

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 JUDY L. HARTLEY (State Bar No. 110628)
Senior Corporations Counsel
4 Department of Business Oversight
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-7604
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

11	In the Matter of:)	CRMLA LICENSE NO.: 413-0382
12	THE COMMISSIONER OF BUSINESS)	STATEMENT OF FACTS IN SUPPORT OF
13	OVERSIGHT,)	ORDER TO DISCONTINUE VIOLATIONS
14	Complainant,)	PURSUANT TO FINANCIAL CODE
15	v.)	SECTION 50321 AND NOTICE OF INTENT
16	AMWEST FUNDING CORP.,)	TO MAKE ORDER FINAL
17	Respondent.)	
18)	
19)	

20 The Complainant is informed and believes and based upon such information and belief,
21 alleges and charges 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
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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.

1 5. In testing the accuracy of the self-audit, the Commissioner found that, out of 150
2 loans sampled, AmWest failed to identify 12 overcharges, or approximately 8% of the sampling.
3 Accordingly, on or about August 17, 2015, the Commissioner requested documentation for a further
4 150 loans for purposes of sampling, which resulted in a review of 144 loans as 6 loans were
5 duplicate requests. The follow up sampling disclosed that AmWest had failed to identify 57
6 overcharges, or approximately 39.6% of the sampling. Based upon the samplings, the
7 Commissioner has determined that the self-audit is unreliable.

8 6. By reason of the foregoing, AmWest has violated Financial Code sections 50204,
9 subdivision (o).

10 7. Financial Code section 50321 provides in pertinent part:

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

17 8. Financial Code section 50323 provides:

18 (a) No order issued pursuant to Section 50321 or 50322 may become
19 final except after notice to the affected licensee of the commissioner's
20 intention to make the order final and of the reasons for the finding. The
21 commissioner shall also notify the licensee that upon receiving a
22 request the matter will be set for hearing to commence within 15 business
23 days after receipt. The licensee may consent to have the hearing
24 commenced at a later date. If no hearing is requested within 30 days
25 after the mailing or service of the required notice, and none is ordered
26 by the commissioner, the order may become final without hearing and
27 the licensee shall immediately discontinue the practices named in the
28 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 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 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.

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(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If 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 AmWest of her intention to make the order final.

Dated: January 30, 2017
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Corporations Counsel
Enforcement Division