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DEPT. OF REAL ESTATE

KATHY YI, Counsel (SBN 236736)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 559-5990
Direct: (213) 443-9268
Email: kathy.yi@dre.ca.gov
Attorney for Complainant

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-12751 SF
)	
FUNDING RUSH, INC.; and)	<u>ACCUSATION</u>
ANDREW ADRIAN DIOLI,)	
individually and as designated officer)	
of Funding Rush, Inc.,)	
)	
Respondents.)	

The Complainant, Stephanie Yee, a Supervising Special Investigator for the Department of Real Estate ("Department" or "DRE") of the State of California, for cause of Accusation against FUNDING RUSH, INC. and ANDREW ADRIAN DIOLI, individually and as a designated officer of Funding Rush, Inc. (collectively "Respondents"), alleges as follows:

1.

The Complainant, Stephanie Yee, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the California Business and Professions Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all references to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10,

Chapter 6, California Code of Regulations.

LICENSE HISTORY

3.

a. Respondent FUNDING RUSH, INC. ("FRI") presently has license rights with the Department as a real estate corporation (DRE License ID 02103724). On or about October 22, 2019, FRI was initially issued said real estate corporation license, which is now set to expire on October 21, 2027, unless renewed.

b. According to current DRE records, FRI's real estate license is currently in a "NBA" or non-working status. FRI also does not have any main office address on file.

c. According to current DRE records, FRI's mailing address is 380 Beach Rd., Suite R, Burlingame, California 94010.

4.

a. Respondent ANDREW ADRIAN DIOLI ("DIOLI") presently has a real estate broker license (DRE License ID 01703746) with the Department.

b. On November 17, 2011, the Department issued a real estate broker license to DIOLI, which is now set to expire on November 16, 2027, unless renewed.

c. According to current DRE records, DIOLI maintains his main office at 380 Beach Rd., Suite D, Burlingame, California 94010.

d. At all times on or after January 26, 2012, DIOLI has held and holds a Department-approved individual mortgage loan originator license endorsement (NMLS ID 277032).

e. According to current Department records, DIOLI was the former designated officer (D.O.) of FRI until October 10, 2023, when he cancelled his officer license.

f. According to current Department records, DIOLI is presently the D.O. for FMC Lending, Inc. (DRE License ID 01909075), for Lender Funds, Inc. (DRE License ID 02098388), and Sierra Private Lending, Inc. (DRE License ID 02230441).

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1 BROKER ACTIVITIES

2 5.

3 At all times relevant herein, Respondent engaged in the business of, acted in the
4 capacity of, advertised or assumed to act as a real estate broker in the State of California,
5 within the meaning of Section 10131(d) of the Code, when he engaged, for a compensation or
6 in expectation of a compensation, in soliciting borrowers or lenders for or negotiating loans or
7 collecting payments or performing services for borrowers or lenders or note owners in
8 connection with loans secured directly or collaterally by liens on real property or on a business
9 opportunity.

10 CAUSE FOR ACCUSATION

11 (AUDIT OK230052)

12 6.

13 On or about February 29, 2024, the Department completed an audit report
14 about the examination of the books and records of FRI's mortgage loan brokerage and
15 servicing activities, pursuant to Code section 10131(d). The audit examination covered the
16 period of time from October 1, 2022 to October 10, 2023. During that time, DIOLI was the
17 D.O. of FRI. The primary purpose of the examination was to determine whether FRI
18 conducted real estate activities in accordance with the Real Estate Law and the
19 Commissioner's Regulations.

20 7.

21 Based on the examination of records provided for the audit examination and
22 discussions, prior to DIOLI's resignation as D.O. of FRI, FRI engaged in mortgage loan
23 servicing that included negotiating hard money loans for borrowers and private investors and
24 soliciting lenders.

25 8.

26 Based on the examination of records provided for the audit examination and
27 discussions with Respondent, FRI did not maintain any trust account for its mortgage loan

servicing activity during the audit period.

9.

The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in the consolidated Audit Report No. OK230052 and the exhibits and work papers attached to the audit report.

10.

(a) Threshold Notification (Code section 10232(e))

During the period from October 1, 2022 to December 31, 2022, FRI brokered at least four (4) single investor private money loans totaling \$1,099,000.00, which were the following:

Loan #	Borrower Name	Date funded/recorded	Loan Amount
FR4033832	Eric K.	October 3, 2022	\$ 545,000.00
FR4032621	S.C.G. LLC	October 19, 2022	\$ 150,000.00
FR4034118	Jianxin Y.	December 9, 2022	\$ 175,000.00
FR4034753	Lino D.L.C.	December 15, 2022	\$ 229,000.00
Total Amount			\$1,099,000.00

(b) Notice of Multi-Lender (Code section 10238(a))

A loan to borrowers Franklin E. and Ijeoma E. for \$5,000,000 (Loan No. FR4033775) was sold to multiple investors. The Deed of Trust for said transaction was recorded on October 11, 2022. FRI failed to file with the Department a notice within thirty (30) days after the first multi-lender transaction was closed.

(c) Lender/Purchaser Disclosure Statements (Code sections 10232.4(a) and 10238(l))

There were certain Lender/Purchaser Disclosure Statements ("LPDS") provided and/or maintained in loan files that were either not signed by the investors or that were signed by the investors after loan funds were disbursed to the borrowers.

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1 10159.2. DIOLI failed to establish and/or implement policies, rules, procedures and systems to
2 review, oversee, inspect and manage transactions requiring a real estate license and documents
3 which may have a material effect upon the rights or obligations of a party to the transaction, in
4 violation of Regulations section 2725.

5 The conduct, acts, or omissions of DIOLI, as described in Paragraph 10 above,
6 in failing to ensure compliance of the Real Estate Law by FRI, are in violation of Code section
7 10159.2 and Regulations section 2725, and subjects all the licenses, license endorsements,
8 and/or license rights of DIOLI to suspension or revocation pursuant to Code sections 10177(d),
9 10177(g), and/or 10177(h).

10 12.

11 Each of the foregoing violations constitute cause for the suspension or
12 revocation of the real estate license and/or license rights of Respondents under the provisions of
13 Code sections 10177(d), 10177(g), and/or 10177(h).

14 COSTS

15 (AUDIT COSTS)

16 13.

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

22 (INVESTIGATION AND ENFORCEMENT COSTS)

23 14.

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

1 case.

2 WHEREFORE, Complainant prays that a hearing be conducted on the
3 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
4 disciplinary action against all the licenses and/or license rights of Respondents under the Real
5 Estate Law, for the costs of investigation and enforcement as permitted by law, for the cost of
6 the audit, and for such other and further relief as may be proper under other applicable
7 provisions of law.

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9 Dated at Oakland, California, on January 13, 2025.

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13 Stephanie Yee
14 Supervising Special Investigator

15
16 cc: FUNDING RUSH, INC.
17 ANDREW ADRIAN DIOLI
18 Stephanie Yee
19 Sacto.
20 Audits – Jayendra P. Barbhaiya
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