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FILED

DEC 19 2024

DEPT. OF REAL ESTATE

By—

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

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| In the Matter of the Accusation of |) | No. H-05823 SD |
| |) | |
| |) | |
| SOURCE CAPITAL FUNDING, INC.; and |) | |
| |) | FIRST AMENDED |
| SACHA DAMIAN FERRANDI, |) | ACCUSATION |
| individually and as designated officer |) | |
| of Source Capital Funding, Inc., |) | |
| |) | |
| Respondents. |) | |

This First Amended Accusation amends the Accusation filed on or about October 14, 2024. The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, acting in her official capacity, for cause of Accusation against Respondents SOURCE CAPITAL FUNDING, INC. ("SCFI") and SACHA DAMIAN FERRANDI ("FERRANDI"), individually and as designated officer of Source Capital Funding, Inc., (collectively "Respondents") is informed and alleges as follows:

I.

The Complainant, Veronica Kilpatrick, acting in her official capacity as Supervising Special Investigator of the State of California, makes this Accusation.

2.

All references to the "Code" are to the California Business and Professions Code, and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations unless otherwise specified.

(License History)

3.

a. Respondent SCFI is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code as a real estate corporation (license no. 01796521) and mortgage loan originator ("MLO") (Nationwide Multistate Licensing System and Registry ("NMLS") license no. 237332). SCFI has been licensed as a real estate corporation from on or about February 16, 2007 through the present. SCFI has been licensed with an MLO license endorsement by the California Department of Real Estate from on or about November 9, 2010 through the present.¹ SCFI's designated officer has been Respondent FERRANDI from on or about April 28, 2010 through the present. SCFI's fictitious business name has been "Red Leaf Servicing" from on or about April 27, 2018 through the present.² SCFI currently does not have any other fictitious business names.

b. Respondent FERRANDI is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code as a real estate officer (license no. 01792194) of Respondent SCFI from on or about April 28, 2010

¹ Respondent SCFI is also licensed by the NMLS in Arizona, Colorado, Minnesota, and Texas in various capacities.

² Previously, SCFI's fictitious business names were "Red Leaf Management" from on or about January 12, 2009 to March 29, 2022, "Prospect Realty & Mortgage" from on or about July 30, 2007 to June 24, 2010, "Prospect Mortgage Group" from on or about February 26, 2007 to April 29, 2010, and "Prospect Realty Group" from on or about February 16, 2007 to April 29, 2010.

1 through the present and a MLO (NMLS license no. 236824) from on or about November 18,
2 2010 through the present. Previously, from on or about February 22, 2007 to April 27, 2010,
3 FERRANDI was licensed as a real estate salesperson. FERRANDI has been licensed with an
4 MLO license endorsement by the California Department of Real Estate from on or about
5 November 18, 2010 through the present.³ At no time has FERRANDI had a fictitious business
6 name registered with the Department of Real Estate.

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8 (Prior License Discipline)

9 4.

10 On or about August 7, 2020, an Accusation, in case no. H-05171 SD, was filed
11 alleging Respondents SCFI and FERRANDI committed various audit violations, including, but
12 not limited to, Code sections 10145, 10238(d), 10238(f), 10238(k), 10240, 10241, 10163, and
13 10176(a) and Regulations sections 2832, 2842.5, 2848(a)(13), and 2715.

14 5.

15 On or about December 30, 2020, a Decision adopting the Stipulation and
16 Agreement, in case no. H-05171 SD, was filed ordering the real estate licenses of Respondents
17 SCFI and FERRANDI be suspended for fifteen (15) days with fifteen (15) days stayed pursuant
18 to certain terms and conditions, SCFI and FERRANDI pay for investigation and enforcement
19 costs, and SCFI and FERRANDI pay for audit and follow up audit costs.

20 6.

21 Specifically, the Decision adopting the Stipulation and Agreement ordered SCFI
22 and FERRANDI pay, separately or jointly:

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26
27 ³ Respondent FERRANDI is also licensed by the NMLS in Arizona, Colorado, Minnesota, and Texas in various capacities.

1 [T]he Commissioner's reasonable costs for any subsequent audit (said
2 costs may not to exceed a maximum of \$7,281.75) to determine if
3 Respondents have corrected the violations found in the Determination of
4 Issues . . . Respondents shall pay such cost within sixty (60) days of
5 receiving an invoice therefore from the Commissioner. Payment of
6 the audit costs should not be made until Respondents receive the
7 invoice. If Respondent fail to satisfy this condition in a timely manner as
8 provided for herein, Respondents' real estate licenses and mortgage loan
9 originator license endorsements shall automatically be suspended until
10 payment is made in full, or until a decision providing otherwise is adopted
11 following a hearing held pursuant to this condition.

12 Emphasis in original.

13 7.

14 On or about April 12, 2024, the Department of Real Estate completed the follow
15 up audit (audit number SD230027), which found SCFI and FERRANDI violated the Real
16 Estate Law and Regulations.

17 8.

18 On or about April 18, 2024, the invoice for the follow-up audit (audit number
19 SD230027) along with a letter demanding payment was mailed to FERRANDI at SCFI's
20 address of record at 600 West Broadway, Ste. 700, San Diego, CA 92101. The invoice charged
21 \$7,281.75 for follow-up audit, and stated it was due by June 17, 2024.

22 9.

23 On or about June 18, 2024, the same invoice for the follow-up audit along with a
24 second notice demanding payment was mailed to FERRANDI at SCFI's address of record.

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10.

On or about July 18, 2024, the same invoice for the follow-up audit along with a final notice for payment was mailed to FERRANDI at SCFI's address of record.

11.

On or about October 23, 2024, all the invoices and letters/notices mailed to FERRANDI, as described above, were mailed to FERRANDI at FERRANDI's address of record at 15516 Bristol Ridge Terrace, San Diego, CA 92127 as well as his home address.

12.

On or about November 12, 2024, Respondents paid \$7,281.75 for the follow-up audit to the Department of Real Estate.

(Real Estate Activities)

13.

At all times mentioned, in the County of San Diego, SCFI and FERRANDI engaged in the business of a real estate broker conducting licensed activities within the meaning of Code section Code section 10131(d) ("[s]olicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity").

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(Trust Fund Audit)

14.

On or about April 12, 2024, the Department of Real Estate completed an audit examination of the books and records of SCFI to determine whether SCFI and FERRANDI handled and accounted for trust funds and conducted their real estate activities in accordance with the Real Estate Law and Regulations. The audit examination covered a period of time beginning on July 1, 2022 and ending on November 30, 2023. The audit examination revealed violations of the Code and the Regulations set forth in the following paragraphs, and more fully discussed in Audit Report SD230027 and the exhibits and work papers attached to said audit report.

Trust Account

15.

At all times mentioned, in connection with the activities described in Paragraph 6, above, SCFI and FERRANDI accepted or received funds including funds in trust ("trust funds") from or on behalf of actual or prospective parties, such as owners of real property, and thereafter made deposits and/or disbursements of such funds. From time to time herein mentioned, during the audit period, said trust funds were deposited and/or maintained by SCFI and FERRANDI in the following trust accounts:

"Source Capital Funding Inc DBA Red Leaf Servicing Trust Fund"

*****2870

Union Bank

P.O. Box 60368

Phoenix, AZ 85082

TA 1

"Source Capital Funding Inc DBA Red Leaf Servicing Trust Fund"

*****1210

US Bank

P.O. Box 1800

Saint Paul, MN 55101

TA 2

In the course of activities described in Paragraphs 13 and 15, above, and during the audit examination period in Paragraph 14, above, Respondents SCFI and FERRANDI acted in violation of the Code and the Regulations as set forth below:

(a)(1) Permitted, allowed, or caused the disbursement of trust funds from the trust account TA 1 where the disbursement of funds reduced the total of aggregate funds in TA 1, to an amount which, on November 30, 2022, was a shortage of \$181,843.29 without first obtaining the prior written consent of the owners of said funds, in violation of Code section 10145 and Regulations section 2832.1. According to FERRANDI, this shortage was due to a system error and was corrected in or about December 2022.

(a)(2) Permitted, allowed, or caused the disbursement of trust funds from the trust account TA 2 where the disbursement of funds reduced the total of aggregate funds in TA 2, to an amount which, on November 30, 2023, was a shortage of \$3,137.43 without first obtaining the prior written consent of the owners of said funds, in violation of Code section 10145 and Regulations section 2832.1.

(b) Commingled trust funds with its own general funds by transferring and/or depositing trust funds into the general business bank account ("GA 2") (account number *****9891) without written authorization, in violation of Code sections 10145 and 10176(e) and Regulations section 2832. As of November 30, 2023, unauthorized disbursements and/or commingled trust funds from TA 2 to GA 2 totaled \$3,137.43.

(c) Failed to maintain an accurate and complete record of all trust funds received and disbursed (control record) for TA 1 and TA 2, in violation of Code section 10145 and Regulations section 2831.

(d) Failed to maintain an accurate and complete separate record for each beneficiary or transaction for TA 1 and TA 2, in violation of Code section 10145 and Regulations section 2831.1.

1 (e) Failed to perform and maintain monthly reconciliations comparing the
2 balance of all separate beneficiary or transactions records (separate records) to the balance of
3 the record of all trust funds received and disbursed (control record) for TA 1 and TA 2, in
4 violation of Code section 10145 and Regulations section 2831.2. These violations included,
5 but are not limited to, the months of November 2022 and from August 2023 to November 2023.

6 (f) Used the fictitious name "Red Leaf Management" to conduct licensed
7 activities (i.e., loan servicing), without first obtaining a license bearing the fictitious business
8 names, in violation of Code section 10159.5 and Regulation section 2731.

9 (g) Failed to provide the mortgage loan disclosure statement ("MLDS") to the
10 borrower within three (3) business days after receipt of a completed written loan application, in
11 violation of Code section 10240 and Regulations section 2842.5.

12 (h) Failed to notify the Department of Real Estate within thirty (30) days of
13 commencing to act as a mortgage loan originator and arrange loans secured by real property
14 containing one to four residential units for compensation, in violation of Code section
15 10166.02(a).

16 (i) FERRANDI failed to exercise reasonable supervision and control over the
17 licensed activities of SCFI and its employees to ensure full compliance with the Real Estate
18 Law and Regulations, in violation of Code section 10159.2 and Regulations section 2725.

19
20 17.

21 The conduct of Respondents SCFI and FERRANDI, as described in
22 Paragraph 17, above, violated the Code and the Regulations as set forth below:

| 23 <u>PARAGRAPH</u> | <u>PROVISIONS VIOLATED</u> |
|---------------------|---|
| 24 16(a) | Code section 10145 and Regulations section 2832.1 |
| 25 16(b) | Code sections 10145 and 10176(e) and Regulations section 2832 |
| 26 16(c) | Code section 10145 and Regulations section 2831 |

1 16(d) Code section 10145 and Regulations section 2831.1

2 16(e) Code section 10145 and Regulations section 2831.2

3 16(f) Code section 10159.5 and Regulation section 2731

4 16(g) Code section 10240 and Regulations section 2842.5

5 16(h) Code section 10166.02(a)

6 16(i) Code section 10159.2 and Regulations section 2725

7 The foregoing violations constitute cause for discipline of the real estate license and license
8 rights of Respondents SCFI and FERRANDI under the provisions of Code sections 10145,
9 10159.5, 10176(e), 10177(d), 10177(g), and 10177(h).

10
11 (COSTS)

12 18.

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

18 19.

19 Code section 10148(b) provides, in pertinent part, that the Commissioner shall
20 charge a real estate broker for the cost of any audit, if the Commissioner has found in a final
21 decision following a disciplinary hearing that the broker has violated Code section 10145 or a
22 regulation or rule of the Commissioner interpreting said section.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against the licenses and license rights of SOURCE CAPITAL FUNDING,
4 INC. and SACHA DAMIAN FERRANDI, individually and as designated officer of Source
5 Capital Funding, Inc., under the Real Estate Law (Part 1 of Division 4 of the California
6 Business and Professions Code), including, but not limited to, MLO license endorsements, for
7 the cost of investigation and enforcement pursuant to Code section 10106 and as permitted by
8 law, and for such other and further relief as may be proper under other applicable provisions of
9 law, including, but not limited to, costs of audit pursuant to Code section 10148(b).

10 Dated at San Diego, California: 12/1/2024

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14 Veronica Kilpatrick
15 Supervising Special Investigator
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24 cc: Source Capital Funding, Inc.
25 Sacha Damian Ferrandi
26 Veronica Kilpatrick
27 Sacto
Enforcement
Audits – Zaky Wanis