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

10
11 In the Matter of:)
)
12 THE COMMISSIONER OF BUSINESS) CRMLA LICENSE NO.: 413-0382
13 OVERSIGHT,)
) CFLL LICENSE NO.: 603-H996
14 Complainant,)
) ACCUSATION
15 v.)
)
16 AMWEST FUNDING CORP.,)
17)
18 Respondent.)
19)

20 The Complainant is informed and believes, and based upon such information and belief,
21 alleges and charges Respondent as follows:

22 **I**

23 **Introduction**

24 1. AmWest Funding Corp. formerly known as PMAC Lending Services, Inc. (AmWest)
25 is a residential mortgage lender and servicer licensed by the Commissioner of Business Oversight
26 (Commissioner) pursuant to the California Residential Mortgage Lending Act (CRMLA) (Financial
27 Code Section §50000 et seq.). AmWest has its principal place of business located at Six Point
28

ACCUSATION

1 Drive, Suite 150, Brea, California 92821. AmWest employs mortgage loan originators in its
2 CRMLA business.

3 2. AmWest is also licensed by the Commissioner as a finance lender and broker
4 pursuant to the California Finance Lenders Law (CFL) (Financial Code §22000 et seq.). AmWest
5 has its principal place of business under the CFL located at Six Point Drive, Suite 150, Brea,
6 California 92821.

7 II

8 CRMLA Violations

9 3. On or about July 21, 2014, the Commissioner commenced a regulatory examination
10 of the books and records of AmWest under the CRMLA (2014 regulatory examination). The 2014
11 regulatory examination disclosed that in 4 of the 30 funded loans reviewed, or approximately 13%,
12 AmWest was charging the borrower per diem interest in excess of one day prior to the disbursement
13 of loan proceeds in violation of California Financial Code section 50204, subdivision (o). However,
14 when the review is limited to loans where disbursement of loan proceeds occurred on a Monday or
15 the day following a bank holiday, the percentage of overcharges increases to 100%. A California
16 Additional Per Diem Interest Charge Disclosure was found in the 4 loans with per diem interest
17 overcharges. The disclosures were not prepared in accordance with California Civil Code section
18 2948.5, subdivision (b), and therefore were not considered in calculating per diem interest charges.
19 The per diem interest overcharges averaged \$226.46 per loan. The range of per diem interest
20 overcharges was between \$29.40 and \$789.04. The range of days that interest was overcharged was
21 between 1 and 6 days.

22 4. On or about June 30, 2015, the Commissioner, based upon the findings of the 2014
23 regulatory examination, directed AmWest to conduct a self-audit regarding per diem interest charges
24 for all loans originated from October 12, 2010 through June 15, 2015 where loan proceeds were
25 disbursed on a Monday or a day following a bank holiday, make appropriate refunds, and submit a
26 report as to the findings of the self-audit (self-audit report). AmWest claimed to have completed the
27 self-audit and corresponding refunds on or about July 17, 2015. The self-audit report filed with the
28 Commissioner disclosed 1,626 per diem interest overcharges out of 4,960 qualifying loans.

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8. Financial Code section 50513 provides in pertinent part:

(a) The commissioner may do one or more of the following:

(4) Impose fines on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).

(b) The commissioner may impose a civil penalty on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator has violated or failed to comply with any requirement of this division or any regulation prescribed by the commissioner under this division or order issued under authority of this division.

(c) The maximum amount of penalty for each act or omission described in subdivision (b) shall be twenty-five thousand dollars (\$25,000).

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

V

Conclusion

9. The Commissioner finds that, by reason of the foregoing, AmWest has violated Financial Code section 50204, subdivision (o), and a fact or condition now exists, that if it had existed at the time of original licensure under the CFLL, reasonably would have warranted the Commissioner in refusing to issue the CFLL license, and based thereon, grounds exist to (i) suspend the residential mortgage lender and servicer license and the finance lender and broker license of AmWest, and (ii) assess penalties against AmWest pursuant to Financial Code section 50513, subdivision (b).

VI

Prayer

WHEREFORE, IT IS PRAYED that:

1. Pursuant to Financial Code section 50327, the residential mortgage lender and servicer license of AmWest be suspended for a period of up to 12 months;

1 2. Pursuant to Financial Code section 22714, the finance lender and broker license of
2 AmWest be suspended for a period of up to 12 months; and

3 3. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied
4 against AmWest for at least 1,695 violations of Financial Code sections 50504, subdivision (o),
5 overcharging per diem interest, according to proof, but in an amount of at least \$1,000.00 per
6 violation.

7 Dated: January 30, 2017
8 Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

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10 By _____
11 Judy L. Hartley
12 Senior Counsel
13 Enforcement Division

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