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10 Attorneys for Complainant

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

13 In the Matter of:)
14) NMLS LICENSE NO.: 308196
15 THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,) SETTLEMENT AGREEMENT
16)
Complainant,)
17)
18 v.)
19 DAVID WESTLEY,)
20 Respondent.)
21)
22)

23 This Settlement Agreement (the Settlement Agreement) is entered into between the
24 Commissioner of Financial Protection and Innovation (Commissioner) and David Westley
25 (Respondent) and is made with respect to the following facts.

26 I.

27 Recitals

28 A. 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 (MLO or MLOs), under the California Financing Law (CFL) (Fin. Code, §
3 22000 et seq.) and the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000
4 et seq.).

5 B. Respondent first received an MLO license from the Commissioner on May 21, 2013.

6 C. The Commissioner issued Respondent her notice of intention and accusation to revoke
7 Respondent's MLO license on April 18, 2022, during which time Respondent maintained an
8 approved-inactive MLO license.

9 D. Under the provisions of Financial Code sections 22109.1, 22172, and 22755 of the
10 CFL, the Commissioner sought to revoke Respondent's MLO license because Respondent violated
11 the Nationwide Mortgage Licensing System and Registry (NMLS) student Rules of Conduct (ROC)
12 by using the services of Danny Yen, d/b/a Real Estate Educational Services (Yen) to complete
13 Respondent's NMLS-approved continuing education (CE) courses, which in turn was a violation of
14 the MLO licensing requirements under the CFL.

15 E. Specifically, Respondent used and compensated Yen to obtain course credit through
16 an in-person education fraud scheme (education fraud scheme). Under the education fraud scheme,
17 Respondent paid Yen to report completion of an in-person course for the year 2020. Yen did not
18 teach the in-person course and Respondent never attended the in-person course nor completed the
19 course work or test, which Respondent was required to complete in order to receive course credit.

20 F. The Commissioner has made the following findings of relevant facts, which include
21 but are not limited to:

22 1. That Respondent was a knowing and active participant in the education fraud
23 scheme coordinated by and implemented by and through Yen;

24 2. That Respondent in fact had CE requirements completed by Yen on
25 Respondent behalf in violation of the CFL and federal law;

26 3. That by participating in the education fraud scheme coordinated by and
27 implemented through Yen, Respondent had in fact violated the ROC; and
28

1 reconsideration, appeal, or other rights which may be afforded Respondent under the CFL, the
2 Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.), the Code of Civil Procedure
3 (CCP) (Code Civ. Proc., § 1 et seq.), or any provision of law in connection with this matter.

4 4. Administrative Penalty. Respondent shall pay to the Commissioner an administrative
5 penalty of \$1,000.00 (the Penalty). The Penalty shall be due prior to or concurrent with the execution
6 of the Settlement Agreement and should be made payable to the Commissioner in the form of a
7 cashier's check or Automated Clearing House deposit and transmitted to the attention of Accounting
8 – Enforcement Division, Department of Financial Protection & Innovation, 2101 Arena Boulevard,
9 Sacramento, California 95834. Notice of such payment shall promptly be sent to the attention of
10 Allard Chu, Senior Counsel, at allard.chu@dfpi.ca.gov. Should Respondent fail to execute the
11 Settlement Agreement by August 1, 2022, but execute the agreement after August 1, 2022, the
12 Penalty shall increase to \$3,000.00 and shall be due prior to or concurrent with the execution of the
13 Settlement Agreement.

14 5. Surrender of License. Respondent hereby agrees, as a resolution of this matter, to
15 voluntarily surrender Respondent's MLO license to the Commissioner. No later than seven calendar
16 days after the Effective Date of the Settlement Agreement, Respondent shall complete all necessary
17 steps to surrender Respondent's MLO license to the Commissioner.

18 6. Stipulation Not to Apply for an MLO License for Six Months. Respondent further
19 agrees, as a resolution of this matter, that Respondent will not apply for a new MLO license from
20 the Commissioner for a period of six months from the Effective Date of this Agreement. Should
21 Respondent apply for such a license during that six-month period, that license application, as
22 consented to by Respondent herein, shall be deemed denied and Respondent waives any hearing
23 rights Respondent may have to contest such denial under the CFL, CRMLA, APA, CCP, or any
24 other provision of law in connection with this matter.

25 7. Education. Prior to the submission of an application for a new MLO license,
26 Respondent must complete the following MLO education requirements (the education provision):

27 a. Twenty hours of non-state-specific NMLS-approved PE, which shall consist
28 of 14 hours of federal law curriculum, three hours of ethics curriculum, and three hours of non-

1 traditional mortgage lending curriculum. None of these 20 hours of PE may be state-specific
2 curriculum; and

3 b. Eight hours of non-state-specific NMLS-approved CE, which shall consist of
4 four hours of federal law curriculum, two hours of ethics curriculum, and two hours of non-
5 traditional mortgage lending curriculum. None of these eight hours of CE may be state-specific
6 curriculum.

7 c. Respondent may not take any of the PE or CE provided for under the
8 Settlement Agreement in an online self-study format (OSS).

9 d. Respondent further agrees that in order to receive the course credit under the
10 Settlement Agreement, Respondent must complete the courses in one of a traditional classroom
11 format; classroom equivalent (live webinar) format; or an online instructor-led format. The formats
12 require that the instructor be able to see the Respondent, verify the Respondent's identity, and
13 confirm that the Respondent is present throughout the entirety of the course.

14 e. For a period three years from the Effective Date of the Settlement
15 Agreement, Respondent shall be required to complete any additional required PE and/or CE in a
16 format other than OSS.

17 f. Should Respondent apply for a new MLO license without having satisfied the
18 education provision as set forth in this paragraph, that license application, as consented to by
19 Respondent herein, shall be deemed denied and Respondent waives any hearing rights Respondent
20 may have to contest such denial under the CFL, CRMLA, APA, CCP, or any other provision of law
21 in connection with this matter.

22 8. New Application for Licensure. Any time after the six-month period has lapsed from
23 the Effective Date of the Settlement Agreement; Respondent has paid the Penalty as set forth in the
24 Settlement Agreement; and satisfied the education provision as set forth in the Settlement
25 Agreement, Respondent may apply for a new MLO license with the understanding that the
26 Commissioner reserves the right to fully investigate such application for licensure and may either
27 approve or deny such application pursuant to the normal process for such licensing investigations.
28 No license application described in this paragraph will be denied solely based on the facts,

1 circumstances, or consensual resolution provided for in the Settlement Agreement. Respondent
2 further acknowledges and agrees that Respondent must satisfy the education provision prior to
3 submitting an application for a new MLO license.

4 9. Revocation of License. To the extent that Respondent engages in similar activity,
5 which was the basis for the Settlement Agreement, Respondent affirmatively consents to the
6 immediate revocation of the impacted MLO license. Respondent further agrees to waive
7 Respondent's right to a hearing, and to any reconsideration, appeal, or other rights which may be
8 afforded Respondent to contest such revocation of the impacted license under the CFL, CRMLA,
9 APA, CCP, or any other provision of law, including the requirement that the Commissioner issue an
10 accusation under Government Code section 11415.60.

11 10. Full and Final Settlement. The parties hereby acknowledge and agree that the
12 Settlement Agreement is intended to constitute a full, final, and complete resolution of the activities
13 alleged in the Accusation as identified herein. No further proceedings or actions will be brought by
14 the Commissioner in connection with this matter, or any other provision of law, excepting any
15 proceeding to enforce compliance with the terms of the Settlement Agreement.

16 11. Information Willfully Withheld. The Settlement Agreement may be revoked, and the
17 Commissioner may pursue any and all remedies under the CFL against Respondent if the
18 Commissioner discovers Respondent knowingly or willfully withheld information or
19 misrepresented information used for and relied upon in this Settlement Agreement.

20 12. Assisting Other Agencies. The parties further acknowledge and agree that nothing in
21 the Settlement Agreement shall limit the Commissioner's ability to assist any other agency (city,
22 county, state, or federal) with any prosecution, administrative, civil, or criminal, brought by any
23 such agency against Respondent or any other person based upon any of the activities alleged in this
24 matter or otherwise.

25 13. Binding. The Settlement Agreement is binding on all heirs, assigns, or successors in
26 interest.

27 14. Waiver, Amendments, and Modifications. The waiver of any provision of the
28 Settlement Agreement shall not operate to waive any other provision set forth herein. No waiver,

1 amendment, or modification of this Settlement Agreement shall be valid or binding unless it is in
2 writing and signed by each of the parties.

3 15. Headings and Governing Law. The headings to the paragraphs of the Settlement
4 Agreement are inserted for convenience only and will not be deemed a part hereof or affect the
5 construction or interpretation of the provisions hereof. The Settlement Agreement shall be construed
6 and enforced in accordance with and governed by California law.

7 16. Full Integration. The Settlement Agreement is the final written expression and the
8 complete and exclusive statement of all the agreements, conditions, promises, representations, and
9 covenants between the parties with respect to the subject matter hereof, and supersedes all prior or
10 contemporaneous agreements, negotiations, representations, understandings, and discussions
11 between and among the parties, their respective representatives, and any other person or entity, with
12 respect to the subject matter covered hereby.

13 17. No Presumption Against Drafter. Each party acknowledges that he or she has had the
14 opportunity to draft, review, and edit the language of the Settlement Agreement. Accordingly, the
15 parties intend no presumption for or against the drafting party will apply in construing any part of
16 the Settlement Agreement. The parties waive the benefit of Civil Code section 1654 as amended or
17 corresponding provisions of any successor statute, which provide that in cases of uncertainty,
18 language of a contract should be interpreted most strongly against the party who caused the
19 uncertainty to exist.

20 18. Mandatory Disclosure in Future Applications. Respondent agrees to disclose the
21 Settlement Agreement in any application for a license, permit, or qualification under the
22 Commissioner's current or future jurisdiction.

23 19. Voluntary Agreement. Respondent enters into the Settlement Agreement voluntarily
24 and without coercion and acknowledges that no promises, threats, or assurances have been made by
25 the Commissioner, or any officer or agent thereof, about the Settlement Agreement.

26 20. Notice. Any notice required under the Settlement Agreement shall be provided to each
27 party at the following addresses:

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1 Respondent: David Westley
2 4950 Woodley
3 Encino, California 91436
4 dw4loans@gmail.com

4 Commissioner: Allard C Chu
5 Senior Counsel
6 Department of Financial Protection and Innovation
7 320 W. 4th Street, Suite 750
8 Los Angeles, California 90013
9 allard.chu@dfpi.ca.gov

8 21. Authority to Execute. Each signatory hereto covenants that he or she possesses all
9 necessary capacity and authority to sign and enter into the Settlement Agreement.

10 22. Signatures. A facsimile or electronic mail signature shall be deemed the same as an
11 original signature.

12 23. Public Record. Respondent hereby acknowledges that the Settlement Agreement is
13 and will be a matter of public record.

14 24. Effective Date. The Settlement Agreement shall become final and effective when
15 signed by all parties and delivered by the Commissioner’s agent via e-mail to Respondent at the
16 following email address: dw4loans@gmail.com.

17 IN WITNESS WHEREOF, the parties hereto have approved and executed this Settlement
18 Agreement on the dates set forth opposite their respective signatures.

19 CLOTHILDE V. HEWLETT
20 Commissioner of Financial Protection and
21 Innovation

22 Dated: July 29, 2022

23 By _____
24 MARY ANN SMITH
25 Deputy Commissioner
26 Enforcement Division

27 DAVID WESTLEY

28 Dated: July 25, 2022

By _____
DAVID WESTLEY, Respondent