

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 DANIELLE A. STOUMBOS (State Bar No. 264784)
Senior Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-7591
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11
12 In the Matter of:) CRMLA LICENSE NO.: 413-0960
13 THE COMMISSIONER OF BUSINESS) NMLS NO.: 142084
14 OVERSIGHT,)
15 Complainant,) CONSENT ORDER
16 v.)
17 ALLIANCE FINANCIAL RESOURCES, LLC,)
18 Respondent.)
19

20 This Consent Order (Consent Order) is entered into between the California Commissioner of
21 Business Oversight (the Commissioner) and Alliance Financial Resources, LLC d/b/a Alliance Home
22 Loans (Alliance) (collectively, the Parties), and is made with respect to the following facts:

23 **RECITALS**

- 24 A. Alliance is an inactive Arizona limited liability company.
25 B. Up until May of 2018, Alliance was a residential mortgage lender that employed
26 mortgage loan originators. Alliance is licensed by the Commissioner under the California Residential
27 Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.), license number 413-0960
28 (Nationwide Mortgage Licensing System (NMLS) No. 142084). At all relevant times, Alliance’s

1 principal place of business was located at 5410 East High Street, Suite 200, Phoenix, Arizona 85054.

2 C. The Department of Business Oversight through the Commissioner has jurisdiction
3 over the licensing and regulation of persons and entities engaged in the business of lending and/or
4 servicing pursuant to the CRMLA, including mortgage loan originators.

5 D. On October 4, 2016, the Parties entered into a Consent Order (the 2016 Consent
6 Order) to resolve the Commissioner’s findings during the 2010 and 2013 regulatory examinations
7 that:

- 8 1) Alliance commingled borrower trust funds with operating funds in violation of
9 Financial Code section 50202, subdivision (a);
- 10 2) Alliance charged borrowers per diem interest in excess of one day prior to the date
11 that the loan proceeds were disbursed from escrow, in violation of Financial Code
12 section 50204, subdivision (o); and
- 13 3) Alliance continued to commingle borrower trust funds with operating funds in
14 violation of Financial Code section 50202, subdivision (a) after Alliance was
15 served with the Order to Discontinue Violations on March 7, 2016 (the 2016 Order
16 to Discontinue).

17 E. On or about January 31, 2017, the Commissioner commenced a regulatory
18 examination (the 2017 Exam) of Alliance’s books and records under the CRMLA.

19 F. The 2017 Exam disclosed that in approximately 10% of the loans reviewed, Alliance
20 charged the borrower per diem interest in excess of one day prior to the disbursement of loan
21 proceeds in violation of California Financial Code section 50204, subdivision (o). These per diem
22 interest overcharges occurred after Alliance was served with the 2016 Order to Discontinue but
23 before the Parties entered into the 2016 Consent Order.

24 G. The Commissioner finds that entering into this Consent Order is in the public interest,
25 and consistent with the purposes fairly intended by the policy and provisions of the CRMLA.

26 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
27 contained herein, the Parties agree as follows:
28

TERMS AND CONDITIONS

1
2 1. Purpose. It is the intention of the Parties to resolve the 2017 Exam, as well as any
3 other issues arising out of, or relating to, the 2016 Consent Order, for the purpose of judicial
4 economy and expediency and without the uncertainty and expense of a hearing and/or other litigation.

5 2. Order to Discontinue Violations. Alliance agrees to an order to discontinue the
6 violations of Section 50204, subdivision (o) under Financial Code section 50321 (Order). Alliance
7 waives any right to contest or restrain enforcement of the Order under Financial Code section 50323,
8 and the Order is hereby considered final.

9 3. License Surrender. On or around July 6, 2018, Alliance notified the Commissioner
10 in writing that it intended to surrender its license (License Surrender Request). Alliance agrees to
11 comply with all requirements under Financial Code section 50123, subdivision (b) and all the
12 requirements of the Commissioner, including, but not limited to, obtaining (at its own expense) a
13 closing audit, review or other agreed upon procedures performed by an independent certified
14 public accountant. Alliance provided a copy of the closing audit to the Commissioner, for review,
15 on October 2, 2018. Alliance agrees that the closing audit, review, or other agreed upon
16 procedures performed by the company’s independent certified public accountant will contain: (a) a
17 statement to the effect that all custodial account funds have been disbursed with proper
18 authorization (the auditor should be satisfied that the funds were not taken into income or
19 transferred to the corporation general account); and (b) a copy of the trust account bank
20 reconciliations listing all outstanding checks. Alliance agrees to pay the 2018/2019 assessment
21 and any outstanding examination bills, and file all required reports, and examinations within 10
22 days of the Effective Date of this Consent Order. Alliance acknowledges that under Financial
23 Code section 50123, subdivision (b), the license is not surrendered until accepted by the
24 Commissioner.

25 4. Waiver of Hearing Rights. Alliance acknowledges that the Commissioner is ready,
26 willing, and able to proceed with the filing of an administrative enforcement action on the charges
27 contained in this Consent Order, and Alliance hereby waives the right to a hearing, and to any
28 reconsideration, appeal, or other right to review which may be afforded pursuant to the CRMLA, and

1 any other law. Alliance further expressly waives any requirement for the filing of an Accusation that
2 may be afforded by Government Code section 11415.60, subdivision (b); the California
3 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law;
4 and by waiving such rights, Alliance effectively consents to this Consent Order becoming final.

5 5. Administrative Penalties. Alliance shall pay an administrative penalty of \$25,000.00.
6 The Commissioner acknowledges receipt of payment of the penalty from Alliance contemporaneous
7 with the execution of this Consent Order.

8 6. Future Actions by the Commissioner Against Alliance. The Parties acknowledge
9 and agree that nothing contained in this Consent Order shall limit the ability of the Commissioner to
10 bring any action to enforce compliance with this Consent Order or to seek penalties for its violation.
11 Further, the Commissioner reserves the right to bring any future action(s) against Alliance or any of
12 its partners, owners, officers, directors, shareholders, employees, or successors, for any prior
13 violations, or any future violations of the law, except for the violations alleged herein.

14 7. Effective Date. This Consent Order shall become effective on the date when it is
15 signed by all Parties and delivered by the Commissioner's agent by email to Alliance's President,
16 Jamie Korus at jamie@alliancehomeloans.com

17 8. Failure to Comply. Alliance acknowledges that failure to comply with any term in
18 this Consent Order shall be a breach of this Consent Order and shall be cause for the
19 Commissioner to: (1) immediately revoke any licenses held by, and/or deny any pending
20 application(s) of Alliance, its successors and assigns, by whatever names they might be known;
21 and (2) file an action for penalties for the alleged violations that this Consent Order seeks to
22 resolve. Alliance hereby waives any notice and hearing rights to contest such revocations and/or
23 denial(s) which may be afforded under the Financial Code, the California Administrative
24 Procedure Act, the California Code of Civil Procedure, or any other provision of law in
25 connection therewith.

26 9. Consent Order Coverage. The Parties hereby acknowledge and agree that this Consent
27 Order is intended to constitute a full, final, and complete resolution of the 2017 Exam, as well as any
28 other issues arising out of, or relating to, the 2016 Consent Order. The Parties further acknowledge

1 and agree that nothing contained in this Consent Order shall operate to limit the Commissioner's
2 ability to assist any other agency, county, state or federal, with any prosecution, administrative, civil
3 or criminal, brought by any such agency against Alliance based upon any of the activities alleged in
4 this matter or otherwise. This Consent Order may be revoked, and the Commissioner may pursue any
5 and all remedies available under law against Alliance if the Commissioner later discovers that
6 Alliance knowingly or willfully withheld information used and relied upon in reaching this Consent
7 Order.

8 10. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it
9 has received or been advised to seek independent legal advice from its attorneys with respect to the
10 advisability of executing this Consent Order.

11 11. No Other Representation. Each of the Parties represents, warrants, and agrees that in
12 executing this Consent Order it has relied solely on the statements set forth herein and the advice of
13 its own counsel. Each of the Parties further represents, warrants, and agrees that in executing this
14 Consent Order, it has placed no reliance on any statement, representation, or promise of any other
15 party, or any other person or entity not expressly set forth herein, or upon the failure of any party or
16 any other person or entity to make any statement, representation or disclosure of anything
17 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in
18 any way fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of
19 parol evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

20 12. Modifications and Qualified Integration. No amendment, change, or modification of
21 this Consent Order shall be valid or binding to any extent unless it is in writing and signed by both
22 Parties.

23 13. Full Integration. This Consent Order is the final written expression and the complete
24 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
25 between the Parties with respect to the subject matter hereof, and supersedes all discussions between
26 and among the Parties, their respective representatives, and any other person or entity, with respect to
27 the subject matter covered hereby.

28 14. No Presumption From Drafting. In that the Parties have had the opportunity to draft,

1 review and edit the language of this Consent Order, no presumption for or against any party arising
2 out of drafting all or any part of this Consent Order will be applied in any action relating to,
3 connected to, or involving this Consent Order. Accordingly, the Parties waive the benefit of Civil
4 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
5 language of a contract should be interpreted most strongly against the party who caused the
6 uncertainty to exist.

7 15. Signatures. A fax signature or e-mail scanned signature of this Consent Order shall be
8 as effective as an original ink signature.

9 16. Counterparts. This Consent Order may be executed in any number of counter-parts by
10 the Parties, and when each party has signed and delivered at least one such counterpart to the other
11 party, each counterpart shall be deemed an original and taken together shall constitute one and the
12 same Consent Order.

13 17. Headings and Governing Law. The headings to the paragraphs of this Consent Order
14 are inserted for convenience only and will not be deemed a part hereof or affect the construction or
15 interpretation of the provisions hereof. This Consent Order shall be construed and enforced in
16 accordance with, and governed by, the laws of the State of California.

17 18. Authority For Consent Order. Each party warrants and represents that such party is
18 fully entitled and duly authorized to enter into and deliver this Consent Order. In particular, and
19 without limiting the generality of the foregoing, each party warrants and represents that it is fully
20 entitled to enter into the covenants, and undertake the obligations set forth herein.

21 19. Public Record. Alliance hereby acknowledges that this Consent Order will be a matter
22 of public record.

23 20. Voluntary Agreement. The Parties each represent and acknowledge that he, she or it
24 is executing this Consent Order completely voluntarily and without any duress or undue influence of
25 any kind from any source.

26 ///
27 ///
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN WITNESS WHEREOF, the Parties have approved and executed this Consent Order on the dates set forth opposite their respective signatures.

JAN LYNN OWEN
Commissioner of Business Oversight

Dated: 10/9/18

By _____
Mary Ann Smith
Deputy Commissioner

ALLIANCE FINANCIAL RESOURCES, LLC

Dated: 10/8/18

By _____
Jamie Korus
President