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

11 In the Matter of: 12 13 THE COMMISSIONER OF BUSINESS OVERSIGHT, 14 15 Complainant, 16 17 v. 18 ALLIANCE FINANCIAL RESOURCES, LLC, 19 20 Respondent.	) CRMLA License No. 413-0960 ) NMLS No. 142084 ) ) STATEMENT OF FACTS IN SUPPORT OF ) ORDER TO DISCONTINUE VIOLATIONS ) PURSUANT TO FINANCIAL CODE ) SECTION 50321 AND NOTICE OF INTENT ) TO MAKE ORDER FINAL ) ) )
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21 The Complainant, the Commissioner of Business Oversight (“Commissioner”) is informed  
22 and believes, and based on such information and belief, alleges and charges Respondent Alliance  
23 Financial Resources, LLC (“Alliance”) as follows:

24 **I. Statement of Facts**

25 1. Alliance is a residential mortgage lender licensed by the Commissioner under the  
26 California Residential Mortgage Lending Act (“CRMLA”) (Fin. Code, § 50000 et seq.), license  
27 number 413-0960 (Nationwide Mortgage Licensing System (“NMLS”) No. 142084). Alliance’s  
28 principal place of business is located at 5410 East High Street, Suite 200, Phoenix, Arizona 85054.

1 Alliance employs mortgage loan originators.

2 **The 2010 Regulatory Examination**

3 2. On or about October 12, 2010, the Commissioner commenced a regulatory  
4 examination of Alliance (“2010 exam”). The examination revealed numerous violations of the  
5 CRMLA, including the following:

6 (a) Commingling Borrower Trust Funds With Operating Funds. Alliance deposited  
7 borrower trust funds into its company operating account. As a result, Alliance  
8 commingled borrower trust funds with company operating funds in violation of  
9 Financial Code section 50202, subdivision (a).

10 (b) Per Diem Interest Overcharges. Alliance charged borrowers per diem interest in  
11 excess of one day prior to the date that the loan proceeds were disbursed from escrow,  
12 in violation of Financial Code section 50204, subdivision (o), in at least 5 loans. The  
13 overcharges ranged from \$30.36 to \$151.14.

14 3. While the 2010 exam was pending, on or around February 17, 2011, Alliance  
15 transferred \$7,230.13 from its company operating account to a Wells Fargo trust account ending in  
16 0466 to correct the debit balance caused by Alliance’s commingling of borrower trust funds with  
17 company operating funds.

18 4. On or around April 18, 2011, the Commissioner notified Alliance of its violations of  
19 Financial Code sections 50202, subdivision (a), and 50204, subdivision (o), and directed Alliance to  
20 refund the interest overcharged on the 5 listed loans.

21 5. On or around May 6, 2011, Alliance responded to the Commissioner’s notice of April  
22 18, 2011, attaching the Wells Fargo trust account statement for the account ending in 0466 to show  
23 that borrower funds totaling \$7,230.13 had been deposited into a trust account in February 2011,  
24 approximately four months after the Commissioner commenced the 2010 exam, and while it was  
25 still pending.

26 6. On or around August 22, 2011, Alliance provided-written proof that Alliance  
27 refunded per diem interest overcharges in the amount of \$568.91 to six borrowers, consisting of the  
28 five borrowers cited by the Commissioner plus one additional borrower detected after the 2010

1 exam.

2 **The 2013 Regulatory Examination**

3 7. On or around January 4, 2013, the Commissioner commenced a regulatory  
4 examination of Alliance (“2013 exam”). The 2013 exam revealed numerous CRMLA violations,  
5 including the following repeat violations:

6 (a) Commingling Borrower Trust Funds With Operating Funds. Alliance deposited  
7 borrower trust funds into its company operating account. As a result, Alliance  
8 commingled borrower trust funds with company operating funds in violation of  
9 Financial Code section 50202, subdivision (a).

10 (b) Per Diem Interest Overcharges. Alliance charged borrowers per diem interest in  
11 excess of one day prior to the date that the loan proceeds were disbursed from escrow,  
12 in violation of Financial Code section 50204, subdivision (o), in 4 out of 18 (or 22%)  
13 of the loan files sampled. The overcharges ranged from \$11.24 to \$79.56.

14 8. While the 2013 exam was pending, on or around March 29, 2013, Alliance opened  
15 Wells Fargo trust account ending in 8946 and transferred approximately \$28,584.22 from its  
16 company operating account to the trust account to correct the debit balance caused by Alliance’s  
17 commingling of borrower trust funds with company operating funds.

18 9. On or around February 3, 2014, the Commissioner notified Alliance of its violations  
19 of Financial Code sections 50202, subdivision (a), and 50204, subdivision (o), both repeat violations  
20 from the 2010 exam, in addition to other violations of the CRMLA. The Commissioner instructed  
21 Alliance to conduct a self-audit of all loans originated from January 1, 2011 through February 3,  
22 2014 and refund all borrowers the amount of per diem interest overcharged plus interest at the rate of  
23 10 percent per annum.

24 10. On or around March 5, 2014, Alliance responded with a letter from its Chief  
25 Financial Officer stating that Alliance had implemented a new procedure to deposit borrower funds  
26 into the trust account. Alliance also enclosed trust account statements for the Wells Fargo trust  
27 account ending in 8946 and a MidFirst trust account ending in 9659.

28 11. Alliance included a self-audit report regarding the per diem interest overcharges with

1 its March 5, 2014 written response. The report revealed that in 2012 and 2013, Alliance overcharged  
2 121 borrowers per diem interest in the amount of \$9,947.43. On or around April 7, 2014, the  
3 Commissioner requested additional documents from Alliance relating to 24 loan files sampled from  
4 the self-audit report.

5 12. On or around April 17, 2014, Alliance disclosed that from December 28, 2011 to  
6 December 31, 2013, Alliance overcharged 118 borrowers per diem interest in the amount of  
7 \$10,073.87. Alliance also confirmed that it refunded these borrowers per diem interest overcharges  
8 plus interest in the amount of \$11,462.20. Alliance submitted proof of refunds given to the 24  
9 sample loan files requested by the Commissioner.

10 13. By reason of the forgoing, Alliance has violated Financial Code sections 50202,  
11 subdivision (a) and 50204, subdivision (o).

## 12 II. Law

13 Financial Code section 50321 provides:

14 If, after investigation, the commissioner has reasonable grounds to believe  
15 that any licensee has violated its articles of incorporation or any law or  
16 rule binding upon it, the commissioner shall, by written order addressed to  
17 the licensee, direct the discontinuance of the violation. The order shall be  
18 effective immediately, but shall not become final except in accordance  
19 with the provisions of Section 50323.

20 Financial Code section 50323 provides:

21 (a) No order issued pursuant to Section 50321 or 50322 may become final  
22 except after notice to the affected licensee of the commissioner's intention  
23 to make the order final and of the reasons for the finding. The  
24 commissioner shall also notify the licensee that upon receiving a request  
25 the matter will be set for hearing to commence within 15 business days  
26 after receipt. The licensee may consent to have the hearing commence at a  
27 later date. If no hearing is requested within 30 days after the mailing or  
28 service of the required notice, and none is ordered by the commissioner,  
the order may become final without hearing and the licensee shall  
immediately discontinue the practices named in the order. If a hearing is  
requested or ordered, it shall be held in accordance with the provisions of  
the Administrative Procedure Act (Chapter 5 (commencing with Section  
11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the  
commissioner shall have all of the powers granted under that act. If, upon  
the hearing, it appears to the commissioner that the licensee is conducting  
business in an unsafe and injurious manner or is violating its articles of

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incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If the enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.

WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to Financial Code section 50321 and notifying Alliance Financial Resources, LLC of her intention to make the order final.

Dated: February 26, 2016  
Los Angeles, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
Danielle A. Stoumbos  
Counsel, Enforcement Division