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

10 In the Matter of the Accusation of) File No.: 413-1117
11 THE COMMISSIONER OF BUSINESS)
12 OVERSIGHT OF THE STATE OF) ACCUSATION IN SUPPORT OF NOTICE OF
CALIFORNIA,) INTENT TO ISSUE ORDERS SUSPENDING
13) LICENSE AND IMPOSING PENALTIES
14 Complainant,)
15 vs.)
16 NEW AMERICAN FUNDING)
PERFORMANCE HOME LOANS d.b.a.)
17 BROKER SOLUTIONS INC.,)
18 Respondent.)
19 _____)

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21 The Complainant is informed and believes and based upon such information and belief,
22 alleges and charges the Respondent as follows:
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24 I

25 1. New American Funding Performance Home Loans d.b.a. Broker Solutions Inc. (“Broker
26 Solutions”) or (“Respondent”) is a residential mortgage lender licensed since March 29, 2011 by
27 the Commissioner of Business Oversight (“Commissioner” or “Complainant”) pursuant to the
28 California Residential Mortgage Lending Act (“CRMLA”) (California Financial Code sections

1 50000 et seq.). Broker Solutions has its principal place of business at 14511 Myford Road, Suite
2 100, Tustin, CA 92780. Broker Solutions employs mortgage loan originators.

3 II

4 2. On or about July 16, 2012, the Department of Business Oversight (“Department”)
5 commenced a regulatory examination of the books and records of Respondent under the CRMLA
6 (“2012 regulatory examination”). The 2012 regulatory examination disclosed that 46% of the
7 funded loan files reviewed had per diem interest overcharges. Respondent charged the borrowers
8 per diem interest in excess of one day prior to the date that the loan proceeds were disbursed from
9 escrow, in violation of California Financial Code (“FC”) section 50204, subdivision (o).

10 III

11 3. Due to the high percentage of overcharges noted in the examination, Broker Solutions
12 was requested to review all California loans originated from March 20, 2011 (the date their license
13 was approved) to Sept. 9, 2014 to determine and refund the amount of overcharges collected from
14 borrowers. California Financial Code section 50124(a)(3) requires a licensee to file with the
15 commissioner any report required under law or by rule or order of the commissioner. Broker
16 Solutions submitted to the Department a self-audit report that identified seven hundred and sixty-six
17 (766) loans that contained overcharges out of the two thousand six hundred and twenty-three (2623)
18 files examined. The overcharges identified in this self-audit totaled \$57,474.98. The Department
19 concluded that this self-audit needed to be tested for accuracy.

20 4. The Department selected 100 files at random that had been included in the self-audit
21 conducted by Broker Solutions. Out of these 100 files the Department’s review revealed that per
22 diem interest overcharges had been incurred on 59 of the 100 loans reviewed. The 59 files with
23 overcharges were completely missed in the self-audit. The total amount of these interest
24 overcharges was \$6005.73. The range of per diem overcharges found in this review of the 100 files
25 ranged between \$39.98 and \$186.37. The range of days that interest was overcharged was between
26 two and six days.
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8. The Commissioner finds that, by reason of the foregoing, New American Funding Home Loans dba Broker Solutions Inc. has violated Financial Code section 50204 of the CRMLA.

Therefore, grounds exist to:

(1) suspend the CRMLA residential mortgage lender license of New American Funding Home Loans dba Broker Solutions Inc. pursuant to Financial Code section 50327, and

(2) levy penalties against New American Funding Home Loans dba Broker Solutions Inc. pursuant to Financial Code section 50513(b).

WHEREFORE, IT IS PRAYED that:

1. Pursuant to Financial Code section 50327, the residential mortgage lender license of New American Funding Performance Home Loans dba Broker Solutions Inc. be suspended for up to 12 months; and

2. Pursuant to Financial Code section 50513(b), penalties be levied against New American Funding Performance Home Loans dba Broker Solutions for at least 825 violations of Financial Code section 50204(o), whereby Broker Solutions Inc. overcharged borrowers per diem interest during the period from March 29, 2011 to September 9, 2014 in an amount of at least \$1,000 per violation, for a total amount of penalties of at least \$825,000, or according to proof.

Dated: November 17, 2014
San Francisco, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
John R. Drews
Corporations Counsel
Enforcement Division