

BEFORE THE
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
STATE OF CALIFORNIA

In the Matter of:

COMMISSIONER OF FINANCIAL PROTECTION
AND INNOVATION,

Complainant,

v.

JOHN A KROCHMAN,

Respondent.

Agency No. 169793

OAH No. 2022020415

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Department of Financial Protection and Innovation as its Decision in the above-entitled matter, with technical or other minor changes as shown on the attached Errata Sheet. The attached Errata Sheet is incorporated by reference pursuant to Government Code section 11517(c)(2)(C).

This Decision shall become effective on November 6, 2022

IT IS SO ORDERED THIS 7th day of October, 2022




Clothilde V. Hewlett
Commissioner of
Financial Protection and Innovation

ERRATA SHEET

(Changes to Proposed Decision - In the Matter of the First Amended Accusation against John A. Krochman, Respondent - OAH No. 2022020415)

- 1) On page 4 of the Proposed Decision, Paragraph Number 2, lines 2-3, delete "or, in the alternative, barring hi!TI from any employment as an MLO".
- 2) On page 4 of the Proposed Decision, Paragraph Number 6, line 1, delete "April 27, 2022," and insert instead "April 28, 2022".

**BEFORE THE
DEPARTMENT OF FINANCIAL PROTECTION AND
INNOVATION
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation Against:

JOHN A. KROCHMAN, Respondent.

NMLS License No. 278683

OAH No. 2022020415

PROPOSED DECISION

Thomas Lucero, Administrative Law Judge (AU), Office of Administrative Hearings, State of California, heard this matter by videoconference on June 8, 2022.

Blaine A. Noblett, Senior Counsel, and Allard C. Chu, Senior Counsel, Enforcement Division, Department of Financial Protection and Innovation (Department), State of California, represented complainant, Clothilde V. Hewlett, Commissioner of the Department. John A. Krochman, respondent, represented himself.

This matter concerns respondent's license as an MLO, a mortgage loan originator. Under Financial Code section 22013, subdivision (a): "Mortgage loan originator' means an individual who, for compensation or gain, or in the expectation of compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan."

Prehearing Motions

Preliminarily, after hearing the parties' arguments, the AU granted complainant's in limine motions: number one, to exclude respondent's argument that complainant is estopped from revocation of respondent's license due to its expiration, and number two, to exclude any written evidence of respondent's not previously produced in discovery.

Also preliminarily, the AU heard the parties' arguments for and against respondent's dismissal motion, entitled Special Appearance in Objection to Personal Jurisdiction; In the Alternative, Special Appearance and Demurrer for Failing to State a Claim Upon Which Relief May be Granted and Request to Dismiss. The dismissal motion urged that there was no jurisdiction to proceed because, first, respondent's license had lapsed and was therefore not subject to discipline, and second, the hearing was in violation of Financial Code section 22169, subdivision (b), in that it did not proceed within 30 days of receipt of respondent's request for a hearing.

The AU denied that part of the dismissal motion based on lapse of respondent's license.

The AU otherwise took respondent's dismissal motion under submission. Respondent then, before the presentation of evidence, stated that his counsel in marriage dissolution proceedings advised him not to testify in the administrative hearing and, if questioned, to exercise the right guaranteed by the Fifth Amendment of the United States Constitution of refusing to answer questions to avoid self-incrimination. Respondent then advised that he would leave the administrative hearing. The AU advised respondent that if he left, he would be deemed in default. The AU asked respondent if he understood. Respondent stated that he understood

what is meant by default and left the hearing. The matter then proceeded under Government Code section 11520.

Documents and testimony were received in evidence. The record closed and the matter was submitted for decision on June 8, 2022.

STATEMENT OF THE CASE

This matter is governed by the CFL, the California Financing Law, Division 9 of the Financial Code, sections 22000 through 22780.1. Respondent held an MLO license that lapsed in January 2022. In the three previous years respondent paid a course provider to make it appear, falsely, that he had attended courses and passed final examinations required by the CFL for license renewal. Respondent likewise paid another to make it appear, falsely, that he had completed courses and passed final examinations online required for renewal of his MLO license for practice in Arizona.

ISSUES

Whether respondent participated in a scheme to circumvent laws requiring that he complete educational courses and pass examinations required of a licensed MLO, such that his license is subject to revocation or other discipline.

FINDINGS OF FACT

1. On December 29, 2021, complainant served the initial Accusation in this matter.

2. Also on December 29, 2021, complainant served a Notice of Intention, stating that complainant would seek an order revoking respondent's MLO license or, in the alternative, barring him from any employment as an MLO.

3. On April 5, 2022, complainant served respondent with the First Amended Accusation.

4. Also on April 5, 2022, complainant served a First Amended Notice of Intention to seek an order revoking respondent's MLO license or, in the alternative, barring him from any employment as an MLO. The First Amended Notice of Intention states in part that it was provided "to inform Respondent of a statutory requirement under Financial Code section 22169 that this matter shall be set for hearing to commence within 30 days after such receipt unless the Respondent consents to a later date."

5. Respondent requested a hearing by submitting a Notice of Defense, the submission date of which is not in the record, except that it was more than 30 days before the administrative hearing on June 8, 2022.

6. On April 27, 2022, complainant moved to advance the hearing dates, set for June 8 and 9, 2022, to May 23 and 24, 2022, so that the hearing would be within 30 days after receipt of respondent's Notice of Defense. On May 25, 2022, the presiding AU denied the motion and the scheduled hearing dates remained June 8 and 9, 2022.

7. Respondent's dismissal motion as based on an untimely hearing is denied as explained in Analysis, *infra*.

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Licensure

8. On June 30, 2015, the Department issued respondent an MLO license, NMLS license number 278683. Respondent renewed the license for several years, but as a result of non-renewal it lapsed on January 1, 2022.

9. Regulators in Arizona issued respondent an MLO license for practice in that state. The license issued on August 6, 2019 and expired or was terminated on February 4, 2021.

NMLS and Education Requirements for MLO's

10. Applications for an MLO license and for license renewal are submitted to the Department by means of NMLS, the Nationwide Mortgage Licensing System and Registry. As set out in Financial Code section 22012, subdivision (d), NMLS is "a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed [MLO's]."

11. Under the Financial Code, MLO's in California are required to complete an NMLS-approved 20-hour course of PE, pre-licensing education. To renew a license, an MLO must complete an NMLS-approved 8-hour course of CE, continuing education. To receive course credit, a student must pass with a final examination score of 70 percent or higher. Under federal law, NMLS is required to administer PE and CE in accordance with the SAFE Act, which is, as stated in Financial Code section 29012, subdivision (f), "the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 {Public Law 110-289}."

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12. The PE and CE required of MLO's are available only from NMLS-approved course providers. One such provider approved from 2017 through 2020 was Danny Yen, doing business as REES, Real Estate Educational Services, course provider number 1405046.

Fraudulent Schemes Admitted by REES

13. The Commissioner served respondent with a March 7, 2022 Notice of Affidavit, Exhibit 5, pursuant to which two declarations, both executed by Danny Yen on February 25, 2022, were received in evidence under Government Code section 11514, subdivision (b).

14. As set out in the Declaration of Danny Yen, Exhibit 5, pages A45 through ASS: On June 1, 2016, REES applied to be an NMLS-approved course provider. At a physical address, which was Danny Yen's residence, 3643 Adams Street, Carlsbad, California, Charter Communications, Inc. provided Internet service to REES from July 14, 2017, to August 1, 2021, under the account number ending in 7523, to which was assigned the IP, Internet Protocol, address, 76.88.84.139. REES operated as an NMLS-approved course provider from Danny Yen's Carlsbad residence, but there were no instructors and no students there. Some course providers are approved to provide instruction online, but REES was not one of them. The only NMLS-approved courses that REES was authorized to provide were in-person courses. NMLS authorized REES to offer courses only at the Brookhurst Address: 15751 Brookhurst Street, Suite 230, Westminster, California. NMLS authorized only Danny Yen as an instructor of NMLS-approved courses provided by REES.

15. The Declaration of Danny Yen (Online Scheme), Exhibit 5, pages A117 through A122, sets out details of respondent's participation at various times in the

Online Education Fraud Scheme. Respondent paid Danny Yen between \$90 and \$180 per hour to complete online coursework on his behalf. The monies respondent paid Danny Yen were in addition to enrollment fees, which Danny Yen paid the NMLS-approved course providers.

16. For the compensation agreed between them, on November 12, 2019, Danny Yen on respondent's behalf, from IP address 76.88.84.139, completed coursework and passed the final examination for the online NMLS-approved CE course, "1-Hour AZ SAFE: Arizona Mortgage Updates," course identification number 10185, provided by NMLS-approved provider OCL, NMLS course provider number 1400013. Also on November 12, 2019, Danny Yen passed the final examination for course identification number 10185 on respondent's behalf.

17. For the compensation agreed between them, on August 19, 2020, Danny Yen on respondent's behalf, from IP address 76.88.84.139, completed coursework and passed the final examination for the online NMLS-approved CE course, "1-Hour AZ SAFE: A Guide to Arizona Mortgage Law," course identification number 11352, provided by NMLS-approved provider OCL, NMLS course provider number 1400013.

Investigation

18. _____ was part of a multi-state task force that investigated respondent and REES. The Department has employed _____ as an investigator for three and a half years to investigate potentially improper conduct by MLO's and course providers. _____ photograph, Exhibit 20, of the interior of the Brookhurst Address shows a small office that was not equipped or arranged to be a classroom. In April 2021, _____ inquired at the strip mall where the Brookhurst Address is located. The property manager was aware that REES leased suite 230, which

has 1,242 square feet. Asked about classes, the manager said none were conducted there.

19. NMLS keeps regarding each MLO a Compliance Record, the NMLS Course Completion and Compliance Record, showing for each year which courses an MLO completed and from which course provider. NMLS-approved course providers report the information placed in the compliance record.

20. The Compliance Record regarding respondent, Exhibit 7, as described below, reports his completion of courses over several years. REES caused the Compliance Record to be false in that respondent did not complete the courses or take the final examinations as reported. As described below, REES later admitted to the falsehoods and how respondent, in league with REES, committed fraud.

21. The Compliance Record reports that on November 10, 2018, respondent completed the in-person CE course provided by REES: "8-Hour CA-DBO SAFE Comprehensive Mortgage Continuing Education," course identification number 7934. REES did not actually provide instruction in the course. As set out in the Declaration of Danny Yen, Exhibit 5, page A50: "I did not teach an in-person class corresponding to course number 7934 at any point in 2018."

22. The Compliance Record reports that on November 11, 2019, respondent completed the in-person CE course provided by REES: "8-Hour CA-DBO SAFE Comprehensive Mortgage Continuing Education," course identification number 10683. REES did not actually provide instruction in the course. As set out in the Declaration of Danny Yen, Exhibit 5, page A51: "I did not teach an in-person class corresponding to course number 10683 at any point in 2019."

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23. The Compliance Record reports that on November 12, 2019, respondent completed the online CE course provided by OCL Financial Services LLC: "1-Hour AZ SAFE: Arizona Mortgage Updates," course identification number 10185.

24. The Compliance Record reports that on August 19, 2020, respondent completed the online CE course provided by OCL Financial Services LLC: "1-Hour AZ SAFE: A Guide to Arizona Mortgage Law," course identification number 11352.

25. The Compliance Record reports that on August 22, 2020, respondent completed the in-person CE course provided by REES: "8-Hour CA-DFPI SAFE Comprehensive Mortgage Continuing Education," course identification number 12014. REES did not actually provide instruction in the course. As set out in the Declaration of Danny Yen, Exhibit 5, page A52: "I did not teach an in-person class corresponding to course number 12014 at any point in 2020."

26. The detailed instruction on mortgages and pertinent law that REES was to offer in the courses, identification numbers 7934, 10683, and 12014, after which an examination was required, is set out in the course syllabus and description, Exhibit 5, page A57 through A65. REES did not offer and respondent did not receive such instruction. REES did not require respondent to take, and respondent did not take or pass, examinations in any of the three courses.

NMLS Standards

27. Several NMLS standards are pertinent here. NMLS required REES and all NMLS-approved course providers to meet the Standards of Conduct for Approved Course Providers, among which are the Consumer Protection and Service Standards, including Standard 2.D, Exhibit 37, page A366:

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

Course providers were also required to meet the Ethical and Legal Standards, including Standard 3.B, Exhibit 37, page 367, stating in part:

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

Another of the Ethical and Legal Standards that NMLS required approved course providers to meet is Standard 3.F, Exhibit 37, page A368:

As a condition for achieving and maintaining NMLS approval status, Course Provider attests to having in place processes for the retention of data and documents associated with the delivery of NMLS approved courses for a period of five years. Further, the organization agrees that NMLS retains the ability to audit Course Data, as needed, to ensure Course Provider is properly administering courses and tracking student participation.

REES did not meet these standards in 2018 or at any time afterwards.

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28. In early 2022, the Department and REES, along with regulators from Arizona and other jurisdictions, executed a Settlement Agreement, Exhibit 39, which resolved disciplinary proceedings before the Department and other regulators against REES, the respondent in OAH case number 2022010689. Based on extensive investigation, the Department and the other regulators found that REES engaged in "Education Fraud Schemes," as set out in Exhibit 39, page A398:

[REES] by false pretenses, false representations, and through actual fraud, had intentionally and with knowledge of the falsity, provided course credit to MLOs who had allegedly completed an 8-hour in-person CE course in Southern California (the "In-Person Education Fraud Scheme"), and that [REES] took online PE and/or CE on behalf of numerous MLOs (the "Online Education Fraud Scheme" and collectively with the In-Person [Education] Fraud Scheme referred to as the "Education Fraud Schemes").

REES admitted that in perpetrating the Education Fraud Schemes, REES was in league with MLO's. As set out in Exhibit 39, page A400:

[REES] knowingly and actively coordinated with at least 607 MLOs to implement the Education Fraud Schemes during the relevant time period of 2017 through 2020.

REES agreed to payment of administrative penalties and, as set out on pages A403 to A404, "a lifetime restriction ... not [to] teach or apply to teach education courses that are required by statute, regulation, rule, or practice subject to the jurisdiction of a

settling state regulator under the SAFE Act or other mortgage related regulatory scheme"

Respondent's Fraud

29. Respondent likewise committed fraud. Respondent was among the MLO's who participated in the Education Fraud Schemes, both the In-Person Education Fraud Scheme and the Online Education Fraud Scheme.

30. Respondent's fraud by participation in the fraud of REES was compounded by the false representations he directed to NMLS. To implement education requirements under the SAFE Act, NMLS promulgated the ROC, the "Rules of Conduct for NMLS Approved Pre-Licensure (PE) and Continuing Education (CE) Courses," Exhibit 26. Instructors review the ROC with students at the start of a course. NMLS requires that REES and other approved course providers then have students execute the ROC. A student such as respondent is not credited with passing a course unless the student has agreed in writing to comply with the ROC. REES, like other providers, is then required to keep on file each student's signed ROC, along with student sign-in sheets, for at least five years.

31. Respondent became aware of the ROC in 2015, when he was first licensed as an MLO. Respondent on several occasions in 2018, 2019, and 2020, did not meet the ROC that NMLS required of CE students. Had REES provided and respondent completed the instruction that was falsely reported in the Compliance Record, respondent would have been required to acknowledge that he abided by all of the ROC, including, as set out in Exhibit 26, page A322:

I agree to abide by the following [ROC]: [1]..... [1]

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

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

5. I will not seek or attempt to seek outside assistance to complete the course. [11) ... [11)

9. I will not engage in any conduct that is dishonest, fraudulent, or would adversely impact the integrity of the course(s) I am completing and the conditions for which I am seeking licensure or renewal of licensure. [11) ... [ii]

I further understand that the results of any investigation into my alleged violation(s) may subject me to disciplinary actions by the state(s) or the State Regulatory Registry (SRR), including removal of any course from my NMLS record, and/or denial or revocation of my license(s).

32. On November 27, 2018, respondent submitted to the Department for the renewal of his MLO license in 2019, an attestation which stated, falsely:

to the best of my knowledge and belief the information contained in my online record, including jurisdiction specific requirements where I am licensed or registered, is true, accurate and complete in accordance with the appropriate

jurisdiction's law. Additionally, I acknowledge that I have a duty and agree to expediently update and correct the information as it changes.

I understand that submitting any false or misleading information, or omitting pertinent or material information, may be grounds for administrative action and/or criminal action .

As part of this request for license/registration renewal, I swear (or affirm) to the following:

1. In all jurisdictions that apply, I affirm/attest that I have completed the continuing education requirements mandated by the jurisdiction(s) in which I am licensed and/or registered.

33. On November 12, 2019, respondent submitted to the Department an Attestation identical to the 2018 Attestation quoted in the preceding paragraph, except that it was for renewal of his MLO license in 2020, but just as false.

34. On January 31, 2021, respondent submitted to the Department an Attestation identical to the 2018 and 2019 Attestations, except that it was for renewal of his MLO license in 2021, but just as false.

No Mitigating Factors

35. There was no evidence in mitigation of respondent's wrongdoing and no evidence of remorse or the like.

PRINCIPLES OF LAW

1. The burden of proof lies with the Department to establish the charging allegations. The standard of proof in an administrative action seeking to suspend or revoke a professional license is, as the court stated in *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 857, "clear and convincing evidence."

2. Financial Code section 22109.1 provides in part:

(a) The commissioner shall deny an application for a mortgage loan originator license unless the commissioner makes, at a minimum, the following findings: [f1] ... [f1]

(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 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this division.

(4) The applicant has completed the prelicensing education requirement described in Section 22109.2.

(5) The applicant has passed a written test that meets the test requirement described in Section 22109.3.

3. Financial Code section 22109.2, subdivision (f), provides:

An individual previously licensed under this division as a mortgage loan originator, applying to be licensed again,

shall prove that he or she has completed all of the continuing education requirements for the year in which the license was last held.

4. Financial Code section 22109.4 provides:

(a) A mortgage loan originator shall comply with the requirements of this section on or before December 31 of every year.

(b) The minimum standards for license renewal for a mortgage loan originator shall include the following:

(1) The mortgage loan originator continues to meet the minimum standards for license issuance under Section 22109.1.

(2) The mortgage loan originator has satisfied the annual continuing education requirements described in Section 22109.5.

(3) The mortgage loan originator, or the finance lender or broker employing the mortgage loan originator, has paid all required fees for renewal of the license as provided in Section 22107.

(c) The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire at midnight on December 31, except as provided in subdivision (h) of Section 22109.5. The commissioner may

adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Mortgage Licensing System and Registry.

5: Financial Code section 22109.5 provides in part:

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

(1) Three hours of instruction on federal law and regulations.

(2) Two hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues.

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace.

(4) One hour of training related to relevant California law and regulations.

6. Financial Code section 22169 provides:

(a) The commissioner may, after appropriate notice and opportunity for hearing, by order, censure or suspend for a period not exceeding 12 months, or bar a person, including a mortgage loan originator, from any position of employment with, or management or control of, any

finance lender, broker, program administrator, or any other person, if the commissioner finds either of the following:

(1) That the censure, suspension, or bar is in the public interest and that the person has committed or caused a violation of this division or rule or order of the commissioner, which violation was either known or should have been known by the person committing or causing it or has caused material damage to the finance lender, broker, program administrator, or mortgage loan originator, or to the public.

(2) That the person has been convicted of or pleaded nolo contendere to any crime, or has been held liable in any civil action by final judgment, or any administrative judgment by any public agency, if that crime or civil or administrative judgment involved any offense involving dishonesty, fraud, or deceit, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division.

(b) Within 15 days from the date of a notice of intention to issue an order pursuant to subdivision (a) or (b), the person may request a hearing under the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code). Upon receipt of a request, the matter shall be set for hearing to

commence within 30 days after such receipt unless the person subject to this division consents to a later date.

(c) Upon receipt of a notice of intention to issue an order pursuant to this section, the person who is the subject of the proposed order is immediately prohibited from engaging in any activities subject to licensure under the law.

(d) Persons suspended or barred under this section are prohibited from participating in any business activity of a finance lender, broker, program administrator, or mortgage loan originator, and from engaging in any business activity on the premises where a finance lender, broker, program administrator, or mortgage loan originator is conducting business.

7. Financial Code section 22172 provides in 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 mortgage loan originator license if an applicant or licensee fails at any time to meet the requirements of Section 22.109.1 or 22109.4, or withholds information or makes a

material misstatement in an application for a license or license renewal.

8. Financial Code section 22755 provides in part:

It is a violation of this division for a mortgage loan originator to do any of the following: [11] ... [11]

(b) Engage in any unfair or deceptive practice toward any person. [TI] ... [11]

(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. [11] ... [11]

(i) 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 Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the commissioner or another governmental agency.

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ANALYSIS

1. Procedurally and substantively, the Department properly sought to revoke respondent's MLO license.

Respondent's Dismissal Motion

2. Financial Code section 22169 is concerned with procedure for interim orders only. The statute does not discuss, and has no provisions applicable to, disciplinary procedures such as an accusation or statement of issues.

3. Financial Code section 22110 states, "The proceedings for a denial of a license 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, and the Commissioner has all the powers granted therein." There is no provision that explicitly makes Chapter 5 of the Government Code applicable to proceedings for the discipline of a license, but it is a fair inference that the same procedure is applicable to such discipline. Proceedings concerned with granting or denial of a license take into account considerations very like those pertinent to discipline after a license has been issued.

4. Under the Government Code, the procedure that applies to both a statement of issues and an accusation are the same. As stated in Government Code section 11504.5: "In the following sections of this chapter, all references to accusations shall be deemed to be applicable to statements of issues," except for matters not pertinent here.

5. The 30-day deadline for hearing provided in Financial Code section 22169, subdivision (b), does not apply to the entirety of these proceedings, but rather,

more narrowly, to the Commissioner's April 2022 First Amended Notice of Intention. There is no basis in Financial Code section 22169 for a motion like respondent's for dismissal of all of the disciplinary proceedings against him as set out in the First Amended Accusation.

6. Respondent's dismissal motion was properly brought against the First Amended Notice of Intention, but the motion is moot. Because respondent's license lapsed in January 2022, his motion in March 2022, even if granted, would not have permitted him to practice as an MLO at any time in 2022, This decision grants the relief sought in the First Amended Accusation, which is the same relief that the First Amended Notice of Intention sought on an interim basis.

Cause for License Discipline: Online Education Fraud Scheme

7. The evidence established that respondent did not complete online coursework to obtain CE credit to maintain his MLO license in Arizona. Instead, respondent fraudulently took credit for coursework and a final examination which he paid Danny Yen, doing business as REES, to report as completed by respondent in November 2019 and August 2020. Cause exists to discipline respondent's license based on these instances of his participation in the Online Education Fraud Scheme.

8. Respondent's fraud and the Online Education Fraud Scheme extended to the falsehood that respondent followed the ROC with respect to coursework and final examinations in November 2019 and August 2020 for renewal of his MLO license in Arizona.

9. In committing fraud and by participating in the Online Education Fraud Scheme, respondent demonstrated he failed to understand that the SAFE Act and state laws required him to spend a specific amount of time in specific subject areas. In

violation of ROC 3, respondent attempted to circumvent the requirements of NMLS-approved courses and would have circumvented them but for the license discipline warranted as set out in the First Amended Accusation.

10. In committing fraud and by participating in the Online Education Fraud Scheme, respondent divulged his login ID or password or other login credentials to another individual, namely Danny Yen, doing business as REES, so that the latter could represent, falsely, that respondent completed online courses and passed final examinations in November 2019 and August 2020. Respondent thus violated ROC 4.

11. In committing fraud and participating in the Online Education Fraud Scheme, respondent sought and attempted to seek outside assistance to complete NMLS-approved coursework, including final examinations. Respondent thus violated ROC 5.

12. In committing fraud and by participating in the Online Education Fraud Scheme, respondent engaged in conduct that was dishonest, fraudulent, or would adversely impact the integrity of the courses he caused to be reported, falsely, as completed by him. Respondent likewise engaged in conduct that was dishonest, fraudulent, or would adversely impact the conditions for which he was seeking renewal of his licensure. Respondent thus violated ROC 9.

13. By fraud and participation in the Online Education Fraud Scheme and the violations of ROC 3, 4, 5, and 9, respondent violated Financial Code section 22755, subdivision (b). In committing and by participating in such fraud and such violations, respondent engaged in unfair or deceptive practice toward persons who have been left, as a result, unprotected under the statute and the CFL.

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14. By fraud and participation in the Online Education Fraud Scheme and the violations of ROC 3, 4, 5, and 9, respondent violated Financial Code section 22755, subdivision (g). Respondent failed to make disclosures as required by the CFL, including disclosures that he had not completed courses or passed final examinations which he caused Danny Yen, doing business as REES, to represent as completed by respondent.

15. By fraud and participation in the Online Education Fraud Scheme and the violations of ROC 3, 4, 5, and 9, respondent violated Financial Code section 22755, subdivision (h). Respondent failed to comply with the CFL.

16. By fraud and participation in the Online Education Fraud Scheme and the violations of ROC 3, 4, 5, and 9, respondent violated Financial Code section 22755, subdivision (i). Respondent knowingly and willfully made omissions of material fact in connection with information and reports filed with the Department and the NMLS, and in connection with an investigation conducted by the Commissioner and other governmental agencies.

Cause for License Discipline: In-Person Education Fraud Scheme

17. The evidence established that respondent did not complete in-person coursework required to obtain CE credit to renew his MLO license in California. Instead, respondent fraudulently took credit for coursework and a final examination which he paid Danny Yen, doing business as REES, to report as completed by respondent in November 2018, November 2019, and August 2020. Cause exists to discipline respondent's license based on these instances of his participation in the In-Person Education Fraud Scheme.

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18. Respondent's fraud and the In-Person Education Fraud Scheme extended to the falsehood that respondent followed the ROC with respect to coursework and final examinations in November 2018, November 2019, and August 2020 for renewal of his MLO license in California.

19. In committing fraud and by participating in the In-Person Education Fraud Scheme, respondent demonstrated he failed to understand that the SAFE Act and state laws required him to spend a specific amount of time in specific subject areas. In violation of ROC 3, respondent attempted to circumvent the requirements of NMLS-approved courses and would have circumvented them but for the license discipline warranted as set out in the First Amended Accusation.

20. In committing fraud and by participating in the In-Person Education Fraud Scheme, respondent divulged his login ID or password or other login credentials to another individual, namely Danny Yen, doing business as REES, so that the latter could represent, falsely, that respondent completed in-person courses and passed final examinations in November 2018, November 2019, and August 2020. Respondent thus violated ROC 4.

21. In committing fraud and by participating in the In-Person Education Fraud Scheme, respondent sought and attempted to seek outside assistance to complete NMLS-approved coursework, including final examinations. Respondent thus violated ROC 5.

22. In committing fraud and by participating in the In-Person Education Fraud Scheme, respondent engaged in conduct that was dishonest, fraudulent, or would adversely impact the integrity of the courses he caused to be reported, falsely, as completed by him. Respondent likewise engaged in conduct that was dishonest,

fraudulent, or would adversely impact the conditions for which he was seeking renewal of his licensure. Respondent thus violated ROC 9.

23. By fraud and participation in the In-Person Education Fraud Scheme and the violations of ROC 3, 4, 5, and 9, respondent violated Financial Code section 22755, subdivision (b). In committing and by participating in such fraud and such violations, respondent engaged in unfair or deceptive practice toward persons who have been left, as a result, unprotected under the statute and the CFL.

24. By fraud and participation in the In-Person Education Fraud Scheme and the violations of ROC 3, 4, 5, and 9, respondent violated Financial Code section 22755, subdivision (g). Respondent failed to make disclosures as required by the CFL, including disclosures that he had not completed courses or passed final examinations which he caused Danny Yen, doing business as REES, to represent as completed by respondent.

25. By fraud and participation in the In-Person Education Fraud Scheme and the violations of ROC 3, 4, 5, and 9, respondent violated Financial Code section 22755, subdivision (h). Respondent failed to comply with the CFL.

26. By fraud and participation in the In-Person Education Fraud Scheme and the violations of ROC 3, 4, 5, and 9, respondent violated Financial Code section 22755, subdivision (d). Respondent knowingly and willfully made omissions of material fact in connection with information and reports filed with the Department and the NMLS, and in connection with an investigation conducted by the Commissioner and other governmental agencies.

27. Under Financial Code section 22109.1, subdivision (a)(3), respondent is not qualified to act as an MLO. In light of respondent's misconduct, respondent has

not demonstrated such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that he as an MLO will operate honestly, fairly, and efficiently within the purposes of the CFL.

28. Respondent's wrongdoing was serious. It was part of a larger scheme with other wrongdoers. It lasted for years. It threatened the integrity of a system designed to protect high-value assets, especially real property. It threatened the public good. For the protection of the public, respondent's MLO license ought to be revoked.

CONCLUSIONS OF LAW

Respondent participated in a scheme to circumvent laws requiring that he complete educational courses and pass examinations required of a licensed MLO. In the circumstances, respondent's license is properly revoked.

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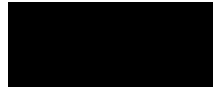
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ORDER

The Mortgage Loan Originator license, number 278683 under the Nationwide Mortgage Licensing System and Registry, by which respondent, John A. Krochman, was permitted to practice as a Mortgage Loan Originator, is revoked.

DATE: **07/07/2022**



THOMAS LUCERO

Administrative Law Judge

Office of Administrative Hearings