$\begin{bmatrix} 1 \\ 2 \end{bmatrix}$	CLOTHILDE V. HEWLETT   Commissioner   MARY ANN SMITH				
3	Deputy Commissioner SEAN ROONEY				
4	Assistant Chief Counsel				
5	Senior Counsel				
	Department of Financial Protection and Innovation 320 West 4th Street, Suite 750				
6 7	Los Angeles, CA 90013 Telephone: (213) 503-0457 Facsimile: (213) 576-7181				
8	, ,				
	Attorneys for Complainant				
9	BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION				
10	OF THE STATE OF CALIFORNIA				
11	In the Matter of:	) NMLS ID NO.: 1918387			
12	THE COMMISSIONER OF FINANCIAL	) ) STATEMENT OF ISSUES IN SUPPORT OF			
13	PROTECTION AND INNOVATION,	) NOTICE OF INTENTION TO DENY ) MORTGAGE LOAN ORIGINATOR			
14	Complainant, v.	) APPLICATION )			
15	JONATHAN L. VIEGAS,	) (Fin. Code §§ 22109.1(a)(3), 22172(a)(2))			
16	Respondent.	)			
17		ý )			
18		) )			
19		<u> </u>			
20					
21	The Complainant, the Commissioner of	Financial Protection and Innovation			
22	(Commissioner) of the Department of Financial Protection and Innovation (Department), is				
23	informed and believes, and based on such information and belief, alleges and charges Respondent				
24	Jonathan L. Viegas (Viegas):				
25	I.				
26	<u>Introduction</u>				
27	1. The Commissioner has jurisdiction over the licensing and regulation of persons				
28	engaged in the business of making or brokering or servicing residential mortgage loans, including				

mortgage loan originators (MLO or MLOs), under the California Financing Law (CFL) (Fin. Cod
§ 22000 et seq.).

- 2. To become licensed by the Commissioner as an MLO, an individual must submit a uniform application form (known as the Form MU4) through the Nationwide Mortgage Licensing System & Registry (NMLS). The NMLS contains a detailed set of instructions for filing license applications, including a checklist of items to be completed by the applicant, who is fully responsible for all the requirements of the license.
- 3. Based on a review of Viegas' MLO application, the Commissioner determined that Viegas fails to meet the minimum threshold requirement that he demonstrate such financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently within the purposes of this division. In addition, Viegas' MLO application discloses at least one material misstatement, providing further grounds for denying the MLO license.

#### II.

# **Application**

- 4. On or around July 17, 2021, Viegas submitted an application to the Commissioner for an MLO license by submitting a Form MU4 through the NMLS pursuant to Financial Code section 22105.1 (hereinafter, Application). Viegas signed the Application attesting that the answers were "current, true, accurate and complete and are made under the penalty of perjury . . . ."
  - 5. Regulatory Action Disclosure Question (K) asks
    - "Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever: . . .
    - (3) found you to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted? . . .
    - (5) revoked your registration or license? . . .
    - (9) entered an order concerning you in connection with any license ore registration?"

<sup>&</sup>lt;sup>1</sup> NMLS stands for Nationwide Multistate Licensing System & Registry and is the system of record for non-depository, financial services licensing or registration in participating agencies. including the District of Columbia and U.S. Territories of Puerto Rico, the U.S. Virgin Islands, and Guam. In these jurisdictions, NMLS is the official system for companies and individuals seeking to apply for, amend, renew and surrender licenses authorities managed through NMLS.

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	4		(1) found you to have made a false statement or omission or been dishonest, unfair or unethical?				
	5		(2) found you to have been involved in a violation of a financial services-				
	6		related business regulation(s) or statute(s)?				
			(4) entered an order against you in connection with a financial services-				
п	7		related activity?				
atio	8		(8) issued a final order against you based on violations of any law or				
300r	9		regulations that prohibit fraudulent, manipulative, or deceptive conduct?				
State of California – Department of Financial Protection and Innovation	10	8.	To each of the questions in $(K)(1)$ , $(K)(4)$ , and $(K)(8)$ Viegas answered, "No."				
ion a	11	9.	Regulatory Action Disclosure Question (M) asks:				
otect	12		Based upon activities that occurred while you exercised control over an organization, has any State or federal regulatory agency or foreign				
ial Pı	13		financial regulatory authority or self-regulatory organization (SRO) ever				
inanc	14		taken any of the actions listed in (K) through (L) above against any organization?"				
of Fi	15	10.	To Regulatory Action Disclosure Question (M) Viegas answered, "No."				
ment	16	11.	On or around January 10, 2023, Viegas amended his answer to Disclosure Question				
ерап	17	(M) to "Yes."					
a – D	18	12.	The Application requires an MLO applicant to provide a detailed explanation for any				
formi	19	affirmative answers in the Disclosure sections. On or around June 17, 2021, Viegas provided the following explanation for his affirmative answers to the Disclosure sections:					
Cali	20						
of of	21		(K) (3,5, 9) My Real Estate California Broker license was revoked due to				
State	22						
	23		to re uppry and rain in the process or doing that right now.				
	24	13.	On or around January 10, 2023, after changing his answer to Regulatory Action				
	25	Disclosure Question (M) from "No" to "Yes," Viegas provided the following explanation:					
	26		I have had my California Broker's license and my company Alpha One Group was revoked in Jan 2017. I failed to supervise adequately the office				
	27	I managed and was ultimately held responsible for the actions of					
	28		individuals within my company. It was my first offense but it was serious enough to lose my license. I am currently reapplying for my license. I am doing so as I am now eligible to do so.				
			3				
	I	1	$\boldsymbol{J}$				

To each of the questions in (K)(3), (K)(5), and (K)(9), Viegas answered "Yes."

Has any State or federal regulatory agency or foreign financial regulatory

Regulatory Action Disclosure Question (K) also asks,

authority or self-regulatory organization (SRO) ever:

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14. The Certified License History of Viegas (B/01449931) as of June 28, 2023, indicates that Viegas' broker license was revoked per H-39997 LA as of February 1, 2017. However, there is no record of Viegas' reapplying for or petitioning to reinstate his DRE license. Moreover, Viegas has never been licensed by the Commissioner. III.

### Disciplinary Action by the Department of Real Estate

- 15. On December 2, 2016, the California Department of Real Estate (DRE) issued a Decision in The Matter of the Accusation of Alpha One Group Inc., and Jonathan L. Viegas, individually and as designated officer of Alpha One Group, Inc., and Ygnacio Antonio Rivera, CalBRE No. H-39997 LA, OAH No. 2015120927 (Decision), adopting the Proposed Decision dated November 1, 2016. The Decision stated that the "right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code."
- The Proposed Decision, which was adopted by the Decision, made the following 16. Legal Conclusions:
  - (2) Cause exists to discipline . . . Respondent Viegas' licenses and licensing rights, pursuant to Business and Professions Code section 10176, subdivisions (a) and (j), because their misrepresentation in the Officer Renewal Application constituted procurement of a real estate license renewal 'by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in an application for a real estate license . . . renewal,' and constituted 'fraud or dishonest dealing,' as set forth in Factual Findings 1 through 21.
  - (3) Cause exists to discipline . . . Respondent Viegas' . . . licenses and licensing rights, pursuant to Business and Professions Code section 10176, subdivisions (a) and (j), because their involvement in the falsification of the 2013 WDO<sup>3</sup> inspection report for the Long Beach Drive property constituted a substantial misrepresentation and 'fraud and dishonest dealing,' as set forth in Factual Findings 1 through 21.

<sup>&</sup>lt;sup>2</sup> Business and Professions Code section 10176 provides in relevant part: "The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following: (a) Making any substantial misrepresentation . . . ."

<sup>&</sup>lt;sup>3</sup> Wood Destroying Organism.

(4) Cause exists to discipline Respondent Viegas' licenses and
licensing rights, pursuant to Business and Professions Code section 10176
subdivisions (a) and (j), because their involvement in the falsification of
the 2014 WDO inspection report for the Millsap Drive property
constituted a substantial misrepresentation and 'fraud and dishonest
dealing,' as set forth in Factual Findings 1 through 21

- 8(a). Respondents have a discipline-free history. However, the violations in which they engaged are egregious . . . 8(b) . . . Respondent Viegas failed to take full responsibility for his dishonesty in the Officer Renewal Application and for his involvement in the fraudulent WDO inspection reports (blaming a purported former employee) . . . 8(e) . . . given the potential for further violations and opportunities for further theft, permitting Respondent Viegas' continued licensure, even on a restricted basis, would present a risk to the public . . .
- ORDERS . . . 2. All licenses and licensing rights of Respondent Jonathan Viegas under the Real Estate Law are revoked . . . .

#### IV.

## Financial Responsibility, Character, and General Fitness

- 17. The Commissioner must deny an MLO application if the applicant 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 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this division." (Fin. Code, § 22109.1, subd. (a)(3)).
- 18. Viegas' disciplinary history from 2013 through 2016 disclose misrepresentations made in a Renewal Application submitted to the DRE, falsifications in WDO inspection reports relating to two different properties at different times, and failure to take responsibility for his involvement in the foregoing events, which are contrary to demonstrating the requisite character and general fitness to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently within the purposes of the CFL and CRMLA.
- 19. Moreover, Viegas' "No" answers in Regulatory Action Disclosure Questions (K)(1), (K)(2), (K)(4), and (K)(8) and disingenuous explanations in his Application as of January 10, 2023, demonstrate a continued lack of candor and failure to take responsibility for his actions that led to the revocation of his DRE license in 2017.

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20.	Thus, Viegas'	material miss	tatements in	the Applicati	on and failu	re to n	neet the
minimum crit	eria for licensu	re as an MLO	under the CF	L require der	nial of his A	pplica	tion.

#### V.

### **Applicable Law**

- 21. Financial Code section 22109.1, subdivision (a)(3) provides in relevant 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 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this division.
- 22. Financial Code section 22172, subdivision (a)(2) provides in relevant part:
  - (a) The commissioner may do one or more of the following: . . .
  - (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 22109.1 or 22109.4, or withholds information or makes a material misstatement in an application for a license or license renewal . . . .
- 23. California Code of Regulations, title 10, section 1422.6.2 provides in relevant part:
  - (a) The Commissioner's finding required by section 22109.1, subdivision (c) of the California Financing Law relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the role of a mortgage loan originator . . .
  - (c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:
  - (1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or
  - (2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

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1	VI.				
2	<u>Conclusion</u>				
3	The Commissioner finds, by reason of the foregoing, that:				
4	1) Viegas does not meet the minimum requirements for issuance of an MLO license				
5	pursuant to Financial Code section 22109.1, subdivision (a)(3) in that Viegas has not demonstrated				
6	the financial responsibility, character, and general fitness as to command the confidence of the				
7	community and to warrant a determination that the mortgage loan originator will operate honestly,				
8	fairly, and efficiently within the purposes of this division; and				
9	Viegas' material misstatements in the Application provide grounds to deny issuance				
10	of an MLO license under Financial Code section 22172, subdivision (a)(2).				
11	VII.				
12	<u>Prayer</u>				
13	WHEREFORE IT IS PRAYED that the mortgage loan originator license application filed				
14	by Jonathan L. Viegas be denied.				
15	Dated: July 12, 2023	O. O			
16	Los Angeles, California	CLOTHILDE V. HEWLETT  Commissioner of Financial Protection and Innovation			
17					
18		By:			
19		SOPHIA C. KIM			
20		Senior Counsel Enforcement Division			
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