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DEPT. OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation against

DRE No. H-05706 SD

ANTONIO AGUILAR,

ACCUSATION

Respondent.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator Department of Real Estate ("Department") of the State of California, for cause of Accusation against ANTONIO AGUILAR ("Respondent") alleges as follows:

1. The Complainant, Veronica Kilpatrick, a Supervising Special Investigator for the Department, makes this Accusation in her official capacity.
2. All references to the "Code" are to the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code.

LICENSE HISTORY

3. Respondent is presently licensed and/or has license rights under the Code, as a real estate broker with Department, License ID 01423507.

1 4. Respondent's broker license was originally issued on October 28, 2009, and is
2 scheduled to expire on October 27, 2025, unless renewed.

3 5. Respondent currently holds a Mortgage Loan Originator ("MLO") license
4 endorsement with the Department with the assigned National Mortgage Licensing System and
5 Registry ("NMLS") No. 409619. Respondent is the designated officer for real estate
6 corporation Executive Realty Services, Inc., License ID 01526757. Respondent is also
7 currently authorized to represent the following companies: Executive Realty Services, Inc. with
8 a company MLO license endorsement, NMLS No. 2257871; MK Lending Corp., with a
9 company MLO license endorsement, NMLS No. 310447; Bay-Valley Mortgage Group, with a
10 company MLO license endorsement, NMLS No. 192103; and Brighten Lending, with a
11 company MLO license endorsement, NMLS No. 39160.

12 STATEMENT OF FACTS

13 6. Respondent violated the NMLS student Rules of Conduct (ROC) by using the
14 services of Danny Yen, dba Real Estate Educational Services (REES) to complete his NMLS-
15 approved continuing education (CE) courses, which constitutes a violation of the licensing
16 requirements of this state and under federal law. Specifically, Respondent used and
17 compensated REES to obtain credit through an in-person fraud scheme. Under the in-person
18 fraud scheme, Respondent used REES to annually report completion of an in-person course for
19 four years from 2017 to 2020. REES did not teach the in-person course and Respondent never
20 attended the in-person course nor completed the required exam or course work to receive
21 course credit.

22 NMLS Pre-Licensing and Continuing Education

23 7. The State Regulatory Registry LLC (SRR), which owns and operates the
24 NMLS, administers pre-licensing education (PE) and CE and Uniform State Test protocols.
25 Title V of Public Law 110-289, the Secure and Fair Enforcement for Mortgage Licensing Act
26 of 2008 (the SAFE Act), requires that state-licensed MLOs complete PE prior to initial
27 licensure and annual CE thereafter. (See Code section 10166.06.)

1 Findings of SRR and Department Investigation

2 17. On or about December 15, 2020, SRR staff were informed of suspected
3 individuals completing online NMLS-approved education courses on behalf of another.

4 18. Additional investigation revealed evidence that REES fraudulently provided
5 course credit to MLOs who had never attended and completed REES' 8-hour in-person CE
6 course in Westminster, California in the in-person fraud scheme.

7 19. Respondent was identified in NMLS records as receiving course credit for
8 REES' 8-hour in-person CE course in 2017, 2018, 2019, and 2020. It was determined that none
9 of these in-person courses ever took place and Respondent never attended an in-person course
10 corresponding to the course credits Respondent received. Consequently, Respondent never took
11 a knowledge examination required for course credit. It was determined that Respondent had
12 used REES to obtain four years of course credits from 2017 to 2020 in violation of the ROC
13 under the in-person fraud scheme.

14 20. The ROC provide in relevant part:

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

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

19 ROC 8: I will not engage in any capacity that would be contrary to good character or
20 reputation, or engage in any behavior that would cause the public to believe that I would not
21 operate in the mortgage loan business lawfully, honestly or fairly.

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

25 21. By using the services of another to complete his CE and receiving fraudulent
26 course credits through a non-existent course, Respondent violated ROC 3, 5, 8, and 9, and
27 engaged in conduct that was dishonest, fraudulent, and that adversely impacted the integrity of

1 the courses and the conditions and qualifications for which Respondent sought licensure or
2 renewal of licensure.

3 Financial Responsibility, Character, and General Fitness

4 22. Pursuant to Code section 10166.05(c), the Commissioner must deny a MLO
5 license endorsement if the licensee fails to meet the minimum criteria for licensure, which
6 includes a requirement that the applicant “has demonstrated such financial responsibility,
7 character and general fitness as to command the confidence of the community and to warrant a
8 determination that the [MLO] will operate honestly, fairly, and efficiently within the purposes
9 of this division.”

10 23. As described in paragraphs 17 through 21 above, Respondent violated ROC 3, 5,
11 8 and 9 by using the services of another, REES, to falsely obtain course credits through an in-
12 person course that Respondent never attended for the years 2017 to 2020.

13 24. In violating the ROC by using the services of another to falsely obtain course
14 credits, Respondent does not meet the minimum criteria for licensure under Code section
15 10166.05(c). The conduct of Respondent, as alleged above, is grounds for the suspension or
16 revocation of Respondent’s license, MLO license endorsement, and license rights pursuant to
17 the provisions of Code sections 10166.051(a), 10166.051(b), 10177(d), 10177(g) and/or
18 10177(j).

19 GROUNDS FOR DISCIPLINARY ACTION

20 25. **Section 10166.05 of the Code** provides in pertinent part, “Notwithstanding any
21 other provision of law, the commissioner shall not issue a license endorsement to act as a
22 mortgage loan originator to an applicant unless the commissioner makes all of the following
23 findings:

24 ...

25 (c) The applicant has demonstrated such financial responsibility, character, and
26 general fitness as to command the confidence of the community and warrant a
27

1 determination that the mortgage loan originator will operate honestly, fairly, and
2 efficiently within the purposes of this article.”

3 26. Section 10166.051 of the Code provides in pertinent part, “...the commissioner
4 may do one or more of the following, after appropriate notice and opportunity for hearing:

5 (a) Deny, suspend, revoke, restrict, or decline to renew a mortgage loan
6 originator license endorsement for a violation of this article, or any rules or regulations
7 adopted hereunder.

8 (b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan
9 originator license endorsement, if an application or endorsement holder fails at any time
10 to meet the requirements of Section 10166.05 or 10166.09, or withholds information or
11 makes a material misstatement in an application for a license endorsement or license
12 endorsement renewal.”

13 27. Section 10177 of the Code provides in pertinent part, “[t]he Commissioner may
14 suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real
15 estate licensee, or deny the issuance of a license to an applicant, who has done any of the
16 following...

17 ...

18 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing
19 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the
20 rules and regulations of the commissioner for the administration and enforcement of the
21 Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

22 ...

23 (g) Demonstrated negligence or incompetence in performing an act for which
24 the officer, director, or person is required to hold a license.

25 ...

26 (j) Engaged in any other conduct, whether of the same or of a different character
27 than specified in this section, that constitutes fraud or dishonest dealing.

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COSTS

(INVESTIGATION AND ENFORCEMENT COSTS)

28. Section 10106 of the Code, provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license(s), MLO endorsement, and/or license rights of Respondent ANTONIO AGUILAR under the Real Estate Law, for the costs of investigation and enforcement as permitted by law and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California this day of Nov 9, 2022.

Veronica Kilpatrick

Veronica Kilpatrick
Supervising Special Investigator

cc: Antonio Aguilar
Veronica Kilpatrick
Sacto.