

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN ROONEY
Assistant Chief Counsel
3 BLAINE A. NOBLETT (State Bar No. 235612)
Senior Counsel
4 Department of Business Oversight
320 West 4th Street, Ste. 750
5 Los Angeles, CA 90013-2344
Telephone: (213) 576-1396
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

11 In the Matter of:) CFLL LICENSE No. 603-A922
12)
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) ACCUSATION IN SUPPORT OF NOTICE OF
14) INTENTION TO ISSUE ORDER
Complainant,) SUSPENDING FINANCE LENDERS
15) LICENSE
16 v.)
17)
GOTMORTGAGE.COM, doing business as)
18 PERFORMANCE CAPITAL GROUP,)
19 Respondent.)
20)

21 Jan Lynn Owen, the Commissioner of Business Oversight (“Commissioner”), is informed and
22 believes, and based upon such information and belief, alleges and charges Respondent as follows:

23 I

24 **Jurisdiction and Venue**

25 1. The Commissioner brings this action under the provisions of Financial Code section
26 22714.

27 ///

1 Overfund Refund” fees, but GotMortgage.com failed to provide the documents in response to the
2 Commissioner’s demands in violation of Financial Code section 22709.

3 **III**

4 **Applicable Statutes**

5 7. Financial Code section 22346 provides in relevant part:

6 Any licensee that violates any provision of any of the following federal
7 acts or regulations violates this division:

8 (a) The federal Real Estate Settlement Procedures Act, as amended (12
9 U.S.C. Sec. 2601 et seq.).

10 8. Title 12 Code of Federal Regulations section 1024.7 provides in relevant part:

11 (a) Lender to provide. (1) Except as otherwise provided in paragraphs
12 (a), (b), or (h) of this section, not later than 3 business days after a
13 lender receives an application, or information sufficient to complete an
14 application, the lender must provide the applicant with a GFE. In the
15 case of dealer loans, the lender must either provide the GFE or ensure
16 that the dealer provides the GFE.

17 (2) The lender must provide the GFE to the loan applicant by hand
18 delivery, by placing it in the mail, or, if the applicant agrees, by fax,
19 email, or other electronic means.

20 (e) Tolerances for amounts included on GFE. (1) Except as provided in
21 paragraph (f) of this section, the actual charges at settlement may not
22 exceed the amounts included on the GFE for:

23 (i) The origination charge;

24 (ii) While the borrower's interest rate is locked, the credit or charge for
25 the interest rate chosen;

26 (iii) While the borrower's interest rate is locked, the adjusted
27 origination charge; and

28 (iv) Transfer taxes.

(2) Except as provided in paragraph (f) of this section, the sum of the
charges at settlement for the following services may not be greater than
10 percent above the sum of the amounts included on the GFE:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (i) Lender-required settlement services, where the lender selects the third party settlement service provider;
 - (ii) Lender-required services, title services and required title insurance, and owner's title insurance, when the borrower uses a settlement service provider identified by the loan originator; and
 - (iii) Government recording charges.
- (3) The amounts charged for all other settlement services included on the GFE may change at settlement.

9. Financial Code section 22709 provides:

The commissioner may require the production for examination in this state of all books, records, and supporting data used by the licensee in the preparation of reports to the commissioner. The books, records, and supporting data shall be made available for examination by the commissioner in this state within 10 days after written demand.

10. Financial Code section 22714 provides in pertinent part:

(a) The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(1) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.

(2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

IV

Prayer

The Commissioner finds that, by reason of the foregoing, GotMortgage.Com has violated section 22346 of the Financial Code, Title 12 Code of Federal Regulations section 1024.7, and failed to comply with the demands of the Commissioner to complete its global audit and make borrower refunds in violation of Financial Code section 22709, and based thereon, sufficient ground exist to suspend the license of GotMortgage.com.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

WHEREFORE, IT IS PRAYED that the CFLL license of Respondent GotMortgage.com, doing business as Performance Capital Group, be suspended for a period of up to 12 months.

Dated: May 12, 2015
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
BLAINE A. NOBLETT
Senior Counsel
Enforcement Division