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FILED

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DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:)	NO. H-6958 SAC
)	
INVESTMENT GRADE LOANS, INC.,)	<u>ACCUSATION</u>
and ANDREW A. LEWIS,)	
)	
Respondents.)	

The Complainant, CHIKA SUNQUIST, in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against INVESTMENT GRANDE LOANS, INC. ("IGLI") and ANDREW A. LEWIS ("LEWIS"), (collectively referred to as "Respondents"), is informed and alleges as follows:

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Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code ("Code").

2

At all times mentioned herein, IGLI was and is licensed by the California Department of Real Estate ("the Department"), as a real estate broker corporation. At all times herein mentioned, IGLI was and is licensed by the Department as a company mortgage loan originator with Nationwide Mortgage Licensing System and Registry ("NMLS") identification number 339869.

At all times mentioned herein, LEWIS was and is licensed by the Department as a real estate broker. At all relevant times, LEWIS was the designated broker officer of IGLI. As the designated officer-broker, LEWIS was responsible, pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents, real estate licensees, and employees of IGLI. At all times herein mentioned, Respondent was and is licensed by the Department as an individual mortgage loan originator with NMLS identification number 338763.

Whenever reference is made in an allegation in this Accusation to an act or omission of IGLI, such allegation shall be deemed to mean that the employees, agents, real estate licensees, and others employed by or associated with IGLI committed such act or omission while engaged in furtherance of the business or operations of IGLI and while acting within the course and scope of their authority and employment.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California on behalf of others, for compensation or in expectation of compensation within the meaning of:

Section 10131(b) of the Code, including the operation and conduct of a property management business with the public wherein, on behalf of others, for compensation, leased or rented or offered to lease or rent, or placed for rent, or solicited listings of places for rent, or solicited for prospective tenants, or negotiated for sale, purchase or exchange of leases on real property, or on a business opportunity, or collected rent from real property, or improvements thereon, or from business opportunities;

Section 10131(d) of the Code, including the operation and conduct of real estate business with the public wherein Respondents solicited borrowers or lenders for or negotiated loans or collected payment or performed 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;

1 Section 10131(e) of the Code, including the operation and conduct of real estate
2 business with the public wherein Respondents sold or offered to sell, bought or offered to buy, or
3 exchanged or offered to exchange a real property sales contract, or a promissory note secured
4 directly or collaterally by a lien on real property or on a business opportunity, and performed
5 services for the holders thereof; and/or

6 Section 10131.1 of the Code, including the operation and conduct of a real estate
7 business with the public wherein Respondents engaged as a principal in the business of making
8 loans or buying from, selling to, or exchanging with the public, real property sales contracts or
9 promissory notes secured directly or collaterally by liens on real property, or who made agreements
10 with the public for the collection of payments or for the performance of services in connection with
11 real property sales contracts or promissory notes secured directly or collaterally by liens on real
12 property.

13 **COUNT ONE**
14 **AUDIT VIOLATIONS**
15 (As to Respondents IGLI and LEWIS)

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17 Each and every allegation in paragraphs 1 through 4, inclusive, above, is
18 incorporated by this reference as if fully set forth herein.

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20 Beginning on June 11, 2019, and continuing intermittently until November 12, 2019,
21 the Department conducted an audit of the books and records related to the real estate activities of
22 Respondents at Respondents' main office located at 475 S. San Antonio Road, Los Altos, CA
23 94022, and at the Department of Real Estate office located at 1515 Clay Street, Suite 702, Oakland,
24 CA 94610. The auditor examined records for the period of January 1, 2017, to June 30, 2019
25 ("audit period").

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27 While acting as real estate brokers as described above in paragraph 4, and within the
audit period, Respondents accepted or received funds in trust ("trust funds") and deposited or

caused the trust funds to be deposited into bank accounts maintained by Respondents, and thereafter, from time-to-time, Respondents made disbursements of said trust funds, identified as follows:

Trust Account #1

Bank Name: Heritage Bank of Commerce
Account No.: Last 4 Digits: xxxxx2891
Account Name: Investment Grade Loans Inc. Loan Servicing/Trust Account
Signatories: Andrew Lewis (D.O.)
Purpose: For loan servicing of private investor loans

Trust Account #2

Bank Name: Heritage Bank of Commerce
Account No.: Last 4 Digits: xxxxx4095
Account Name: Investment Grade Loans Inc. Loan Entry Trust Account
Signatories: Andrew Lewis (D.O.)
Purpose: For trust funds related to affiliated LLCs

Trust Account #3

Bank Name: Heritage Bank of Commerce
Account No.: Last 4 Digits: xxxxx7510
Account Name: Investment Grade Loans Inc. Loan Entry Trust Account
Signatories: Andrew Lewis (D.O.)
Purpose: For trust funds related to property management

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In the course of the real estate broker activities described above in paragraph 4, and during the audit period, Respondents:

(a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be reduced to an amount which, as of June 28, 2019, was approximately \$2,000 less than the aggregate liability of Trust Account #1 to all owners of such funds, without the prior written consent of each and every owner of such funds, in violation of Section 10145 of the Code, and Section 2832.1 of Chapter 6, Title 10, California Code of Regulations ("the Regulations");

(b) caused, suffered, or permitted the balance of funds in Trust Account #2 to be reduced to an amount which, as of June 28, 2019, was approximately \$3,000 less than the

1 aggregate liability of Trust Account #2 to all owners of such funds, without the prior written
2 consent of each and every owner of such funds, in violation of Section 10145 of the Code, and
3 Section 2832.1 of the Regulations;

4 (c) caused, suffered, or permitted the balance of funds in Trust Account #3 to
5 be reduced to an amount which, as of June 28, 2019, was approximately \$19,199 less than the
6 aggregate liability of Trust Account #3 to all owners of such funds, without the prior written
7 consent of each and every owner of such funds, in violation of Section 10145 of the Code, and
8 Section 2832.1 of the Regulations;

9 (d) caused or permitted \$1,078.70 of his own money to be commingled in Trust
10 Account #1 with trust funds, in violation of Section 10176(e) of the Code;

11 (e) failed to maintain an accurate record of all trust funds received and disbursed
12 (control records) for Trust Account #1 and Trust Account #3, in violation of Section 10145 of the
13 Code and Section 2831 of the Regulations;

14 (f) failed to maintain and/or keep accurate and complete separate records for
15 each beneficiary or property of trust funds accepted or received in Trust Account #1 and Trust
16 Account #3, in violation of Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

17 (g) failed to reconcile at least once per month, the balance of all separate
18 beneficiary or transaction records to the balance of the control records for Trust Account #1, Trust
19 Account #2, and Trust Account #3, in violation of Section 10145 of the Code and Section 2831.2 of
20 the Regulations;

21 (h) failed to timely file Annual Trust Account Review by an independent CPA
22 for fiscal year 2018, in violation of Sections 10238(o) and 10232.2(a) of the Code, and Sections
23 2846.5 and 2846.7 of the Regulations;

24 (i) failed to timely file Annual Mortgage Loan Business Activity Report for
25 fiscal years 2017 and 2018, in violation of Sections 10238(p) and 10232.2(c) of the Code, and
26 Section 2849.01 of the Regulations;

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1 (j) failed to submit quarterly Multi-Lender Trust Account Report by an
2 independent CPA for the third quarter of 2018, first quarter of 2019, and second quarter of 2019, in
3 violation of Section 10238(k)(3); and

4 (k) failed to submit quarterly trust fund status report for the first, second and
5 third quarters of 2018, and the first, second and third quarters of 2018, in violation of Section
6 10232.25(a) of the Code and Section 2846.8 of the Regulations.

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8 The acts and/or omissions of IGLI and LEWIS as alleged above in paragraph 8,
9 constitute grounds for the suspension or revocation of all licenses and license rights endorsements
10 and endorsement rights of IGLI and LEWIS pursuant to the following provisions of the Code and
11 Regulations:

12 As to Paragraph 8(a), under Section 10166.05, 10177(d) and/or 10177(g) of the
13 Code, in conjunction with Section 10145 of the Code, and Section 2832.1 of the Regulations;

14 As to Paragraph 8(b), under Section 10166.051, 10177(d) and/or 10177(g) of the
15 Code, in conjunction with Section 10145 of the Code, and Section 2832.1 of the Regulations;

16 As to Paragraph 8(c), under Section 10166.051, 10177(d) and/or 10177(g) of the
17 Code, in conjunction with Section 10145 of the Code, and Section 2832.1 of the Regulations;

18 As to Paragraph 8(d), under Section 10176(e) of the Code;

19 As to Paragraph 8(e), under Section 10166.051, 10177(d) and/or 10177(g) of the
20 Code, in conjunction with Section 10145 of the Code, and Section 2831 of the Regulations;

21 As to Paragraph 8(f), under Section 10166.051, 10177(d) and/or 10177(g) of the
22 Code, in conjunction with Section 10145(g) of the Code, and Section 2831.1 of the Regulations;

23 As to Paragraph 8(g), under Section 10166.051, 10177(d) and/or 10177(g) of the
24 Code, in conjunction with Section 10145 of the Code, and Section 2831.2 of the Regulations;

25 As to Paragraph 8(h), under Section 10166.051, 10177(d) and/or 10177(g) of the
26 Code, in conjunction with Sections 10238(o) and 10232.2(a) of the Code, and Section, 2846.5 and
27 2846.7 of the Regulations;

As to Paragraph 8(i), under Section 10166.051, 10177(d) and/or 10177(g) of the Code, in conjunction with Sections 10238(p) and 10232.2(c) of the Code, and Section 2849.01 of the Code;

As to Paragraph 8(j), under Section 10166.051, 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10238(k)(3) of the Code;

As to Paragraph 8(k), under Section 10166.051, 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10232.25 of the Code, and Section 2846.8 of the Regulations.

COUNT TWO
TRANSACTION VIOLATIONS
(As to Respondents IGLI and LEWIS)

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In the course of the activities described above in Paragraph 4, Respondents were involved in originating, funding, negotiating and/or closing the following mortgage loan transactions:

Borrower	Property Address	Date Closed	Lender
Carlsbad 960, LLC	9401 National Parks Highway, Carlsbad, NM, 88220	3/14/2018	Andrew A. Lewis

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In the course of the transaction described above in paragraph 10, and within three years of filing this Accusation, Respondents:

- (a) failed to retain an investor suitability statement for the investor acknowledging that Respondents satisfied either the income and/or net worth qualification, in violation of Section 10232.3(b) of the Code;
- (b) failed to maintain evidence that a completed Lender Purchaser Disclosure Statement was delivered to the investor for the loan to the borrower before he became obligated to the loan, in violation of Section 10232.4(a) of the Code;
- (c) failed to obtain from the investors in deeds of trust or interest therein, information relating to the Investor Questionnaire approved by the Commissioner to determine that

1 an investment is suitable and appropriate for each investor, in violation of Section 10232.45 of the
2 Code; and

3 (d) failed to deliver the Mortgage Loan Disclosure Statement ("MLDS") to at
4 least one borrower or keep and maintain evidence that the MLDS was being delivered to the
5 borrower within three business days upon receipt of their completed loan application, in violation of
6 Section 10240 of the Code.

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8 The acts and/or omissions of IGLI and LEWIS as alleged above in paragraph 11,
9 constitute grounds for the suspension or revocation of all licenses and license rights endorsements
10 and endorsement rights of IGLI and LEWIS pursuant to the following provisions of the Code and
11 Regulations:

12 As to Paragraph 11(a), under Section 10166.051, 10177(d) and/or 10177(g) of the
13 Code, in conjunction with Section 10232.3(b) of the Code;

14 As to Paragraph 11(b), under Section 10166.051, 10177(d) and/or 10177(g) of the
15 Code, in conjunction with Section 10232.4(a) of the Code;

16 As to Paragraph 11(c), under Section 10166.051, 10177(d) and/or 10177(g) of the
17 Code, in conjunction with Section 10232.45 of the Code; and

18 As to Paragraph 11(a), under Section 10166.051, 10177(d) and/or 10177(g) of the
19 Code, in conjunction with Section 10240 of the Code.

20 **COUNT THREE**
21 **FAILURE TO SUPERVISE**
22 (As to Respondent LEWIS)

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24 Each and every allegation in Paragraphs 1 through 12, inclusive, above, is
25 incorporated by this reference as if fully set forth herein.

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LEWIS, as the designated officer of IGLI from March 23, 2017, until the present day, was required to exercise reasonable supervision and control over the activities of IGLI, its employees, and the real estate activities being conducted by IGLI.

LEWIS failed to exercise reasonable supervision over the acts and/or omissions of IGLI, and its employees, in such a manner as to allow the acts and/or omissions, as described above in COUNT ONE and COUNT TWO of the Accusation to occur, which constitutes cause for the suspension or revocation of all licenses and license rights endorsements and endorsement rights of LEWIS under Section 10166.051, 10177(d) and/or 10177(g), 10177(h) and 10159.2 of the Code, in conjunction with Section 2725 of the Regulations.

PRIOR DISCIPLINE

Effective August 23, 2007, in Case No. H-9724 SF, the Real Estate Commissioner suspended the real estate broker license of LEWIS for sixty (60) days for violating Sections 10176(i), 10177(g) and 10177(j) of the Code and Sections 4975(a)(1) and 4975(a)(2) of the Financial Code.

Effective June 11, 2008, in Case No. H-10094 SF, the Real Estate Commissioner suspended the real estate broker license of IGLI for ninety (90) days for violating Sections 10085, 10145, 10177(d), and 10238(d) of the Code and Sections 2831, 2831.1, 2831.2, 2832, 2970 of the Regulations. Also effective June 11, 2008, in Case No. H-10094 SF, the Real Estate Commissioner suspended the real estate broker license of LEWIS for one hundred and twenty (120) days for violating Sections 10159.2, 10177(d), 10177(g), and 10177(h) of the Code.

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1 **COST RECOVERY**

2 **Audit Costs**

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4 The acts and/or omissions of Respondents, as alleged above in COUNT ONE and
5 COUNT TWO of the Accusation, entitle the Department to reimbursement of the costs of its audit
6 pursuant to Section 10148(b) of the Code.

7 **Investigation and Enforcement Costs**

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9 Section 10106 of the Code provides, in pertinent part, that in any order issued in
10 resolution of a disciplinary proceeding before the Department, the Commissioner may request the
11 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
12 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

13 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
14 this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and license
15 endorsements and endorsement rights of all Respondents named herein under the Real Estate Law,
16 for the cost of investigation and enforcement as permitted by law, for the cost of the audit as
17 permitted by law, and for such other and further relief as may be proper under other provisions of
18 law.

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21 CHIKA SUNQUIST
22 Supervising Special Investigator

23 Dated at Sacramento, California,
24 this 13th day of July, 2020.

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1 DISCOVERY DEMAND

2 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department
3 of Real Estate hereby makes demand for discovery pursuant to the guidelines set forth in the
4 *Administrative Procedure Act*. Failure to provide Discovery to the Department of Real Estate may
5 result in the exclusion of witnesses and documents at the hearing or other sanctions that the Office
6 of Administrative Hearings deems appropriate.