1	CLOTHILDE V. HEWLETT	
2	Commissioner MARY ANN SMITH	
3	Deputy Commissioner DANIEL P. O'DONNELL Assistant Chief Counsel STEVEN E. VONG (State Bar No. 311926) Counsel Department of Financial Protection and Innovation 2101 Arena Blvd. Sacramento, California 95834 Telephone: (916) 210-9007 Facsimile: (916) 928-7929	
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8	Attorneys for Complainant	
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10	BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION	
11	OF THE STATE OF CALIFORNIA	
12	In the Matter of:	) CFL PROPOSED LICENSE NO.: 60DB0-
13		) 164771
14	THE COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION, Complainant,	) ) STATEMENT OF ISSUES IN SUPPORT OF ) DENIAL OF CALIFORNIA FINANCING ) LAW LICENSE APPLICATION PURSUANT
15		
16	V.	) TO FINANCIAL CODE SECTION 22109
17	RIVA DCM, LLC,	
18	Respondent.	
19	Respondent.	
20		_/
21	1. The Commissioner of Financial Protection and Innovation (Commissioner) is	
22	informed and believes and based upon such information and belief, alleges and charges as follows:	
23	I.	
24	Introduction and Jurisdiction	
25	2. Financial Code section 22101, by and through California Code of Regulations, title	
26	10, section 1422.4, requires California Financing Law (CFL) applicants to disclose to the	
27	Commissioner in the application all officers, directors, any person owning or controlling, directly or	
28	ndirectly, 10% or more of the applicant, and all person(s) who would be in charge of the business.	
	-1- STATEMENT OF ISSUES	
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State of California - Department of Financial Protection and Innovation

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1 3. The Department of Financial Protection and Innovation is authorized to administer 2 and enforce the provisions of the CFL, and the rules and regulations adopted under title 10 of the 3 California Code of Regulations that regulate the business and activities of CFL-licensed lenders and servicers.

4. RIVA DCM, LLC (RIVA) is a California limited liability company, with a principal place of business at 55 N. 3rd Street, Suite 200, Campbell, CA, 95008.

5. James [Jim] Rudolph Castellanos (Castellanos) is the chief executive officer, 50% shareholder, and a person in charge of RIVA.

RIVA and Castellanos submitted a false statement(s) of material fact in the 6. application of RIVA; and RIVA and Castellanos committed violations of the CFL.

7. The Commissioner seeks to deny the finance lender and/or broker license application of Respondent RIVA Capital Group pursuant to section 22109 of the CFL (Fin. Code, § 22000 et seq.).

## II.

# **CFL License Application**

8. On or about March 16, 2022, RIVA submitted an Application for a finance lender and/or broker license with the Commissioner pursuant to the CFL, in particular, Financial Code section 22101 and California Code of Regulations, title 10, section 1422.4 (Application). The Application was submitted to the Commissioner by filing a company information form (Form MU1) through the Nationwide Mortgage Licensing System (NMLS)<sup>1</sup>. Anthony Cordova authorized the signature on the Form MU1 on behalf of RIVA attesting that the answers on the Application were true and complete to the best of his knowledge.

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<sup>&</sup>lt;sup>1</sup> NMLS stands for Nationwide Multistate Licensing System & Registry and is the system of record 25 for non-depository, financial services licensing or registration in participating agencies. including the 26 District of Columbia and U.S. Territories of Puerto Rico, the U.S. Virgin Islands, and Guam. In these jurisdictions, NMLS is the official system for companies and individuals seeking to apply for, 27 amend, renew and surrender licenses authorities managed through NMLS.

9. The Application disclosed Castellanos as the Chief Executive Officer and 50%
 shareholder. Accordingly, Castellanos was required to, and did, submit an individual information
 form (Form MU2) to the Commissioner on or about March 16, 2022. Castellanos answered "no" in
 response to Regulatory Disclosure Questions (K) (4) and (9), which ask: "Has any State or federal
 regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO)
 ever:

(4) entered an order against you in connection with a financial services-related activity?

(9) entered an order concerning you in connection with any license or registration?"

Castellanos signed the Form MU2 attesting that the answers were true and complete to the best of his knowledge.

#### III.

#### **Administrative Action**

10. In fact, such statements were not true, because on or about January 15, 1992, the California Department of Real Estate (DRE) filed an action against Castellanos's DRE broker license (1992 DRE action). The 1992 DRE action alleged violations, including but not limited to: Castellanos' violation of real estate laws and regulations relating to salesperson employment and termination, review of instruments, control records, separate beneficiary records, and trust account reconciliation.

11. The DRE revoked Castellanos' broker license pursuant to an order signed on April
20, 1993, effective May 24, 1993, (though he remained eligible for a restricted broker license
(restricted license).)

12. On or about August 1, 2018, the DRE filed another action against Castellanos's DRE broker license (2018 DRE action). The 2018 DRE action alleged violations, including but not limited to: attempting to procure license through fraud, failure to file a background statement for a broker, failure to file an annual report, failure to exercise control over a broker, and failure to exercise control over a company of which he was an officer.

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13. The DRE revoked Castellanos' broker license pursuant to an order signed on April 3, 2019 and adopted by DRE on April 25, 2019, (though he remained eligible for a restricted broker license (restricted license).) 14. Castellanos' DRE license remains restricted at this time. IV. **Material Misrepresentations** 15. Because the DRE issued actions and orders related to Castellanos' broker license. Castellanos was required to respond "yes" to Regulatory Disclosure Questions (K) (4) and (9) in his MU2. 16. Castellanos' failure to accurately respond to (i) Regulatory Disclosure Questions (K) (4) and (9) in his MU2s, constituted false statement(s) and/or omissions of material fact in the application of RIVA; violations of Financial Code section 22170, subdivision (b) and also grounds under Financial Code section 22109, subdivisions (a)(1) and (3) to deny the CFL license application. V. **Applicable Law** 17. Financial Code section 22109 provides in pertinent part: (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for a finance lender, broker, or program administrator license for any of the following reasons: (1) A false statement of a material fact has been made in the application. (3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities or administering PACE programs for the applicant in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California ... Financial Code section 22170 provides in pertinent part: 18. (a) It is unlawful for any person to knowingly alter, destroy, mutilate, conceal, cover up, falsify, or make a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

(b) It is unlawful for any person to knowingly make an untrue statement to the commissioner or the Nationwide Mortgage Licensing System and Registry during the course of licensing, investigation, or examination, with the intent to impede, obstruct, or influence the administration or enforcement of any provision of this division.

### VI.

### **Conclusion**

19. The Commissioner finds, by reason of the foregoing, that:

(a) The DRE revoked Castellanos' broker license pursuant to orders in 1993 and 2019
 subject to being eligible for a restricted license as a result of the 1992 and 2018 DRE actions against
 Castellanos.

(b) RIVA, by and through Castellanos, made material misrepresentations and/or omitted

material information from its CFL license application regarding the DRE action and the resulting DRE license revocation, in violation of CFL section 22170 and California Code of Regulations, title 10, section 1422.4.

20. Therefore, pursuant to Financial Code section 22109, the Commissioner prays that the CFL application filed by RIVA be denied. Such is in the public interest, for the protection of the public, and consistent with the purposes of the CFL.

Dated: September 8, 2022

CLOTHILDE V. HEWLETT Commissioner of Financial Protection and Innovation

By\_

Steven Vong Counsel Enforcement Division

# STATEMENT OF ISSUES