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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. 413-0699  
12 )  
13 GUARANTEED RATE, INC. ) **STIPULATION**  
14 )  
15 Respondent. )  
16 \_\_\_\_\_ )

17 This Stipulation is entered into between the Commissioner of Business Oversight  
18 (Commissioner) and Guaranteed Rate, Inc. (Guaranteed Rate), and is made with respect to the  
19 following facts:

20 RECITALS

- 21 A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities  
22 engaged in the business of lending and/or servicing residential mortgage loans pursuant to the  
23 California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.).  
24 B. Guaranteed Rate is a residential mortgage lender licensed by the Commissioner since June  
25 9, 2005 (CRMLA License No. 413-0699). Guaranteed Rate has its principal place of business  
26 located at 3940 North Ravenswood Road, Chicago, Illinois 60613. Guaranteed Rate operates  
27 multiple branch offices in California and employs mortgage loan originators.

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1 C. Nikolaos Athanasiou, is the Chief Operating Officer and a control person of Guaranteed  
2 Rate and, as such, is authorized to enter into this Stipulation on behalf of Guaranteed Rate.

3 D. On or about June 7, 2013, the Commissioner posted a license item on the Nationwide  
4 Mortgage Licensing System and Registry (NMLS) informing Guaranteed Rate that its 2012 annual  
5 report disclosed that Guaranteed Rate had been engaged in the business of servicing California loans  
6 without a CRMLA servicer license.

7 E. On or about December 17, 2013, after informing the Commissioner of its mistaken belief that  
8 it already possessed a servicer license, Guaranteed Rate applied to add residential mortgage loan  
9 servicing authority to its CRMLA license.

10 F. On August 26, 2014 and, again, on June 30, 2015, the Commissioner posted license items on  
11 the NMLS flagging deficiencies related to Guaranteed Rate's application for servicing authority.

12 G. Despite the lack of clarity about its servicing authority, Guaranteed Rate increased its  
13 California mortgage loan servicing portfolio from five loans in 2014 to 1,361 loans in 2015.

14 H. The Commissioner has not yet approved Guaranteed Rate's residential mortgage loan  
15 servicing application.

16 I. The Commissioner is of the opinion that during the period of May 2012 through the date  
17 hereof, Guaranteed Rate has engaged in the business of servicing residential mortgage loans in  
18 this state without a license in violation of Financial Code section 50002, subdivision (a).

19 J. It is the intention and desire of the parties to resolve this matter without the necessity of a  
20 hearing and/or other litigation.

21 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set  
22 forth herein, the parties agree as follows:

23 TERMS AND CONDITIONS

24 1. Purpose. The purpose of this Stipulation is to resolve the violations of the CRMLA in a  
25 manner that avoids the expense of court proceedings and a hearing, is in the public interest, protects  
26 consumers, and is consistent with the purposes, policies, and provisions of the CRMLA.

27 2. Acknowledgment. Guaranteed Rate acknowledges that it has engaged in the business of  
28 servicing residential mortgage loans in this state without a license from the Commissioner in

1 violation of Financial Code section 50002, subdivision (a), as set forth above. Further, Guaranteed  
2 Rate agrees that it shall not engage in further unlicensed residential mortgage loan servicing activity  
3 in this state unless and until it has received a license from the Commissioner authorizing it to do so.

4 3. Penalties. Pursuant to Financial Code section 50513, Guaranteed Rate agrees to pay a  
5 penalty of \$50,000.00 (Penalty) for the above-referenced violations of Financial Code sections  
6 50002, subdivision (a). The Penalty shall be due upon execution of this Stipulation and paid in the  
7 form of a cashier’s check, or via the Automated Clearing House, to the “Department of Business  
8 Oversight” and mailed or transmitted via traceable method to the attention of: Accounting –  
9 Litigation, Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California  
10 95814.

11 4. Servicing Authority. The Commissioner hereby acknowledges that the residential mortgage  
12 loan servicer application filed by Guaranteed Rate on or about December 17, 2013 is ready to be  
13 approved, and the Commissioner hereby agrees to approve Guaranteed Rate’s residential mortgage  
14 loan servicer application after all terms of this Stipulation are met.

15 5. Commissioner’s Remedy for Breach. Guaranteed Rate acknowledges that failure to comply  
16 with any term of this Stipulation shall be deemed a breach and cause for the Commissioner to  
17 immediately suspend any licenses held by, and/or deny any pending application(s) of Guaranteed  
18 Rate, its successors and assigns, by whatever names they might be known. Guaranteed Rate hereby  
19 waives any notice and hearing rights to contest such suspension(s) and/or denial(s) which may be  
20 afforded under the CRMLA, the APA, the CCP, or any other provision of law in connection with  
21 this action.

22 6. Full and Final Settlement. The parties hereby acknowledge and agree that this Stipulation is  
23 intended to constitute a full, final, and complete resolution of Guaranteed Rate’s violations of the  
24 CRMLA identified herein. No further proceedings or actions will be brought by the Commissioner  
25 in connection with these matters under the CRMLA, or any other provision of law, excepting  
26 therefrom any proceeding to enforce compliance with the terms of this Stipulation, or action if such  
27 proceeding or action is based upon discovery of new and further violations of the CRMLA which  
28 do not form the basis for this Stipulation or which were knowingly concealed from the

1 Commissioner by Guaranteed Rate.

2 7. Binding. This Stipulation is binding on all heirs, assigns, and/or successors in interest.

3 8. Commissioner's Duties. The parties further acknowledge and agree that nothing contained  
4 in this Stipulation shall operate to limit the Commissioner's ability to assist any other agency (city,  
5 county, state or federal) with any prosecution, administrative, civil or criminal, brought by any such  
6 agency against Guaranteed Rate or any other person based upon any of the activities alleged in  
7 these matters or otherwise.

8 9. Third Party Actions. It is the intent and understanding between the parties that this  
9 Stipulation does not create any private rights or remedies against Guaranteed Rate, create any  
10 liability for Guaranteed Rate or limit defenses of Guaranteed Rate for any person or entity not a  
11 party to this Stipulation.

12 10. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it has  
13 received independent advice from its attorney(s) and/or representatives with respect to the  
14 advisability of executing this Stipulation.

15 11. Counterparts. The parties agree that this Stipulation may be executed in one or more  
16 separate counterparts, each of which when so executed, shall be deemed an original. Such  
17 counterparts shall together constitute and be one and the same instrument.

18 12. Waiver, Modification, and Qualified Integration. The waiver of any provision of this  
19 Stipulation shall not operate to waive any other provision set forth herein. No waiver, amendment,  
20 or modification of this Stipulation shall be valid or binding to any extent unless it is in writing and  
21 signed by all of the parties affected by it.

22 13. Headings and Governing Law. The headings to the paragraphs of this Stipulation are  
23 inserted for convenience only and will not be deemed a part hereof or affect the construction or  
24 interpretation of the provisions hereof. This Stipulation shall be construed and enforced in  
25 accordance with and governed by California law.

26 14. Full Integration. Each of the parties represents, warrants, and agrees that in executing this  
27 Stipulation it has relied solely on the statements set forth herein and the advice of its own counsel.  
28 Each of the parties further represents, warrants, and agrees that in executing this Stipulation it has

1 placed no reliance on any statement, representation, or promise of any other party, or any other  
2 person or entity not expressly set forth herein, or upon the failure of any party or any other person  
3 or entity to make any statement, representation or disclosure of anything whatsoever. The parties  
4 have included this clause: (1) to preclude any claim that any party was in any way fraudulently  
5 induced to execute this Stipulation; and (2) to preclude the introduction of parol evidence to vary,  
6 interpret, supplement, or contradict the terms of this Stipulation.

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

13 16. Voluntary Agreement. Guaranteed Rate enters into this Stipulation voluntarily and without  
14 coercion and acknowledges that no promises, threats or assurances have been made by the  
15 Commissioner or any officer, or agent thereof, about this Stipulation.

16 17. Effective Date. This Stipulation shall become final and effective when signed by all parties  
17 and delivered by the Commissioner's agent by email to Guaranteed Rate's counsel at  
18 kryan@BuckleySandler.com.

19 18. Public Record. Guaranteed Rate acknowledges that this Stipulation is a public record.

20 19. Notice. Any notices required under this Stipulation shall be provided to each party at the  
21 following addresses:

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23 If to Respondents to: Guaranteed Rate, Inc.  
3940 North Ravenswood Road  
24 Chicago, Illinois 60613

25 If to the Commissioner to: Miranda LeKander, Assistant Chief Counsel  
26 Department of Business Oversight  
1515 K Street, Suite 200  
27 Sacramento, California 95814

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1 20. Authority to Execute. Each signatory hereto covenants that he/she possesses all necessary  
2 capacity and authority to sign and enter into this Stipulation.

3 IN WITNESS WHEREOF, the Parties hereto have approved and executed this Stipulation on  
4 the dates set forth opposite their respective signatures.

5 Dated: 1/3/17 JAN LYNN OWEN  
6 Commissioner of Business Oversight

7  
8 By \_\_\_\_\_  
9 MARY ANN SMITH  
10 Deputy Commissioner  
11 Enforcement Division

12 Dated: 12/29/16 GUARANTEED RATE, INC.

13  
14 Dated: 12/29/16 By \_\_\_\_\_  
15 Nikolaos Athanasiou, Chief Operating Officer  
16 On behalf of Guaranteed Rate, Inc.

17 Approved as to Form and Content

18  
19 By \_\_\_\_\_  
20 Kathryn Ryan, Esq.  
21 BuckleySandler LLP  
22 Attorneys on behalf of Guaranteed Rate, Inc.  
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