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

11 In the Matter of:) CRMLA No.: 413-0831
12)
13 THE COMMISSIONER OF BUSINESS) NMLS No.: 1045
OVERSIGHT,)
14) STIPULATION
Complainant,)
15)
16 v.)
17)
GMAC Mortgage, LLC,)
18)
Respondent.)

19
20 This Stipulation is entered into between Respondent GMAC Mortgage, LLC (GMAC or
21 Respondent) on the one hand, and Complainant, the Commissioner of Business Oversight
22 (Commissioner), on the other hand (the Parties), and is made with respect to the following facts:

23 **RECITALS**

24 A. GMAC is a residential mortgage lender and loan servicer first licensed on October 20,
25 2006 by the Commissioner pursuant to the California Residential Mortgage Lending Act (Fin. Code,
26 § 50000 et seq.) (CRMLA).

27 B. At all relevant times, GMAC had its principal place of business located at 1100
28 Virginia Drive, Fort Washington, Pennsylvania 19034.

1 C. On May 14, 2012, GMAC filed a petition for Chapter 11 reorganization in the United
2 States Bankruptcy Court for the Southern District of New York (the Court).

3 D. On June 1, 2013, GMAC informed the Commissioner that it desired to surrender its
4 California residential mortgage lender and loan servicer license.

5 E. On December 17, 2013, pursuant to the Court's approval of a final plan of liquidation,
6 all assets of GMAC were assigned to ResCap Liquidating Trust (ResCap) located at 8300 Norman
7 Center Drive, Suite 170, Bloomington, Minnesota 55437. ResCap represents that it has authority to
8 execute this Stipulation on behalf of GMAC.

9 F. GMAC has failed to submit its audited financial statement (Audit Report) to the
10 Commissioner for its 2013, 2014, and 2015 fiscal years as required by Financial Code section 50200.

11 G. GMAC failed to file its annual report of principal amount of loans and aggregate
12 amount of loans serviced for the 12-month period ended on December 31, 2015 (Activity Report) as
13 required by Financial Code sections 50307.

14 H. Further, GMAC failed to pay its annual assessment to the Commissioner for the fiscal
15 years 2014/2015 and 2015/2016 as required by Financial Code section 50401.

16 I. Failure to file an Audit Report or Activity Report and/or pay an annual assessment
17 constitutes grounds under Financial Code section 50327 for the revocation of a license issued under
18 the CRMLA.

19 J. Due to GMAC's failure to submit the closing audit required by Financial Code section
20 50123 and otherwise comply with the above-cited provisions of the CRMLA, the Commissioner
21 cannot accept GMAC's request to surrender its residential mortgage lender and loan servicer license.

22 K. The Commissioner finds that entering into this Stipulation is in the public interest and
23 consistent with the purposes fairly intended by the policy and provisions of the CRMLA.

24 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
25 forth herein, the parties stipulate as follows:

26 **TERMS AND CONDITIONS**

27 1. Purpose. It is the intention of the Parties to resolve this matter for the purpose of
28 judicial economy and expediency and without the uncertainty and expense of a hearing and/or other

1 litigation.

2 2. License Revocation. Respondent hereby consents to the Commissioner issuing an
3 order revoking its residential mortgage lender and loan servicer license in accordance with the
4 provisions of the CRMLA in the form attached hereto as Exhibit A (Revocation Order). After
5 Respondent has executed this Stipulation, the Revocation Order shall become effective on the date
6 the order is signed by the Commissioner.

7 3. Waiver of Hearing Rights. Respondent hereby waives all rights to hearing, and to any
8 reconsideration, appeal, or other rights which may be afforded pursuant to CRMLA, the California
9 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law
10 in connection with these matters and, by waiving such rights, consents to the Revocation Order
11 provided for in Paragraph 2 becoming final.

12 4. Admissions. Respondent admits to the facts recited herein solely for the limited
13 purposes of these proceedings and any future proceeding(s) that may be initiated by or brought before
14 the Commissioner against Respondent. It is the intent and understanding between the parties that this
15 Stipulation, and particularly the admissions of Respondent herein, shall not be binding or admissible
16 against Respondent in any action(s) brought against Respondent by third parties.

17 5. Stipulation Coverage. The parties hereby acknowledge and agree that this Stipulation
18 is intended to constitute a full, final, and complete resolution of the matters set forth herein and that
19 no further proceedings or actions will be brought by the Commissioner in connection with these
20 matters under the CRMLA or any other provision of law, excepting therefrom any proceeding or
21 action if such proceeding or action is based upon facts not presently known to the Commissioner or
22 which were knowingly concealed from the Commissioner by Respondent.

23 6. Commissioner's Duties. The parties acknowledge and agree that nothing contained in
24 this Stipulation shall operate to limit the Commissioner's ability to assist any other agency, (county,
25 state or federal) with any prosecution, administrative, civil or criminal, brought by any such agency
26 against Respondents or any other person based upon any of the activities alleged in this matter or
27 otherwise.

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1 7. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
2 has been advised to seek independent advice from its attorney(s) and/or representatives with respect
3 to the advisability of executing this Stipulation.

4 8. Reliance. Each of the parties represents, warrants, and agrees that in executing this
5 Stipulation it has relied solely on the statements set forth herein and the advice of its own counsel
6 and/or representative. Each of the parties further represents, warrants, and agrees that in executing
7 this Stipulation it has placed no reliance on any statement, representation, or promise of any other
8 party, or any other person or entity not expressly set forth herein, or upon the failure of any party or
9 any other person or entity to make any statement, representation or disclosure of anything
10 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in any
11 way fraudulently induced to execute this Stipulation; and (2) to preclude the introduction of parol
12 evidence to vary, interpret, supplement, or contradict the terms of this Stipulation.

13 9. Full Integration. This Stipulation is the final written expression and the complete and
14 exclusive statement of all the agreements, conditions, promises, representations, and covenants
15 between the parties with respect to the subject matter hereof, and supercedes all prior or
16 contemporaneous agreements, negotiations, representations, understandings, and discussions between
17 and among the parties, their respective representatives, and any other person or entity, with respect to
18 the subject matter covered hereby.

19 10. No Presumption from Drafting. In that the parties have had the opportunity to draft,
20 review and edit the language of this Stipulation, no presumption for or against any party arising out
21 of drafting all or any part of this Stipulation will be applied in any action relating to, connected, to, or
22 involving this Stipulation. Accordingly, the parties waive the benefit of California Civil Code section
23 1654 and any successor or amended statute, providing that in cases of uncertainty, language of a
24 contract should be interpreted most strongly against the party who caused the uncertainty to exist.

25 11. Headings and Governing Law. The headings to the paragraphs of this Stipulation are
26 inserted for convenience only and will not be deemed a part hereof or affect the construction or
27 interpretation of the provisions hereof.

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1 12. Counterparts. This Stipulation may be executed in one or more counterparts, each of
2 which shall be an original but all of which, together, shall be deemed to constitute a single document.
3 This Stipulation may be executed by facsimile signature, and any such facsimile signature by any
4 party hereto shall be deemed to be an original signature and shall be binding on such party to the
5 same extent as if such facsimile signature were an original signature.

6 13. Settlement Authority. Each signator hereto covenants that he/she possesses all
7 necessary capacity and authority to sign and enter into this Stipulation on behalf of the named party.

8 14. Effective Date. This Stipulation and the attached Revocation Order shall become
9 effective on the date executed by the Commissioner.

10 15. Notice. Any notices required under this Stipulation shall be provided to each party at
11 the following addresses:

12 If to Respondent to: Jill M. Horner, Chief Financial Officer
13 ResCap Liquidating Trust
14 8300 Norman Center Drive, Suite 170
15 Bloomington, Minnesota 55437

16 If to the Commissioner to: Miranda LeKander, Senior Counsel
17 Department of Business Oversight
18 1515 K Street, Suite 200
19 Sacramento, California 95814

20 Dated: 8/10/16 JAN LYNN OWEN
21 Commissioner of Business Oversight

22 By _____
23 MARY ANN SMITH
24 Deputy Commissioner

25 Dated: 8/4/16 GMAC MORTGAGE, LLC

26 By _____
27 JILL M. HORNER, Chief Financial Officer
28 RESCAP LIQUIDATING TRUST