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**FILED**

DEC 23 2015

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of	)	No. H-39841 LA
	)	OAH No. 2015070144
CHRIS ADAM CHUDACOFF,	)	
	)	
Respondent.	)	
	)	

STIPULATION AND WAIVER

AND

DECISION AFTER REJECTION

I, CHRIS ADAM CHUDACOFF, Respondent herein, do hereby affirm that I have applied to the Bureau of Real Estate for an individual mortgage loan originator license endorsement (“MLO license endorsement”) to my real estate broker license and that to the best of my knowledge I have satisfied all the statutory requirements for the issuance of the MLO license endorsement, including the payment of the fee therefor. I am representing myself in this matter.

I acknowledge that I have received and read the Statement of Issues filed by the Bureau of Real Estate on May 20, 2015, in connection with my application for a MLO license endorsement. I acknowledge that by entering into this Stipulation and Waiver, I am stipulating that the Real Estate Commissioner has found grounds to justify the denial of the issuance of an

1 unrestricted MLO license endorsement to me. I agree that there are grounds to deny the  
2 issuance of an unrestricted MLO license endorsement to me pursuant to California Business and  
3 Professions Code Sections 10166.05(c), 10166.051(b), and Regulation 2945.2(b) based upon my  
4 failure to disclose my 1986 conviction for violating Penal Code Section 470 (Forgery), a  
5 misdemeanor, in my MLO license endorsement application, and based on the two prior  
6 disciplinary actions filed by the Bureau of Real Estate against my real estate broker license in  
7 Case Nos. H-36988 LA and H-37961 LA.

8 I further acknowledge that the Real Estate Commissioner held a hearing on this  
9 Statement of Issues on September 18, 2015, before the Office of Administrative Hearings for the  
10 purpose of requiring further proof of my honesty and truthfulness and to prove other allegations.  
11 I was present at the hearing and participated therein. Further, I have had an opportunity to read  
12 and review the Proposed Decision of the Administrative Law Judge.

13 I understand that pursuant to Government Code Section 11517(c), the Real Estate  
14 Commissioner has rejected the Proposed Decision of the Administrative Law Judge. I further  
15 understand that pursuant to the same Section 11517(c), the Real Estate Commissioner may  
16 decide this case upon the record, including the transcript, without taking any additional evidence,  
17 after affording me the opportunity to present written argument to the Real Estate Commissioner.

18 I further understand that by signing this Stipulation and Waiver, I am waiving my  
19 right to obtain a dismissal of the Statement of Issues through proceedings under Government  
20 Code Section 11517(c) if this Stipulation and Waiver ("Stipulation") is accepted by the Real  
21 Estate Commissioner. However, I also understand that I am not waiving my rights to further  
22 proceedings to obtain a dismissal of the Statement of Issues if this Stipulation and Waiver is not  
23 accepted by the Real Estate Commissioner.

24 I hereby request that the Real Estate Commissioner in his discretion issue a  
25 restricted MLO license endorsement to me under the authority of California Business and  
26 Professions Code ("Code") Section 10156.5. I understand that any such restricted license will be  
27

1 issued subject to the provisions and limitations of California Business and Professions Code  
2 Sections 10156.6 and 10156.7.

3 I further understand that the following conditions, limitations, and restrictions will  
4 attach to a restricted MLO license endorsement issued by the Bureau of Real Estate pursuant  
5 hereto:

6 1. The license shall not confer any property right in the privileges to be exercised,  
7 including the right of renewal, and the Real Estate Commissioner may by appropriate order  
8 suspend the right to exercise any privileges granted under this restricted MLO license  
9 endorsement in the event of:

10 a. The conviction of Respondent (including a plea of nolo contendere) to a  
11 crime that bears a substantial relationship to Respondent's fitness or capacity as a real estate  
12 licensee; or

13 b. The receipt of evidence that Respondent has violated provisions of the  
14 California Real Estate Law (Part 1 of Division 4 of the Code), the Subdivided Lands Law (Part 2  
15 of Division 4 of the Code), Regulations of the Real Estate Commissioner (Title 10, Chapter 6,  
16 California Code of Regulations), or conditions attaching to this restricted MLO license  
17 endorsement.

18 2. Respondent shall not be eligible to apply for the issuance of an unrestricted  
19 MLO license endorsement nor for the removal of any of the conditions, limitations, or  
20 restrictions attaching to the restricted license until three (3) years have elapsed from the date of  
21 issuance of the restricted MLO license endorsement to Respondent.

22 3. Respondent shall, within nine months from the effective date of this Decision,  
23 present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the  
24 most recent issuance of an original or renewal real estate license, taken and successfully  
25 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate  
26 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the  
27 Commissioner may order the suspension of the restricted MLO license endorsement until the

1 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity  
2 for a hearing pursuant to the Administrative Procedure Act to present such evidence.

3 4. Respondent shall notify the Real Estate Commissioner in writing within 72  
4 hours of any arrest by sending a certified letter to the Real Estate Commissioner at the Bureau of  
5 Real Estate, Post Office Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the  
6 date of Respondent's arrest, the crime for which Respondent was arrested, and the name and  
7 address of the arresting law enforcement agency. Respondent's failure to timely file written  
8 notice shall constitute an independent violation of the terms of the restricted MLO license  
9 endorsement and shall be grounds for the suspension or revocation of that license.

10  
11  
12 Dated

12-11-15

*Amelia V. Vetrone*  
Amelia V. Vetrone, Counsel  
Bureau of Real Estate


13  
14 \* \* \*

15  
16 5. I have read the Stipulation and Waiver, and its terms are understood by me  
17 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the  
18 California Administrative Procedure Act (including, but not limited to, California Government  
19 Code Sections 11517 and 11523), and I willingly, intelligently, and voluntarily waive those  
20 rights.

21 6. Respondent can signify acceptance and approval of the terms and  
22 conditions of this Stipulation and Waiver by faxing a copy of its signature page, as actually  
23 signed by Respondent, to the Bureau of Real Estate at the following telephone/fax number: (213)  
24 576-6917. Respondent agrees, acknowledges, and understands that by electronically sending to  
25 the Bureau of Real Estate a fax copy of his/her actual signature as it appears on the Stipulation  
26 and Waiver, that receipt of the faxed copy by the Bureau of Real Estate shall be as binding on  
27

1 Respondent as if the Bureau of Real Estate had received the original signed Stipulation and  
2 Waiver.

3 12/17/15  
4 Dated

  
5 Chris Adam Chudacoff,  
6 Respondent

7 \* \* \*

8 I have read the Statement of Issues filed herein, the Proposed Decision of the  
9 Administrative Law Judge dated October 12, 2015, and the foregoing Stipulation and Waiver  
10 signed by Respondent. I am satisfied that it will not be inimical to the public interest to issue a  
11 restricted MLO license endorsement to Respondent.

12 Therefore, IT IS HEREBY ORDERED that a restricted individual mortgage loan  
13 originator license endorsement be issued to Respondent CHRIS ADAM CHUDACOFF if  
14 Respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted  
15 MLO license endorsement shall be limited, conditioned, and restricted as specified in the  
16 foregoing Stipulation and Waiver.

17 This Order is effective immediately.

18 IT IS SO ORDERED 12/18/2015

19  
20 Wayne Bell,  
21 Real Estate Commissioner

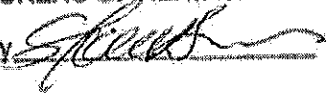
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**FILED**

NOV 25 2015

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of	)	CalBRE No. H-39841 LA
CHRIS ADAM CHUDACOFF,	)	OAH No. 2015070144
Respondent.	)	

NOTICE

TO: CHRIS ADAM CHUDACOFF, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated October 12, 2015, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated October 12, 2015, is attached hereto for your information.

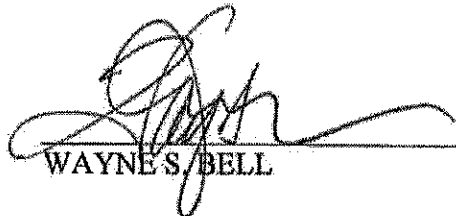
In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on September 18, 2015, and any written argument hereafter submitted on behalf of respondent and complainant.

Written argument of respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of September 18, 2015, at the Los Angeles office of the Bureau of Real Estate unless an extension of the time is granted for good cause shown.

1                   Written argument of complainant to be considered by me must be submitted within  
2 15 days after receipt of the argument of respondent at the Los Angeles Office of the Bureau of Real  
3 Estate unless an extension of the time is granted for good cause shown.

4                   DATED: 11/22/2015.

5                   REAL ESTATE COMMISSIONER

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7                   \_\_\_\_\_  
8                   WAYNE S. BELL

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BEFORE THE  
BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**

NOV 25 2015

BUREAU OF REAL ESTATE

By 

In the Matter of Application of:

CHRIS ADAM CHUDACOFF,

Respondent.

Case No. H-39841 LA

OAH No. 2015070144

**PROPOSED DECISION**

Matthew Goldsby, Administrative Law Judge with the Office of Administrative Hearings, heard this matter on September 18, 2015, at Los Angeles, California.

Amelia V. Vetrone, Counsel with the Bureau of Real Estate (Bureau), appeared and represented complainant Sylvia Yrigollen, Deputy Real Estate Commissioner for the Bureau.

Respondent Chris Adam Chudacoff appeared and represented himself.

The record was closed and the matter was submitted for decision at the conclusion of the hearing.

**FACTUAL FINDINGS**

1. Complainant filed the Statement of Issues in her official capacity. Respondent timely submitted a Notice of Defense on Application.
2. Respondent is presently licensed as a real estate broker. On April 16, 2014, respondent filed an application for an individual mortgage loan originator license endorsement.
3. On December 11, 1986, respondent entered a plea of guilty and was convicted of forgery in violation of Penal Code section 470, a misdemeanor. (*People v. Chudacoff* (Super. Ct. Los Angeles County, 1986, No. P069438.) The court suspended the imposition of sentence and placed respondent on summary probation for 24 months on the condition that he complete 15 days of community service for Cal Trans and pay restitution in the sum of \$1,500.

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4. The conviction arose from respondent's employment as a bank teller when he was 19 years old. A friend approached respondent for help to access his aunt's funds at the bank. The friend told respondent that his aunt was sick and that she requested his help. Respondent retrieved the signature card for the aunt's account at the bank and assisted his friend in the completion of a withdrawal slip in the amount of \$3,000.

5. Respondent complied with all terms of his probation. On July 30, 2009, the court set aside respondent's guilty plea, entered a plea of not guilty, and dismissed the complaint pursuant to Penal Code section 1203.4. The procedure is commonly referred to as an expungement.

6. Respondent first applied for a loan originator license endorsement by filing, supplementing, or resubmitting applications on March 29, 2010, May 17, 2010, and May 21, 2010. In each of these applications, respondent was required to make financial disclosures at Section 8 of the application. At question 8(F), the Bureau asked: "Have you ever been convicted of or pled guilty or nolo contendere ('no contest') in a domestic, foreign, or military court to committing or conspiring to commit a misdemeanor involving . . . forgery?" (Ex. 2-4.) Respondent replied "no" on each of the above three submissions. Respondent testified that he was informed by his attorney that, after the court granted the expungement, respondent was no longer required by law to disclose the conviction, "except to the CIA and the FBI." Respondent testified that the omission was not made with the intent to deceive the Bureau.<sup>1</sup>

7. The Bureau notified respondent that he was required to furnish a statement about his prior conviction. Respondent supplemented his application on August 4, 2010, August 17, 2010, and November 2, 2010, disclosing details about his 1986 conviction in each of these submissions.

8. On December 21, 2010, complainant filed an Accusation against respondent in case number H-36988 LA. The pleading alleged that respondent was the designated officer of Mortgage Modification Legal Network, Inc. (MMLN), and that MMLN failed to submit advance fee agreements to the commissioner in violation of Business and Professions Code section 10085 and California Code of Regulations, title 10, section 2970. In addition, MMLN and respondent allegedly paid compensation to a Colorado corporation that was not licensed in California for loan modification services in violation of Business and Professions Code sections 10137 and 10177, subdivisions (d) and (g). All of the allegations purported to support a failure to supervise in violation of Business and Professions Code section 10177, subdivision (h). Respondent filed a timely Notice of Defense.

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<sup>1</sup>In 1992, when respondent filed an application with the Bureau for a license to act as real estate salesperson, he disclosed his prior conviction. When he filed an application to act as a real estate broker, he also disclosed his prior conviction.

9. On May 23, 2011, complainant and respondent executed a Stipulation and Agreement resolving the dispute in case number H-36988 LA. Without admitting the truth of the allegations, except to the extent the factual statements served as a prima facie basis for disciplinary action, respondent stipulated that cause was shown to suspend his license for 60 days. The initial 30 days of the suspension was stayed for one year on the condition that respondent pay a monetary fee of \$1,000. The remaining 30 days of the suspension was stayed for two years on the condition that respondent obey all laws, pay restitution to 11 consumers who paid advance fees, and take and pass a Professional Responsibility Examination within six months of the decision. The decision was effective on September 13, 2011.

10. Respondent complied with all probationary terms, except he did not take and pass the required examination within six months of the decision. Respondent testified that he did not take the examination as ordered because he chose not to practice as a real estate broker and the cost of the examination was burdensome at the time. When he decided to reactivate his real estate broker license, he took and passed a Professional Responsibility Examination. On January 14, 2014, the suspension of respondent's real estate broker license was lifted.

11. Respondent refiled the application for a loan originator license endorsement on February 6, 2012, and February 13, 2012. In each of these filings, respondent disclosed the 1986 conviction.

12. On March 29, 2012, complainant filed a Statement of Issues in case number H-37961 LA. Complainant prayed for the denial of respondent's pending applications for a loan originator license endorsement based on (a) the conviction described at Factual Findings 3 and 4, as a crime bearing a substantial relationship to the qualifications, functions, and duties of a real estate licensee, and (b) the disciplinary action described at Factual Findings 9 and 10. On June 6, 2012, respondent withdrew his application and, based thereon, complainant dismissed the Statement of Issues on June 13, 2012.

13. Respondent refiled the application for a loan originator license endorsement on May 15, 2012, October 11, 2012, January 8, 2013, December 13, 2013, and June 24, 2014. In each of these filings, respondent disclosed the 1986 conviction.

14. On August 14, 2012, in case number H-36988 LA, the commissioner issued his order suspending respondent's real estate broker license based on his failure to take and pass a Professional Responsibility Examination within six months of the decision, as previously ordered.

15. Respondent has worked in the mortgage lending industry for 23 years. He has worked primarily for organizations that were regulated by the Department of Business Oversight, not by the Bureau. He has received customer satisfaction survey results with "Excellent" and "Very Satisfied" ratings from clients.

16. Respondent presented seven character reference letters as evidence of mitigation and rehabilitation. Respondent is described as “fully transparent, honest, kind hearted, trustworthy and loyal.” (Ex. B.) Respondent has informed his friends of his 1986 conviction and, despite respondent’s criminal record, his friends describe respondent as “a man of unquestionable character and integrity” and “a man who donates his time and talents to those who are in need.” (*Ibid.*) Respondent has volunteered with his church, through which he was “heavily involved in supporting orphans in Haiti.” (*Ibid.*)

17. In the pending application dated April 16, 2014, respondent disclosed his 1986 conviction. In addition, he disclosed the disciplinary actions against him.

18. Except for the 1986 conviction, there was no evidence that respondent has any criminal record or that he has engaged in any unlawful conduct since 1986.

#### LEGAL CONCLUSIONS

1. The commissioner shall not issue a license endorsement to act as a mortgage loan originator to an applicant who has failed to demonstrate such financial responsibility, character, and general fitness as to command the confidence of the community and warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently. (Bus. & Prof. Code, § 10166.05, subd. (c).)

2. The commissioner may deny a mortgage loan originator license endorsement, if an applicant fails at any time to meet the statutory qualification requirements, or withholds information or makes a material misstatement in an application for a license endorsement. (Bus. & Prof. Code, § 10166.051, subd. (b).)

3. Where a real estate licensee was subject to a real estate license discipline action filed by the Bureau on January 1, 2010, or later, resulting in a suspension of a real estate license, such discipline alone may be cause for denial of a subsequent mortgage loan originator license endorsement. (Cal. Code Regs., tit. 10, § 2945.2, subd. (b).)

4. The burden of proof is on respondent as the party seeking to establish an entitlement to government benefits or services. (*Lindsay v. San Diego Retirement Bd.* (1964) 231 Cal.App.2d 156.)

5. In this case, respondent withheld information about his 1986 conviction on three prior submissions for licensure. The omission was material because the 1986 conviction involved the fraudulent taking of funds belonging to another person, which is substantially related to the qualifications, functions, and duties of a real estate licensee. (Cal. Code Regs., tit. 10, § 2910, subd. (a)(1).) Business and Professions Code section 10166.051, subdivision (b), does not require that the withholding be willful or done with the intent to defraud the Bureau. The omission, when viewed in light of the dishonest nature of the underlying conduct, undermines the community’s confidence in respondent’s character and whether he will operate honestly.

6. Moreover, the suspension of respondent's broker license in response to disciplinary action taken after January 1, 2010, is alone sufficient cause to deny his subsequent mortgage loan originator license endorsement. Although respondent chose to forgo the pursuit of a real estate career, his chosen course of action does not change the fact that the stay of suspension was lifted and discipline was imposed.

7. Accordingly, cause exists to deny respondent's application under Business and Professions Code sections 10166.05, subdivision (c), and 10166.051, subdivision (b), because he made a material misstatement in an a prior application for a license endorsement. (Factual Finding 7.)

8. Cause exists to deny respondent's application under California Code of Regulations, title 10, section 2945.2, subdivision (b), because the Accusation filed by the Bureau after January 1, 2010, resulted in the suspension of respondent's broker license. (Factual Findings 9-11.)

9. In mitigation, respondent made full disclosure of his 1986 conviction in 10 other submissions. In addition, respondent made full disclosure when he applied for his real estate salesperson and broker licenses, and he disclosed the prior disciplinary action against him. Respondent's testimony that he was informed and believed that he was no longer required under the law to disclose the conviction is credible because the omissions were made within one year of the expungement and respondent consistently disclosed the conviction before and after the inaccurate filings. The preponderance of the evidence shows that the omissions were a good faith error in judgment and not a willful effort to deceive the Bureau.

10. The lack of any criminal record over the course of the past 30 years is evidence that respondent has fully rehabilitated from his 1986 conviction. Positive customer satisfaction survey results demonstrate that respondent has commanded the confidence of the community and the character reference letters explain and support respondent's direct testimony that he will operate honestly.

11. Respondent has provided sufficient evidence of mitigation and rehabilitation to indicate the likelihood of his future compliance with probationary terms. Denial of his application for a mortgage loan originator license endorsement would be unduly harsh and punitive. The task in disciplinary cases is preventative, protective, and remedial, not punitive. (*In re Kelley* (1990) 52 Cal.3d 487.) Given the foregoing, the following order should provide adequate protection of the public health, safety, and welfare.

ORDER

A restricted mortgage loan originator license endorsement license shall be issued to respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefor and pays to the Bureau the appropriate fee for the restricted license

Not  
Adopted

within 90 days from the effective date of this decision. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under authority of Business and Professions Code section 10156.6:

1. The restricted license issued to the respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to the respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to the respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations, or restrictions of a restricted license until two years have elapsed from the effective date of this decision.

4. Respondent shall, within nine months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the respondent presents such evidence. The Commissioner shall afford the respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: October 12, 2015

DocuSigned by:  
*Matthew Goldsby*  
8CC911E7909041F

MATTHEW GOLDSBY  
Administrative Law Judge  
Office of Administrative Hearings

Not Adopted