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

11	In the Matter of:)	CRMLA LICENSE NO.: 413-0789
12)	
13	THE COMMISSIONER OF BUSINESS)	
14	OVERSIGHT,)	STATEMENT OF FACTS IN SUPPORT OF
15)	ORDER TO DISCONTINUE VIOLATIONS
16	Complainant,)	PURSUANT TO FINANCIAL CODE
17)	SECTION 50321 AND NOTICE OF INTENT
18	v.)	TO MAKE ORDER FINAL
19)	
20	GATEWAY MORTGAGE GROUP, LLC,)	
21)	
22	Respondent.)	
23)	
24)	

20 The Complainant, the Commissioner of Business Oversight (Commissioner) is informed and
21 believes and based upon such information and belief, alleges and charges as follows:

22 **I.**

23 **Introduction**

24 1. Gateway is a residential mortgage lender and servicer licensed by the Commissioner
25 pursuant to the California Residential Mortgage Lending Act (CRMLA) (Fin. Code § 50000 et seq.).
26 Gateway has its principal place of business located at 244 South Gateway Place, Jenks, Oklahoma
27 74037. Draper has 30branch locations under its CRMLA license in California and elsewhere.
28 Gateway employs mortgage loan originators in its CRMLA business.

II.**Per Diem Interest Overcharges**

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3 2. On or about June 22, 2017, the Commissioner, by and through staff, commenced a
4 regulatory examination of the books and records of Gateway under the CRMLA (2017 regulatory
5 examination). The 2017 regulatory examination disclosed that in 3 of 21 funded loans reviewed, or
6 approximately 14.3%, Gateway was charging the borrower per diem interest in excess of one day
7 prior to the disbursement of loan proceeds in violation of California Financial Code section 50204,
8 subdivision (o). The per diem interest overcharges averaged \$41.45 per loan. The range of per diem
9 interest overcharges was between \$6.99 and \$75.80. The range of days that interest was overcharged
10 was between 1 and 2 days.

11 3. On or about February 16, 2018, Gateway was instructed to conduct a self-audit of all
12 loans originated in California since June 28, 2013 to determine the number and amount of per diem
13 interest overcharges. Gateway was further instructed to file, no later than March 8, 2018, a report on
14 the per diem interest self-audit, which report was to be in Microsoft Excel format and include for
15 each loan; the borrower loan number, name, address, loan amount, loan date, interest rate,
16 disbursement date, date per diem interest commenced, per diem charged, daily per diem interest
17 amount, number of days per diem interest charged, number of days per diem interest overcharged,
18 overcharge amount (if applicable), date of refund (if applicable), and proof of refund (if applicable)
19 (self-audit report).

20 4. On or about March 30, 2018, Gateway submitted its self-audit report to the
21 Commissioner. The self-audit report contained numerous columns including one entitled “refund
22 due” which disclosed 295 per diem interest overcharges and another column entitled “true refund”
23 which disclosed 112 per diem interest overcharges. There was no explanation offered regarding the
24 differences between these two columns. The self-audit report also failed to include the 10% interest
25 for borrower refunds or the refund check numbers and dates.

26 5. On or about May 1, 2018, Gateway was informed in writing that its self-audit report
27 was insufficient as it failed to include the 10% interest for the refunds or the refund check numbers
28

1 and dates. Gateway was directed to file a complete self-audit report and to further include
 2 documentation on 11 selected loans for purposes of sampling.

3 6. On or about May 18, 2018, Gateway submitted a revised self-audit report. In the
 4 cover letter, Gateway stated that it had found 77 per diem interest overcharges out of 691 loans.
 5 However, the self-audit report, which continued to contained columns entitled “refund due” and
 6 “true refund” did not agree with Gateway’s cover letter as the “refund due” column disclosed 112
 7 per diem interest overcharges and the “true refund” which disclosed 81 per diem interest
 8 overcharges. The revised self-audit report still failed to include refund check numbers and dates and
 9 incorrectly calculated interest on the refunds. Too, the self-audit report disclosed no overcharge in
 10 two of the three overcharges found by the Commissioner’s staff during the regulatory examination.
 11 Accordingly, Gateway’s self-audit was deemed unreliable by the Commissioner.

12 7. In testing the accuracy of the self-audit, the Commissioner found that Gateway had
 13 provided an incorrect disbursement date on the self-audit report in 5 out of the 11 loans (45.45%)
 14 selected for sampling. The sampling further confirmed the unreliability of the self-audit.

15 **III.**

16 **Conclusion**

17 8. By reason of the foregoing, Gateway Mortgage Group, LLC has violated Financial
 18 Code section 50204, subdivision (o).

19 9. Financial Code section 50321 provides in pertinent part:

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

24 10. Financial Code section 50323 provides:

25 (a) No order issued pursuant to Section 50321 or 50322 may become
 26 final except after notice to the affected licensee of the commissioner's
 27 intention to make the order final and of the reasons for the finding. The
 28 commissioner shall also notify the licensee that upon receiving a
 request the matter will be set for hearing to commence within 15 business
 days after receipt. The licensee may consent to have the hearing

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commenced at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without hearing and the licensee shall immediately discontinue the practices named in the 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.

(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 Gateway Mortgage Group, LLC of the Commissioner’s intention to make the order final.

Dated: August 21, 2018
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Counsel
Enforcement Division