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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.: 413-0680
13 OVERSIGHT,)
)
14 Complainant,) ACCUSATION
)
15 v.)
)
16 DRAPER AND KRAMER MORTGAGE)
17 CORP.,)
)
18 Respondent.)
19)

20 The Complainant, the Commissioner of Business Oversight (Commissioner), is informed and
21 believes, and based upon such information and belief, alleges and charges Respondent Draper and
22 Kramer Mortgage Corp. (Draper) as follows:

23 **I.**

24 **Introduction**

25 1. Draper is a residential mortgage lender and servicer licensed by the Commissioner
26 pursuant to the California Residential Mortgage Lending Act (CRMLA) (Fin. Code Section §50000
27 et seq.). Draper has its principal place of business located at 701 E. 22nd Street, Suite 125. Lombard,
28

ACCUSATION

1 Illinois 60148. Draper has 19 branch locations under its CRMLA license in California and
2 elsewhere. Draper employs mortgage loan originators in its CRMLA business.

3 **II.**

4 **Per Diem Interest Overcharges**

5 2. On or about July 28, 2017, the Commissioner, by and through staff, commenced a
6 regulatory examination of the books and records of Draper under the CRMLA (2017 regulatory
7 examination). The 2017 regulatory examination disclosed that in 3 of 25 funded loans reviewed, or
8 approximately 12%, Draper was charging the borrower per diem interest in excess of one day prior
9 to the disbursement of loan proceeds in violation of California Financial Code section 50204,
10 subdivision (o). A California Additional Per Diem Interest Charge Disclosure was found in one of
11 the loans with per diem interest overcharges. The disclosure was not prepared in accordance with
12 California Civil Code section 2948.5, subdivision (b) or was not applicable, and therefore was not
13 considered in calculating per diem interest charges. The per diem interest overcharges averaged
14 \$323.01 per loan. The range of per diem interest overcharges was between \$82.64 and \$719.25.
15 The range of days that interest was overcharged was between 1 and 4 days.

16 **III.**

17 **Improper Fair Lending Notices**

18 3. A review of Fair Lending Notices during the 2017 regulatory examination revealed
19 that Draper had violated Financial Code section 50204, subdivision (i), Health and Safety Code
20 section 35830 and California Code of Regulations, title 21, section 7114 in all 22 loans reviewed by
21 (i) initially providing Fair Lending Notices to borrowers which failed to list the Department of
22 Business Oversight (Department) as the agency to contact for questions or complaints and (ii)
23 providing Fair Lending Notices to borrowers at loan closing that listed multiple agencies, including
24 the Department, but failed to mark the Department as the agency to contact for questions or
25 complaints.

26 4. The Commissioner had found that Draper had failed to provide proper Fair Lending
27 Notices during the last regulatory examination under the CRMLA that commenced in June 2013.
28 Based upon the findings of the 2013 regulatory examination, the Commissioner instructed Draper to

1 implement such procedures as necessary to ensure that proper Fair Lending Notices were provided in
2 the future.

3 **IV.**

4 **CRMLA Suspension/Penalty Statutes**

5 5. Financial Code section 50327 provides in pertinent part:

6 (a) The commissioner may, after notice and a reasonable opportunity to
7 be heard, suspend or revoke any license, if the commissioner finds that:

8 (1) the licensee has violated any provision of this division or rule or order
9 of the commissioner thereunder; or (2) any fact or condition exists that, if
10 it had existed at the time of the original application for license, reasonably
11 would have warranted the commissioner in refusing to issue the license originally.

12 6. Financial Code section 50513 provides in pertinent part:

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

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

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

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

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

V.

Conclusion

7. The Commissioner finds that, by reason of the foregoing, Draper and Kramer
Mortgage Corp. has violated Financial Code section 50204, subdivisions (i) and (o); Health and
Safety Code section 35380; and California Code of Regulations, title 21, section 7114, and based

1 thereon, grounds exist to (i) suspend the residential mortgage lender and servicer licenses of Draper
2 and Kramer Mortgage Corp. and (ii) assess penalties against Draper and Kramer Mortgage Corp.
3 pursuant to Financial Code section 50513, subdivision (b).

4 **VI.**

5 **Prayer**

6 WHEREFORE, IT IS PRAYED that:

7 1. Pursuant to Financial Code section 50327, the residential mortgage lender and
8 servicer licenses of Draper and Kramer Mortgage Corp. be suspended for a period of up to 12
9 months;

10 2. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied
11 against Draper and Kramer Mortgage Corp. for at least three violations of Financial Code sections
12 50504, subdivision (o), overcharging per diem interest, according to proof, but in an amount of at
13 least \$1,000.00 per violation; and

14 3. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied
15 against Draper and Kramer Mortgage Corp. for at least 22 violations of Financial Code section
16 50204, subdivision (i) and Health and Safety Code section 35830 and California Code of
17 Regulations, title 21, section 7114, for failing to refer borrowers to the proper agency on the Fair
18 Lending Notice, according to proof, but in an amount of at least \$200.00 per violation.

19 Dated: May 10, 2018
20 Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

21
22 By _____
23 Judy L. Hartley
24 Senior Counsel
25 Enforcement Division
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