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Counsel for Complainant

**FILED**

NOV 18 2021

DEPT. OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\*\*\*\*\*

In the Matter of the Accusation of	)	No. H-42156 LA
	)	
LENDINGXPRESS, INC.	)	<u>ACCUSATION</u>
	)	
and	)	
	)	
ROBERT DUANE GRIFFIN,	)	
	)	
Respondents.	)	

The Complainant, Ruth Corral, acting in her official capacity as a Supervising Special Investigator of the State of California, for cause of Accusation against LENDINGXPRESS, INC. and ROBERT DUANE GRIFFIN, is informed and alleges as follows:

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1. 1

2 All references to the "Code" are to the California Business and Professions Code  
3 and all references to "Regulation" or "Regulations" are to Title 10, Chapter 6, California Code of  
4 Regulations.

5 **DRE LICENSE HISTORY**

6 **LENDINGXPRESS, INC.**

7 2.

8 **Licensure**

9 Respondent **LENDINGXPRESS, INC. ("LXI")** is presently licensed and/or has  
10 license rights as a real estate corporation (broker) ("REC") under the Real Estate Law (Part 1 of  
11 Division 4 of the Code), Department of Real Estate ("DRE") license ID 02072559. LXI was  
12 originally licensed as a REC on August 31, 2018.

13 3.

14 **License Information**

15 According to DRE records to date:

- 16 A. LXI's mailing and main address of record are the same: 17785 Sky Park Cir,  
17 Ste. E, Irvine, CA 92614 ("Irvine address");  
18 B. LXI has one (1) active DBA, Aspire Real Estate (active as of February 11,  
19 2021) and two real estate salespersons ("RES") affiliated with its license; and  
20 C. ROBERT DUANE GRIFFIN is LXI's designated officer of record ("D.O.")  
21 until his officer affiliation expires on August 30, 2022.

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23 ///

1 4.

2 License Expiration

3 LXI's REC license will expire on August 30, 2022.

4 5.

5 Mortgage Loan Originator License Endorsement

6 LXI has a mortgage loan originator ("MLO") license endorsement, Nationwide  
7 Multistate Licensing System ("NMLS") ID 01879867 (issued on December 2, 2019) and is  
8 authorized to conduct business.

9 ROBERT DUANE GRIFFIN

10 6.

11 Licensure

12 Respondent **ROBERT DUANE GRIFFIN** ("**GRIFFIN**") is presently licensed  
13 and/or has license rights as a real estate broker ("REB") under the Real Estate Law, DRE license  
14 ID 01299386. GRIFFIN was originally licensed as a RES on November 18, 2000 and as a  
15 restricted REB from December 14, 2012 through March 24, 2017, pursuant to DRE Case H-  
16 37830 LA.

17 7.

18 License Information

19 According to DRE records to date:

20 A. GRIFFIN's mailing and main address of record are the same Irvine address as  
21 that of LXI;

1 B. GRIFFIN has no active DBAs, one (1) previously active DBA (Aspire Real  
2 Estate, active from May 12, 2017 to April 26, 2021), and one (1) RES  
3 affiliated with his license; and

4 C. GRIFFIN is the D.O. for LXI until his officer affiliation expires on August 30,  
5 2022 and for Ocean Capital, Inc. until his officer affiliation expires on September  
6 5, 2022 (GRIFFIN was previously the D.O. for Media Ocean, Inc. until June 12,  
7 2021 and for Aspire Real Estate, Inc. until June 22, 2021.).

8 8.

9 License Expiration

10 GRIFFIN's REB license will expire on May 15, 2025.

11 9.

12 Mortgage Loan Originator License Endorsement

13 GRIFFIN has a MLO endorsement, NMLS ID 1269107 (issued on August 15,  
14 2019) and is authorized to represent LXI.

15 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

16 10.

17 Application of Sections 10232.2, 10232.25, 10233 and 10236.6

18 (Code Section 10232)

19 Pursuant to Code Section 10232 Application of Sections 10232.2, 10232.25,  
20 10233 and 10236.6:

21 "(a) Except as otherwise expressly provided, Sections 10232.2, 10232.25, 10233,  
22 and 10236.6 are applicable to every real estate broker who intends or reasonably expects in a  
23 successive 12 months to do any of the following:

1 (1) Negotiate a combination of 10 or more of the following transactions  
2 pursuant to subdivision (d) or (e) of Section 10131 or Section 10131.1 in  
3 an aggregate amount of more than one million dollars (\$1,000,000):

4 (A) Loans secured directly or collaterally by liens on real  
5 property or on business opportunities as agent for another or  
6 others.

7 (B) Sales or exchanges of real property sales contracts or  
8 promissory notes secured directly or collaterally by liens on real  
9 property or on business opportunities as agent for another or  
10 others.

11 (C) Sales or exchanges of real property sales contracts or  
12 promissory notes secured directly or collaterally by liens on real  
13 property as the owner of those notes or contracts.

14 (2) Make collections of payments in an aggregate amount of two hundred  
15 fifty thousand dollars (\$250,000) or more on behalf of owners of  
16 promissory notes secured directly or collaterally by liens on real property,  
17 owners of real property sales contracts, or both.

18 (3) Make collections of payments in an aggregate amount of two hundred  
19 fifty thousand dollars (\$250,000) or more on behalf of obligors of  
20 promissory notes secured directly or collaterally by liens on real property,  
21 lenders of real property sales contracts, or both. Persons under common  
22 management, direction, or control in conducting the activities enumerated  
23

1 above shall be considered as one person for the purpose of applying the  
2 above criteria.

3 (b) The negotiation of a combination of two or more new loans and sales or  
4 exchanges of existing promissory notes and real property sales contracts of an aggregate amount  
5 of more than two hundred fifty thousand dollars (\$250,000) in any three successive months or a  
6 combination of five or more new loans and sales or exchanges of existing promissory notes and  
7 real property sales contracts of an aggregate amount of more than five hundred thousand dollars  
8 (\$500,000) in any successive six months shall create a rebuttable presumption that the broker  
9 intends to negotiate new loans and sales and exchanges of an aggregate amount that will meet the  
10 criteria of subdivision (a).

11 (c) In determining the applicability of Sections 10232.2, 10232.25, 10233, and  
12 10236.6, loans or sales negotiated by a broker, or for which a broker collects payments or  
13 provides other servicing for the owner of the note or contract, shall not be counted in  
14 determining whether the broker meets the criteria of subdivisions (a) and (b) if any of the  
15 following apply:

16 (1) The lender or purchaser is any of the following:

17 (A) The Federal National Mortgage Association, the Government  
18 National Mortgage Association, the Federal Home Loan Mortgage  
19 Corporation, the Federal Housing Administration, and the United  
20 States Department of Veterans Affairs.

21 (B) A bank or subsidiary thereof, bank holding company or  
22 subsidiary thereof, trust company, savings bank or savings and  
23 loan association or subsidiary thereof, savings bank or savings  
24

1 association holding company or subsidiary thereof, credit union,  
2 industrial bank or industrial loan company, finance lender, or  
3 insurer doing business under the authority of, and in accordance  
4 with, the laws of this state, any other state, or the United States  
5 relating to banks, trust companies, savings banks or savings  
6 associations, credit unions, industrial banks or industrial loan  
7 companies, commercial finance lenders, or insurers, as evidenced  
8 by a license, certificate, or charter issued by the United States or a  
9 state, district, territory, or commonwealth of the United States.

10 (C) Trustees of a pension, profit-sharing, or welfare fund, if the  
11 pension, profit-sharing, or welfare fund has a net worth of not less  
12 than fifteen million dollars (\$15,000,000).

13 (D) A corporation with outstanding securities registered under  
14 Section 12 of the Securities Exchange Act of 1934 or a wholly  
15 owned subsidiary of that corporation.

16 (E) A syndication or other combination of any of the entities  
17 specified in subparagraph (A), (B), (C), or (D) that is organized to  
18 purchase the promissory note.

19 (F) The California Housing Finance Agency or a local housing  
20 finance agency organized under the Health and Safety Code.

21 (G) A licensed residential mortgage lender or servicer acting under  
22 the authority of that license.  
23  
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1 (H) An institutional investor that issues mortgage-backed  
2 securities, as specified in paragraph (11) of subdivision (i) of  
3 Section 50003 of the Financial Code.

4 (I) A licensed real estate broker selling all or part of the loan, the  
5 note, or the contract to a lender or purchaser specified in  
6 subparagraphs (A) to (H), inclusive.

7 (2) The loan or sale is negotiated, or the loan or contract is being serviced  
8 for the owner, under authority of a permit issued pursuant to applicable  
9 provisions of the Corporate Securities Law of 1968 (Division 1  
10 (commencing with Section 25000) of Title 4 of the Corporations Code).

11 (3) The transaction is subject to the requirements of Article 3  
12 (commencing with Section 2956) of Chapter 2 of Title 14 of Part 4 of  
13 Division 3 of the Civil Code.

14 (d) If two or more real estate brokers who are not under common management,  
15 direction, or control cooperate in the negotiation of a loan or the sale or exchange of a  
16 promissory note or real property sales contract and share in the compensation for their services,  
17 the dollar amount of the transaction shall be allocated according to the ratio that the  
18 compensation received by each broker bears to the total compensation received by all brokers for  
19 their services in negotiating the loan or sale or exchange.

20 (e) A real estate broker who meets any of the criteria of subdivision (a) or (b)  
21 shall notify the department in writing within 30 days after that determination is made.”

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11.

**Loan to Value and Other Requirements**  
**(Code Section 10232.3)**

*Pursuant to Code Section 10232.3 Loan to Value and Other Requirements:*

“(a) Any transaction that involves the sale of or offer to sell a note secured directly by an interest in one or more parcels of real property or the sale of an undivided interest in a note secured directly by one or more parcels of real property shall adhere to all of the following:

(1) Except as provided in paragraph (2), the aggregate principal amount of the note or interest sold, together with the unpaid principal amount of any encumbrances upon the real property senior thereto, shall not exceed the following percentages of the current market value of each parcel of the real property, as determined in writing by the broker or appraiser pursuant to Section 10232.6, plus the amount for which the payment of principal and interest in excess of the percentage of current market value is insured for the benefit of the holders of the note or interest by an insurer admitted to do business in this state by the Insurance Commissioner:

- (A) Single-family residence, owner occupied.....80%
- (B) Single-family residence, not owner occupied.....75%

1 (C) Commercial properties and income-producing properties not  
2 described in (B) or (E).....65%

3 (D) Single-family residentially zoned lot or parcel that has  
4 installed offsite improvements including drainage, curbs, gutters,  
5 sidewalks, paved roads, and utilities as mandated by the political  
6 subdivision having jurisdiction over the lot or parcel.....65%

7 (E) Land that produces income from crops, timber, or  
8 minerals.....60%

9 (F) Land that is not income producing but has been zoned for (and  
10 if required, approved for subdivision as) commercial or residential  
11 development.....50%

12 (G) Other real property.....35%

13 (2) The percentage amounts specified in paragraph (1) may be exceeded  
14 when and to the extent that the broker determines that the encumbrance of  
15 the property in excess of these percentages is reasonable and prudent  
16 considering all relevant factors pertaining to the real property. However, in  
17 no event shall the aggregate principal amount of the note or interest sold,  
18 together with the unpaid principal amount of any encumbrances upon the  
19 property senior thereto, exceed 80 percent of the current fair market value  
20 of improved real property or 50 percent of the current fair market value of  
21 unimproved real property, except in the case of a single-family zoned lot  
22 or parcel as defined in paragraph (1), which shall not exceed 65 percent of  
23 the current fair market value of that lot or parcel, plus the amount insured  
24

1 as specified in paragraph (1). A written statement shall be prepared by the  
2 broker that sets forth the material considerations and facts that the broker  
3 relies upon for his or her determination, which shall be retained as a part  
4 of the broker's record of the transaction. Either a copy of the statement or  
5 the information contained therein shall be included in the disclosures  
6 required pursuant to Section 10232.5.

7 (3) A copy of the appraisal or the broker's evaluation, for each parcel of  
8 real property securing the note or interest, shall be delivered to the  
9 purchaser. The broker shall advise the purchaser of his or her right to  
10 receive a copy. For purposes of this paragraph, "appraisal" means a  
11 written estimate of value based upon the assembling, analyzing, and  
12 reconciling of facts and value indicators for the real property in question.  
13 A broker shall not purport to make an appraisal unless he or she is  
14 qualified on the basis of special training, preparation, or experience.

15 (4) For construction or rehabilitation loans, where the amount withheld for  
16 construction or rehabilitation at the start of the project exceeds one  
17 hundred thousand dollars (\$100,000), the term "current market value" may  
18 be deemed to be the value of the completed project if all of the following  
19 safeguards are met:

20 (A) An independent neutral third-party escrow holder is used for  
21 all deposits and disbursements relating to the construction or  
22 rehabilitation of the secured property.  
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1 (B) The loan is fully funded, with the entire loan amount to be  
2 deposited in escrow prior to the recording of the deed or deeds of  
3 trust.

4 (C) A comprehensive, detailed draw schedule is used to ensure  
5 proper and timely disbursements to allow for completion of the  
6 project.

7 (D) The disbursement draws from the escrow account are based on  
8 verification from an independent qualified person who certifies  
9 that the work completed to date meets the related codes and  
10 standards and that the draws were made in accordance with the  
11 construction contract and draw schedule. For purposes of this  
12 subparagraph, "independent qualified person" means a person who  
13 is not an employee, agent, or affiliate of the broker and who is a  
14 licensed architect, general contractor, structural engineer, or active  
15 local government building inspector acting in his or her official  
16 capacity.

17 (E) An appraisal is completed by a qualified and licensed appraiser  
18 in accordance with the Uniform Standards of Professional  
19 Appraisal Practice (USPAP).

20 (F) The documentation includes a detailed description of the  
21 actions that may be taken in the event of a failure to complete the  
22 project, whether that failure is due to default, insufficiency of  
23 funds, or other causes.

1 (G) The entire amount of the loan does not exceed two million five  
2 hundred thousand dollars (\$2,500,000).

3 (5) For construction or rehabilitation loans, where the amount withheld for  
4 construction or rehabilitation at the start of the project is one hundred  
5 thousand dollars (\$100,000) or less, the term "current market value" may  
6 be deemed to be the value of the completed project if all of the following  
7 safeguards are met:

8 (A) The loan is fully funded, with the entire loan amount to be  
9 deposited in escrow prior to recording of the deed or deeds of trust.

10 (B) A comprehensive, detailed draw schedule is used to ensure  
11 proper and timely disbursements to allow for completion of the  
12 project.

13 (C) An appraisal is completed by a qualified and licensed appraiser  
14 in accordance with the Uniform Standards of Professional  
15 Appraisal Practice (USPAP).

16 (D) The documentation includes a detailed description of the  
17 actions that may be taken in the event of a failure to complete the  
18 project, whether that failure is due to default, insufficiency of  
19 funds, or other causes.

20 (E) The entire amount of the loan does not exceed two million five  
21 hundred thousand dollars (\$2,500,000).

22 (6) If a note or an interest will be secured by more than one parcel of real  
23 property, for the purpose of determining the maximum amount of the note  
24

1 or interest, each security property shall be assigned a portion of the note or  
2 interest that shall not exceed the percentage of current market value determined  
3 by, and in accordance with, the provisions of paragraphs (1) and (2).

4 (b) The note or interest shall not be sold, unless the purchaser meets one or both  
5 of the qualifications of income or net worth set forth below and signs a statement, which shall be  
6 retained by the broker for four years, conforming to the following:

7 "Transaction Identifier: \_\_\_\_\_

8 Name of Purchaser: \_\_\_\_\_ Date: \_\_\_\_\_

9 Check either one of the following, if true:

10 ( ) My investment in the transaction does not exceed 10% of my net worth,  
11 exclusive of home, furnishings, and automobiles.

12 ( ) My investment in the transaction does not exceed 10% of my adjusted gross  
13 income for federal income tax purposes for my last tax year or, in the alternative,  
14 as estimated for the current year.

15 \_\_\_\_\_  
16 Signature"

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1  
2 12.

3 **Disclosure Statement – Delivery – Exception – Funds Handling**

4 **(Code Section 10232.4)**

5 *Pursuant to Code Section 10232.4 Disclosure Statement – Delivery – Exception –*  
6 *Funds Handling:*

7 “(a) In making a solicitation to a particular person and in negotiating with that  
8 person to make a loan secured by real property or to purchase a real property sales contract or a  
9 note secured by a deed of trust, a real estate broker shall deliver to the person solicited the  
10 applicable completed statement described in Section 10232.5 as early as practicable before that  
11 person becomes obligated to make the loan or purchase and, except as provided in subdivision  
12 (c), before the receipt by or on behalf of the broker of any funds from that person. The statement  
13 shall be signed by the prospective lender or purchaser and by the real estate broker, or by a real  
14 estate salesperson licensed to the broker, on the broker’s behalf. When so executed, an exact  
15 copy shall be given to the prospective lender or purchaser, and the broker shall retain a true copy  
16 of the executed statement for a period of three years.

17 (b) The requirement of delivery of a disclosure statement pursuant to subdivision  
18 (a) shall not apply with respect to the following persons:

19 (1) The prospective purchaser of a security offered under authority of a  
20 permit issued pursuant to applicable provisions of the Corporate Securities  
21 Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of  
22 the Corporations Code) that require that each prospective purchaser of a  
23  
24

1 security be given a prospectus or other form of disclosure statement  
2 approved by the department issuing the permit.

3 (2) The seller of real property who agrees to take back a promissory note  
4 of the purchaser as a method of financing all or a part of the purchase of  
5 the property.

6 (3) The prospective purchaser of a security offered pursuant to and in  
7 accordance with a regulation duly adopted by the Commissioner of  
8 Business Oversight granting an exemption from qualification under the  
9 Corporate Securities Law of 1968 for the offering if one of the conditions  
10 of the exemption is that each prospective purchaser of the security be  
11 given a disclosure statement prescribed by the regulation before the  
12 prospective purchaser becomes obligated to purchase the security.

13 (4) A prospective lender or purchaser, if that lender or purchaser is any of  
14 the following:

15 (A) The United States or any state, district, territory, or  
16 commonwealth thereof, or any city, county, city and county, public  
17 district, public authority, public corporation, public entity, or  
18 political subdivision of a state, district, territory, or commonwealth  
19 of the United States, or any agency or corporate or other  
20 instrumentality of any one or more of the foregoing, including the  
21 Federal National Mortgage Association, the Government National  
22 Mortgage Association, the Federal Home Loan Mortgage  
23  
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1 Corporation, the Federal Housing Administration, and the  
2 Veteran's Administration.

3 (B) Any bank or subsidiary thereof, bank holding company or  
4 subsidiary thereof, trust company, savings bank or savings and  
5 loan association or subsidiary thereof, savings bank or savings  
6 association holding company or subsidiary thereof, credit union,  
7 industrial bank or industrial loan company, finance lender, or  
8 insurance company doing business under the authority of, and in  
9 accordance with, the laws of this state, any other state, or of the  
10 United States relating to banks, trust companies, savings banks or  
11 savings banks or industrial loan companies, commercial finance  
12 lenders, or insurance companies, as evidenced by a license,  
13 certificate, or charter issued by the United States or any state,  
14 district, territory, or commonwealth of the United States.

15 (C) Trustees of pension, profitsharing, or welfare fund, if the  
16 pension, profitsharing, or welfare fund has a net worth of not less  
17 than fifteen million dollars (\$15,000,000).

18 (D) Any corporation with outstanding securities registered under  
19 Section 12 of the Securities Exchange Act of 1934 or any wholly  
20 owned subsidiary of that corporation.

21 (E) Any syndication or other combination of any of the entities  
22 specified in subparagraph (A), (B), (C), or (D) which is organized  
23 to purchase the promissory note.  
24

1 (F) A licensed real estate broker engaging in the business of selling  
2 all or part of the loan, note, or contract to a lender or purchaser to  
3 whom no disclosure is required pursuant to this subdivision.

4 (G) A licensed residential mortgage lender or servicer when acting  
5 under the authority of that license.

6 (c) When the broker has custody of funds of a prospective lender or purchaser  
7 which were received and are being maintained with the express permission of the owner and in  
8 accordance with law, and the broker retains the funds in an escrow depository or a trust fund  
9 account pending receipt of the owner's express written instructions to disburse the funds for a  
10 loan or purchase, the broker shall cause the disclosure statement to be delivered to the owner and  
11 shall obtain the owner's written consent to the proposed disbursement before making the  
12 disbursement. Unless the broker has a written agreement with the owner as provided in Section  
13 10231.1, the broker shall transmit to the owner not later than 25 days after receipt, all funds then  
14 in the broker's custody for which the owner has not given written instructions authorizing  
15 disbursement."

16 13.

17 **Penalties for Noncompliance with Section 10232**

18 **(Code Section 10236.2)**

19 *Pursuant to Code Section 10236.2 Penalties for Noncompliance with*

20 *Section 10232:*

21 "(a) A real estate broker who satisfies the criteria of subdivision (a) or (b) of  
22 Section 10232 and who fails to notify the Bureau of Real Estate, in writing, of that fact within 30  
23 days thereafter as required by subdivision (e) of Section 10232 shall be assessed a penalty of  
24

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25 Accusation against LendingXpress, Inc. and Robert Duane Griffin

1 fifty dollars (\$50) per day for each additional day written notification has not been received up to  
2 and including the 30th day after the first day of the assessment penalty. On and after the 31st day  
3 the penalty is one hundred dollars (\$100) per day, not to exceed a total penalty of ten thousand  
4 dollars (\$10,000), regardless of the number of days, until the bureau receives the written  
5 notification.

6 (b) The commissioner may suspend or revoke the license of any real estate broker  
7 who fails to pay a penalty imposed under this section. In addition, the commissioner may bring  
8 an action in an appropriate court of this state to collect payment of the penalty.

9 (c) All penalties paid or collected under this section shall be deposited into the  
10 Consumer Recovery Account of the Real Estate Fund.”

11 14.

12 **Further Grounds for Disciplinary Action**  
13 **(Code Section 10177 (selected portions))**

14 Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*:

15 “The commissioner may suspend or revoke the license of a real estate licensee,  
16 delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an  
17 applicant, who has done any of the following:

18 ...

19 (d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing  
20 with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and  
21 regulations of the commissioner for the administration and enforcement of the Real Estate Law  
22 and Chapter 1 (commencing with Section 11000) of Part 2.

23 ...

1 (g) Demonstrated negligence or incompetence in performing an act for which he  
2 or she is required to hold a license...”

3 15.

4 **Cost Recovery**

5 **(Code Section 10106)**

6 Pursuant to Code Section 10106 *Cost Recovery of Investigations*:

7 “(a) Except as otherwise provided by law, in any order issued in resolution of a  
8 disciplinary proceeding before the department, the commissioner may request the administrative  
9 law judge to direct a licensee found to have committed a violation of this part to pay a sum not to  
10 exceed the reasonable costs of the investigation and enforcement of the case.

11 (b) In the case of a disciplined licensee that is a corporation or a partnership, the  
12 order may be made against the licensed corporate entity or licensed partnership.

13 (c) A certified copy of the actual costs, or a good faith estimate of costs where  
14 actual costs are not available, signed by the commissioner or the commissioner’s designated  
15 representative, shall be prima facie evidence of reasonable costs of investigation and prosecution  
16 of the case. The costs shall include the amount of investigative and enforcement costs up to the  
17 date of the hearing, including, but not limited to, charges imposed by the Attorney General.

18 (d) The administrative law judge shall make a proposed finding of the amount of  
19 reasonable costs of investigation and prosecution of the case when requested pursuant to  
20 subdivision (a). The finding of the administrative law judge with regard to costs shall not be  
21 reviewable by the commissioner to increase the cost award. The commissioner may reduce or  
22 eliminate the cost award, or remand to the administrative law judge where the proposed decision  
23 fails to make a finding on costs requested pursuant to subdivision (a).

1 (e) Where an order for recovery of costs is made and timely payment is not made  
2 as directed in the commissioner's decision, the commissioner may enforce the order for  
3 repayment in any appropriate court. This right of enforcement shall be in addition to any other  
4 rights the commissioner may have as to any licensee to pay costs.

5 (f) In any action for recovery of costs, proof of the commissioner's decision shall  
6 be conclusive proof of the validity of the order of payment and the terms for payment.

7 (g) (1) Except as provided in paragraph (2), the department shall not renew or  
8 reinstate the license of any licensee who has failed to pay all of the costs ordered under this  
9 section.

10 (2) The department may, in its discretion, conditionally renew or reinstate  
11 for a maximum of one year the license of any licensee who demonstrates  
12 financial hardship and who enters into a formal agreement with the  
13 department to reimburse the department within that one-year period for the  
14 unpaid costs.

15 (h) All costs recovered under this section shall be considered a reimbursement for  
16 costs incurred and shall be deposited in the Real Estate Fund to be available, notwithstanding  
17 Section 10451, upon appropriation by the Legislature.

18 (i) Nothing in this section shall preclude the department from including the  
19 recovery of the costs of investigation and enforcement of a case in any stipulated settlement.”

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1 **FACTS DISCOVERED BY THE DRE**

2 **DRE Broker Office Survey**

3 16.

4 On September 22, 2020, a remote (telephonic) DRE Broker Office Survey  
5 (“BOS”) was conducted of LXI, during which GRIFFIN indicated to the DRE special  
6 investigator (“SI”) that he was the 100% owner of LXI, that LXI only performed private money  
7 loan origination for investment properties, and that LXI did not perform any other activities that  
8 required its DRE or NMLS licenses. GRIFFIN informed the SI that LXI performed three (3) to  
9 ten (10) private money loan transactions per month, that the transaction files were stored within a  
10 third party software called Encompass, and that he reviewed all work completed by his licensed  
11 employees.

12 17.

13 According to GRIFFIN, LXI only performed private money loan transactions for  
14 residential properties and did not perform any third party loan origination activities. GRIFFIN  
15 informed that 10% to 20% of the loans brokered are to individual private investors, and the  
16 remainder of the loans brokered are to LendingHome and Velocity Mortgage.

17 18.

18 In response to the SI’s request for LXI’s private money transaction files for the  
19 years 2018 through 2020, on or about October 19, 2020 GRIFFIN submitted a flash drive  
20 (“101920 flash drive”) that included two (2) transaction files from 2019 and one (1) transaction  
21 file from 2020. Upon review, the SI discovered that these three (3) transaction files in LXI’s  
22 101920 flash drive were brokered to lenders who held Department of Financial Protection and  
23  
24

1 Innovation (“DFPI”) licenses. As the transactions involved institutional lenders [that held DFPI  
2 licenses], they did not fit the criteria of private money transactions.

3 19.

4 When the SI inquired as to whether LXI brokered to lenders who do not have  
5 DRE or DFPI licenses, GRIFFIN responded in the affirmative. On or about February 3, 2021,  
6 the SI made a follow-up request via email to GRIFFIN for LXI’s updated/corrected 2019  
7 Business Activity Report (“BAR”) (DRE Form RE881) and two (2) transaction files that  
8 involved private money/non-institutional lenders (“020321 email”).

9 20.

10 By April 1, 2021, when GRIFFIN had not submitted the items requested in the  
11 SI’s 020321 email, a *subpoena duces tecum* (“*subpoena*”) was sent to LXI via certified mail to  
12 LXI/Griffin for the items requested in the 020321 email.

13 21.

14 In response to the *subpoena*, on or about April 15, 2021, GRIFFIN submitted a  
15 flash drive (“041521 flash drive”) that included LXI’s updated/corrected BAR for the fiscal year  
16 ending December 2019 (signed by GRIFFIN on May 13, 2020); one (1) private money  
17 transaction file from 2019 (Starling Drive property), and one (1) private money transaction file  
18 from 2020 (Wilshire Blvd., property).

19 22.

20 According to the 2019 and 2020 transaction files in LXI’s 041521 flash drive, the  
21 transactions were brokered to private money lenders Cymach, LLC and Monaco Trade, LP,  
22 respectively. According to the respective transaction files submitted in LXI’s 041521 flash  
23

1 drive, LXI did not provide Cymach, LLC or Monaco Trade LP with [the required]  
2 Lender/Purchaser Disclosure Statement (“LPDS”) (DRE Form 851B).

3 23.

4 According to the updated/corrected 2019 BAR in LXI’s 041521 flash drive, LXI  
5 brokered fifty-seven (57) private money transactions totaling \$14,482,439, in excess of the  
6 DRE’s reporting threshold amount pursuant to Code Section 10232. On or about May 17, 2021,  
7 GRIFFIN submitted LXI’s initial Threshold Notification form (DRE Form RE853) to the DRE  
8 (received on or about May 17, 2021). To date, LXI has yet to file the Trust Fund Status Report  
9 (DRE Form RE855) for the quarter ending June 30, 2021.

10 24

11 On or about May 13, 2021, GRIFFIN informed the SI that investors in private  
12 money transactions are not provided with an investor suitability questionnaire, and that investors  
13 do not submit a signed statement attesting that they meet the net worth/income requirements.  
14 According to GRIFFIN, the only item sent to investors is a document that asks whether the  
15 investor is registered as an accredited investor; GRIFFIN provided two Lender Questionnaires,  
16 one executed on December 20, 2019 by Cymach LLC (by its owner/managing member), and the  
17 other executed on October 10, 2020 by Monaco Trade, LP (by its general partner). When the SI  
18 asked GRIFFIN whether investors are provided with an LPDS, GRIFFIN answered in the  
19 negative.

20 ///

21 ///

22 ///

23 ///





1 suspension or revocation of all licenses and license rights of Respondents LXI and GRIFFIN  
2 under the Real Estate Law, and which subject said Respondents to penalties pursuant to Code  
3 **Section 10236.2.**

4 **Fourth Cause for Discipline**

5 **Violation of Code Section 10232.3(b)**

6 **(Loan to Value and Other Requirements)**

7 28.

8 In the course of the activities described above, and based on the facts discovered  
9 by the Department, also described above, **REC LENDINGXPRESS, INC.** and **REB ROBERT**  
10 **DUANE GRIFFIN** are in violation of **Code Section 10232.3(b)**, which constitutes cause for the  
11 suspension or revocation of all licenses and license rights of Respondents LXI and GRIFFIN  
12 under the Real Estate Law.

13 **COSTS**

14 29.

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

19 ///

20 ///

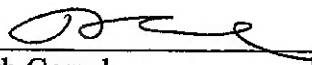
21 ///

22 ///

1           WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
3 action against all the licenses and license rights of Respondents **LENDINGXPRESS, INC.** and  
4 **ROBERT DUANE GRIFFIN** under the Real Estate Law (Part 1 of Division 4 of the Business  
5 and Professions Code), and for such other and further relief as may be proper under other  
6 applicable provisions of law.

7 Dated at Sacramento, California

8 this 9<sup>th</sup> day of November 2021.

9  
10  
11   
12 Ruth Corral  
13 Supervising Special Investigator  
14  
15  
16  
17  
18

19 cc: LendingXpress, Inc.  
20 Robert Duane Griffin  
21 Ruth Corral  
22 Sacramento D.O.  
23  
24

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25 Accusation against LendingXpress, Inc. and Robert Duane Griffin