

FILED

JAN 29 2018

BUREAU OF REAL ESTATE

By AL Selwin

DIANE LEE, Counsel (SBN 247222)
Bureau of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013

Telephone: (213) 576-6982
(Direct) (213) 576-6907

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

GREGORY FUNDING, INC.; and
CHRISTINE MY NGO CRUZ,
individually and as designated officer
of Gregory Funding, Inc.,

Respondents.

No. H- 40925 LA
ACCUSATION

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against Respondents GREGORY FUNDING, INC. ("GFI") and CHRISTINE MY NGO CRUZ aka Christine Ngo aka My Ngo ("CRUZ"), individually and as designated officer of Gregory Funding, Inc., is informed and alleges as follows:

1.

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

///

///

2.

Unless otherwise specified, 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.

3.

(GREGORY FUNDING, INC.)

A. Real Estate License: From on or about June 10, 2013 through the present, Respondent GFI was and is 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 number 01935770). Since June 10, 2013, Respondent GFI's designated has been Respondent CRUZ.

B. MLO License Endorsement: Respondent GFI has a mortgage license originator ("MLO") license endorsement (NMLS ID 1067842) through the Bureau of Real Estate. Respondent GFI originally received its MLO license endorsement on or about September 17, 2013.

C. Corporation: On or about May 1, 2013, Respondent GFI was registered as a corporation in the State of California.¹ Since on or about May 1, 2013, C T Corporation System (corporate no. C0168406) has been the agent for service of process.

4.

(CHRISTINE MY NGO CRUZ)

A. From or about April 12, 2005 through the present, Respondent CRUZ was and is licensed and/or has license rights under the Real Estate Law as a real estate broker (license number 01487908). From on or about June 10, 2013 through the present, Respondent

¹ Respondent GFI's parent company is Gregory Funding, LLC. Gregory Funding, LLC's parent company is Aspen Yo, LLC. Aspen Yo, LLC's parent company is Aspen Capital. None of these three parent companies is licensed in any capacity by the Bureau of Real Estate at any time mentioned herein.

1 GFI was authorized to act by and through Respondent CRUZ as its designated broker and
2 officer who is responsible for ensuring compliance with the Real Estate Law pursuant to Code
3 sections 10159.2 and 10211.

4 B. MLO License Endorsement: Respondent CRUZ has a mortgage license
5 originator ("MLO") license endorsement (NMLS ID 1066973) through the Bureau of Real
6 Estate. Respondent CRUZ originally received her MLO license endorsement on or about
7 September 17, 2013.

8 5.

9 Whenever reference is made in an allegation in this Accusation to an act or
10 omission of "Respondents," such allegation shall be deemed to mean that the officers, directors,
11 employees, agents, and real estate licensees employed by or associated with Respondents
12 committed such act or omission while engaged in the furtherance of the business or operations
13 of Respondents and while acting within the course and scope of their corporate authority and
14 employment, including, but not limited to, GFI and CRUZ.

15 6.

16 At all times mentioned, in Los Angeles County, GFI and CRUZ engaged in the
17 business of real estate brokers conducting licensed activities within the meaning of Code
18 section 10131(d). GFI and CRUZ engaged in soliciting borrowers or lenders for loans,
19 negotiating loans, collecting payments, and/or performing services for borrowers or lenders or
20 note owners in connection with loans secured directly or collaterally by liens on real property or
21 on a business opportunity.

22 ///

23 ///

24 ///

25 ///

26 ///

(Trust Fund Audit)

7.

On or about March 8, 2017, the Bureau of Real Estate completed an audit examination of the books and records of GFI to determine whether GFI handled and accounted for trust funds and conducted its real estate activities in accordance with the Real Estate Law and Regulations. The audit examination covered a period of time beginning on January 1, 2014 and ended on January 31, 2016. The audit examination revealed violations of the Code and the Regulations set forth in the following paragraphs, and more fully discussed in Audit Report LA 150095 and the exhibits and work papers attached to said audit report.

Bank Accounts/Trust Accounts

8.

At all times mentioned, in connection with the activities described in Paragraph 6, above, GFI 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, involved in property management services, 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 GFI in the bank accounts as follows:

"Gregory Funding LLC
Servicing Account"

*****7493

Bank of America

P.O. Box 25118

Tampa, FL 33622-5118

(BA 1)

///

///

///

///

1 "Gregory Funding LLC
2 Ajax Mortgage Loan Trust 2013-B, in trust for U.S. Bank National Association, as indenture
3 trustee, for Ajax Morgan Loan Trust 2013-B Mortgage-Backed Notes, Series 2013-B:
Collection Account"

*****2117

4 Bank of America
5 P.O. Box 25118
6 Tampa, FL 33622-5118

(BA 2)

7 "Gregory Funding LLC
Escrow Account"

*****8463

8 Bank of America
9 P.O. Box 25118
10 Tampa, FL 33622-5118

(BA 3)

11 "Gregory Funding LLC
12 Ajax 2014-B Collection Account"

*****9170

13 Bank of America
14 P.O. Box 25118
15 Tampa, FL 33622-5118

(BA 4)

16 9.

17 In the course of activities described in Paragraphs 6 and 8, above, and during the
18 audit examination period in Paragraph 7, above, Respondents GFI and CRUZ acted in violation
19 of the Code and the Regulations as set forth below:

20 (a) BA 1, BA 2, BA 3, and BA 4 held trust funds, but were not designed as
21 trust accounts in the name of GFI as trustee, in violation of Code section 10145 and Regulations
22 section 2832.

23 (b)(1) Permitted Irving Potter (GFI's secretary/vice-president), Lawrence
24 Mendelsohn (GFI's board member), and Steven Rosenberg (GFI's board member), all
25 unlicensed and unbonded persons, to be the sole signatories of and make withdrawals from BA
26 1 and BA 3, in violation of Code section 10145 and Regulations section 2834.

1 (b)(2) Permitted Irving Potter (GFI's secretary/vice-president), Lawrence
2 Mendelsohn (GFI's board member), Steven Rosenberg (GFI's board member), and Glenn Ohl
3 (GFI's board member), all unlicensed and unbonded persons, be the sole signatories of and
4 make withdrawals from BA 1 and BA 4, in violation of Code section 10145 and Regulations
5 section 2834.

6 (c) Failed to maintain a complete and accurate control record in the form of
7 a columnar record in chronological order of all trust funds received, deposited, and disbursed
8 and with accurate daily balances for BA 1, BA 2, BA 3, and BA 4, in violation of Code section
9 10145 and Regulations section 2831.

10 (d) Failed to maintain an accurate and complete separate record for each
11 beneficiary or transaction for BA 1, BA 2, BA 3, and BA 4, in violation of Code section 10145
12 and Regulations section 2831.1.

13 (e) Failed to maintain complete and accurate monthly reconciliations
14 comparing the balances of all separate beneficiary or transaction records (separate records) to
15 the balances of the records of all trust funds received and disbursed for BA 1, BA 2, BA 3, and
16 BA 4, in violation of Code section 10145 and Regulations section 2831.2.

17 (f) Failed to deposit all funds belonging to others that are not immediately
18 placed into a neutral escrow depository or into the hands of the broker's principal, into a trust
19 fund account maintained by the broker in a bank or recognized depository in this state, and
20 maintain those funds there until disbursed in accordance with instructions from the person(s)
21 entitled to the funds, in violation of Code section 10145(a). GFI accepted and collected trust
22 funds from borrowers on behalf of investors/lenders, and distributed funds to Wells Fargo Bank
23 without written instructions from the investors/lenders who were entitled to the funds.

24 (g) Made collections of payments in an aggregate amount of two hundred
25 fifty thousand dollars (\$250,000) or more on behalf of owners of promissory notes secured
26 directly or collaterally by liens on real property, owners of real property sales contracts, or both
27

1 in January 2014, as provided in Code section 10232(a)(2), but failed to notify the Bureau of
2 Real Estate in writing within 30 days after that determination, in violation of Code section
3 10132(e).

4 (h) Failed to maintain written loan servicing agreement with at least ten (10)
5 of its investors, in violation of Code section 10233(a).

6 (i) Retained funds payable according to the terms of a promissory note or
7 real property sales contract secured directly or collaterally by a lien on real property, for a
8 period longer than 25 days without a written authorization from the purchaser or lender, in
9 violation of Code section 10231.1.

10 (j) Used the unlicensed fictitious business names of "Gregory Funding
11 LLC" and "Gregory" on GFI's business plan, bank signature cards, and bank statements, in
12 violation of Code section 10159.5 and Regulations section 2731.

13 (k)(1) Failed to provide all control records and separate records for each
14 beneficiary, copies of checks received from borrowers as a method of payment for loan
15 servicing records, and other accounting records related to its loan servicing activities for
16 examination, in violation of Code section 10148.

17 (k)(2) Borrower payments deposited into BA 1 were remitted to Wells Fargo
18 Bank accounts, which are owned by GFI's parent company, Gregory Funding LLC. Gregory
19 Funding LLC is not licensed in any capacity with the Bureau of Real Estate at any and all times
20 mentioned herein. The bank account statements and distribution records of these Wells Fargo
21 Bank accounts were not made available for examination to allow the Bureau of Real Estate to
22 access whether proper payments were remitted to the lenders/investors, in violation of Code
23 section 10148.

24 (l) Based on the above findings, CRUZ failed to adequately supervise the
25 real estate activities conducted by GFI and its employees. CRUZ failed to establish policies,
26 rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a
27

1 real estate license and the handling of trust fund to secure full compliance with the Real Estate
2 Laws and Commissioner's Regulations. CRUZ failed to be an authorized signer on BA 1, BA
3 2, BA 3, and BA 4, which were used to handle all trust funds received and disbursed related to
4 GFI's loan servicing activities. As a result, CRUZ was and is in violation of Code sections
5 10159.2 and 10177(h) and Regulations section 2725.

6 10.

7 The conduct of Respondents GFI and CRUZ described in Paragraph 9, above,
8 violated the Code and the Regulations as set forth below:

9 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
10 9(a)	Code section 10145 and Regulations section 2832
11 9(b)	Code section 10145 and Regulations section 2834
12 9(c)	Code section 10145 and Regulations section 2831
13 9(d)	Code section 10145 and Regulations section 2831.1
14 9(e)	Code section 10145 and Regulations section 2831.2
15 9(f)	Code section 10145(a)
16 9(g)	Code section 10132(e)
17 9(h)	Code section 10233(a)
18 9(i)	Code section 10231.1
19 9(j)	Code section 10159.5 and Regulations section 2731
20 9(k)	Code section 10148
21 9(l)	Code sections 10159.2 and 10177(h) and Regulations section 2725

22 The foregoing violations constitute cause for discipline of the real estate license and license
23 rights of GFI and CRUZ under the provisions of Code sections 10177(d), 10177(g), 10177(h),
24 and/or 10177(j) and/or 10176(i).

25 ///

26 ///

1 COSTS

2 11.

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

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

11 WHEREFORE, Complainant prays that a hearing be conducted on the
12 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
13 disciplinary action against all licenses and/or license rights under the Real Estate Law (Part 1 of
14 Division 4 of the California Business and Professions Code) of Respondents GREGORY
15 FUNDING, INC. and CHRISTINE MY NGO CRUZ, individually and as designated officer of
16 Gregory Funding, Inc. for the cost of investigation and enforcement as permitted by law, audit
17 costs as permitted by law, and for such other and further relief as may be proper under
18 applicable provisions of law.

19 Dated at San Diego, California: January 19, 2018.

21 V. Kilpatrick
22 Veronica Kilpatrick
23 Supervising Special Investigator

24 cc: Gregory Funding, Inc.
25 Christine My Ngo Cruz
26 Veronica Kilpatrick
27 Sacto.
Audits – Anna Hartoonian