, which in turn constitutes a violation  
14 of the licensing requirements of the Commissioner under the CFL as provided below.

15           5. Specifically, Westley used and compensated REES to obtain credit through an in-  
16 person education fraud scheme (the in-person fraud scheme). Under the in-person fraud scheme,  
17 Westley paid REES to annually report completion of an in-person course for one year in 2020. REES  
18 did not teach the in-person course and Westley never attended the in-person course nor completed the  
19 required test or course work to receive course credit.

20   **II.**

21   **Statement of Facts**

22           *NMLS Pre-Licensing and Continuing Education*

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

28           7. 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 8. In order to meet CE requirements contemplated under the SAFE Act, state-licensed  
3 MLOs must complete eight hours of NMLS–approved education on an annual basis. (Fin. Code, §  
4 22109.5.)

5 *REES*

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

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

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

11 12. During all times relevant herein, REES had its primary place of business located at  
12 3643 Adams Street, Carlsbad, California.

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

16 *REES Investigation*

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

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

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

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

2 17. On or about December 15, 2020, SRR staff received a “suspicious relations” report  
3 involving suspected individuals completing online NMLS–approved education courses on behalf of  
4 another.

5 18. Subsequent SRR research found at least 113 education students associated with taking  
6 online PE and/or CE courses from the IP Address in Carlsbad, California that was associated with  
7 REES (the SRR report).

8 19. Additional investigation also disclosed that REES fraudulently provided course credit  
9 to MLOs who had never attended and completed REES’ 8-hour in-person CE course in Westminster,  
10 California under the in-person fraud scheme.

11 20. Westley was identified in NMLS records as receiving course credit for REES’ 8-hour  
12 in-person CE course in 2020. And it was determined that the course in which Westley enrolled had  
13 never taken place and that Westley never attended an in-person course corresponding to the course  
14 credits that he received from REES. Consequently, Westley never took a knowledge examination  
15 required for course credit. It was determined that Westley had used REES to obtain one year of  
16 course credits in 2020 in violation of the ROC under the in-person fraud scheme.

17 21. The ROC provide in relevant part:

18 ROC 3: I understand that the SAFE Act and state laws require me to  
19 spend a specific amount of time in specific subject areas. Accordingly,  
20 I will not attempt to circumvent the requirements of any NMLS  
approved course.

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

23 ROC 5: I will not seek or attempt to seek outside assistance to complete  
24 the course.

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

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1 22. By paying for fraudulent course credits through a non-existent course, Westley  
2 violated ROC 3, 4, 5, and 9, and engaged in conduct that was dishonest, fraudulent, and that  
3 adversely impacted the integrity of the course Westley completed and the conditions and  
4 qualifications for which Westley sought licensure or renewal of licensure.

5 **III.**

6 **Violations of the CFL**

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

9 24. As described in paragraphs 19 through 20, Westley used REES to obtain one year of  
10 course credits in 2020 under the in-person fraud scheme. In falsely obtaining course credits through  
11 an in-person course that he never attended, Westley violated Financial Code section 22755,  
12 subdivisions (b), (g), (h), and (j), which provide in pertinent part:

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

15 . . .

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

17 . . .

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

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

24 . . .

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

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

IV.

**Financial Responsibility, Character, and General Fitness**

26. The Commissioner must deny an 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).)

27. As described in paragraphs 19 through 20, above, Westley violated ROC 3, 4, 5, and 9 by using REES to falsely obtain course credits through an in-person course that he never attended for the year 2020.

28. In violating the ROC by using REES to falsely obtain course credits through an in-person course that he never attended for the year 2020, Westley does not meet the minimum criteria for licensure under the CFL and his license must be revoked under Financial Code section 22172, subdivision (a)(2).

V.

**Applicable Statutes**

29. 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.

30. Financial Code section 22172 provides in pertinent part:  
 (a) The commissioner may do one or more of the following:

1 (1) Deny, suspend, revoke, condition, or decline to renew a mortgage  
2 loan originator license for a violation of this division, or any rules or  
3 regulations adopted thereunder.

4 (2) Deny, suspend, revoke, condition, or decline to renew a [MLO]  
5 license if an applicant or licensee fails at any time to meet the  
6 requirements of Section 22109.1 or 22109.4, or withholds information  
7 or makes a material misstatement in an application for a license or  
8 license renewal.

9 **VI.**

10 **Prayer**

11 For the reasons set forth above, the Commissioner finds that Westley participated in the in-  
12 person fraud scheme in violation of the ROC and Financial Code section 22755, subdivisions (b), (g),  
13 (h), and (j). Furthermore, Westley has not demonstrated the financial responsibility, character, and  
14 general fitness required under Financial Code section 22109.1, subdivision (a)(3) of the CFL to  
15 continue to hold an MLO license.

16 Accordingly, the Commissioner has grounds to revoke Westley’s MLO license under  
17 Financial Code section 22172, subdivisions (a)(1) and (a)(2).

18 WHEREFORE IT IS PRAYED that the MLO license issued to David Westley be revoked.

19 Dated: April 18, 2022

20 Los Angeles, California

21 CLOTHILDE V. HEWLETT  
22 Commissioner of Financial Protection &  
23 Innovation

24 By: \_\_\_\_\_  
25 Allard Chu  
26 Senior Counsel  
27 Enforcement Division  
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