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

10
11 In the Matter of:) CRMLA LICENSE NO.: 413-0949
12)
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) CONSENT ORDER
14)
Complainant,)
15 v.)
16 HOMEWARD RESIDENTIAL, INC.,)
17)
Respondent.)
18)
19)

20 This Consent Order is entered into between the Commissioner of Business Oversight
21 (Commissioner) and Homeward Residential, Inc. (the Parties) and is made with respect to the
22 following facts:

23 **Recitals**

24 A. Homeward Residential, Inc. is a corporation formed and existing under the laws of
25 the State of Delaware and authorized to conduct business in the State of California.

26 B. Homeward Residential, Inc. is a residential mortgage lender licensed by the
27 Commissioner pursuant to the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, §
28 5000 et seq.). Homeward Residential, Inc. has its principal place of business located at 16675

1 Addison Road, Addison, Texas 75001.

2 C. The Department of Business Oversight (DBO), through the Commissioner, has
3 jurisdiction over the licensing and regulation of entities engaged in the business of mortgage lending
4 and/or servicing pursuant to the CRMLA.

5 D. Pursuant to Financial Code section 50302, the Commissioner is required to examine
6 the records, documents and affairs of each licensee under the CRMLA to ensure compliance with the
7 law.

8 E. On or about April 3, 2017, the Commissioner commenced a routine regulatory
9 examination of Homeward Residential, Inc. through DBO examination staff (2017 Exam).
10 Homeward Residential, Inc. cooperated fully with all aspects of the 2017 Exam and produced all
11 documents and other information in a timely manner.

12 F. As a result of the 2017 Exam, the Commissioner concluded that Homeward
13 Residential, Inc. obtained signed per diem interest disclosure documents in which the disbursement
14 day spaces were blank. Upon notification, Homeward Residential, Inc. immediately conducted a
15 retrospective review and further represents to the DBO that no excess per diem interest was charged
16 during that time as a result of any failure to fill in the disbursement day.

17 G. The Commissioner concluded that by obtaining signed per diem interest disclosure
18 documents in which the disbursement day spaces were left blank, Homeward Residential, Inc. failed
19 to keep records and documents that would properly enable the Commissioner to determine whether
20 the licensee is in compliance with certain aspects of the CRMLA, in violation of Financial Code
21 section 50314.

22 H. It is the intention and desire of the Parties to resolve this matter without the necessity
23 of a hearing and/or other litigation.

24 NOW, THEREFORE, the Parties are willing to resolve the matters cited herein as follows:

25 **Terms and conditions**

26 1. Purpose. This Consent Order is intended to resolve the issues described in paragraphs
27 F and G above in a manner that avoids the expense of a hearing, and possible further court
28 proceedings, is in the public interest, protects consumers, and is consistent with the purposes,

1 policies, and provisions of the CRMLA.

2 2. Order to Discontinue Violations. Pursuant to Financial Code section 50321,
3 Homeward Residential, Inc. is hereby ordered by the Commissioner, and Homeward Residential,
4 Inc. agrees, to not engage in violations of Financial Code section 50314, as set forth above in
5 paragraphs F and G.

6 3. Finality of Consent Order. Homeward Residential, Inc. agrees to comply with the
7 Consent Order and stipulates to this Consent Order becoming final.

8 4. Wavier of Hearing Rights. Homeward Residential, Inc. acknowledges that the
9 Commissioner is ready, willing, and able to proceed with the filing of an administrative enforcement
10 action on the charges contained in this Consent Order. Homeward Residential, Inc. acknowledges its
11 right to an administrative hearing under the CRMLA, including Financial Code section 50323, and
12 waives its right to a hearing and any reconsideration, appeal, or other rights which may be afforded
13 pursuant to the Financial Code, Administrative Procedure Act, the California Code of Civil
14 Procedure or any other provision of the law with respect to the allegations herein.

15 5. Waiver of Judicial Review. Homeward Residential, Inc. waives its rights to seek
16 judicial review or otherwise challenge or contest in any court or tribunal outside the DBO the
17 validity or effectiveness of this Order.

18 6. Policies and Procedures. The Commissioner hereby acknowledges that Homeward
19 Residential, Inc. has submitted information demonstrating that it has adopted policies and procedures
20 addressing the issues described in paragraphs F and G above.

21 7. Information Willfully Withheld. This Consent Order may be revoked and the
22 Commissioner may pursue any and all remedies available under law against Homeward Residential,
23 Inc. if the Commissioner later discovers that Homeward Residential, Inc. knowingly or willfully
24 withheld information used for and relied upon in this Consent Order.

25 8. Third Party Actions. The parties agree that this Consent Order does not create any
26 private rights or remedies against Homeward Residential, Inc., create any liability for Homeward
27 Residential, Inc., constitute evidence of any wrongdoing by Homeward Residential, Inc. for
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1 purposes of any third-party proceeding, or limit defenses of Homeward Residential, Inc. for any
2 person or entity not a party to this Consent Order.

3 9. Binding. The Parties agree this Consent Order is binding on the Parties, as well as
4 their successors in interest and assigns, but it specifically does not bind any federal or other state
5 agencies or any law enforcement authorities.

6 10. Full and Final Settlement and Release. The Parties hereby acknowledge and agree
7 that this Consent Order is intended to constitute a full, final, and complete resolution of the
8 violations of the CRMLA, identified in paragraphs F and G, above, for the period of October 1, 2015
9 to December 31, 2017 (hereafter, Released Matters). No further proceedings or actions will be
10 brought by the Commissioner in connection with the Released Matters, except an action as specified
11 in paragraph 7, if Homeward Residential, Inc. knowingly or willfully withheld information used for
12 and relied upon in this Consent Order from the Commissioner. With respect to any further
13 allegations or actions, Homeward Residential Inc. reserves all rights under applicable law, unless
14 otherwise waived in the Consent Order. The Parties acknowledge and agree that nothing contained
15 in this Consent Order shall operate to limit the Commissioner’s ability to assist any other agency
16 (city, county, state or federal) with any prosecution, administrative, civil or criminal, brought by any
17 such agency against Homeward Residential, Inc. or any other person, based upon any of the
18 activities alleged in these matters or otherwise.

19 11. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it
20 has received independent advice from its attorney(s) and/or representatives with respect to the
21 advisability of executing this Consent Order.

22 12. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
23 Consent Order it has relied solely on the statements set forth herein and the advice of its own counsel
24 and/or representative. Each of the Parties further represents, warrants, and agrees that in executing
25 this Consent Order it has placed no reliance on any statement, representation, or promise of any
26 other party, or any other person or entity not expressly set forth herein, or upon the failure of any
27 party or any other person or entity to make any statement, representation or disclosure of anything
28 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in

1 any way fraudulently induced to execute this Consent Order, and (2) to preclude the introduction of
2 parol evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

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

10 14. Waiver, Modification, and Qualified Integration. The waiver of any provision of this
11 Consent Order shall not operate to waive any other provision set forth herein. No waiver,
12 amendment, or modification of this Consent Order shall be valid or binding to any extent unless it is
13 in writing and signed by all of the parties affected by it.

14 15. Headings and Governing Law. The headings to the paragraphs of this Consent Order
15 are inserted for convenience only and will not be deemed a part hereof or affect the construction or
16 interpretation of the provisions hereof. This Consent Order shall be construed and enforced in
17 accordance with and governed by California law.

18 16. Execution. The Consent Order may be executed in one or more counterparts, each of
19 which shall be an original but all of which, together, shall be deemed to constitute a single
20 document. A fax signature shall be deemed the same as an original signature.

21 17. Settlement Authority. Each signatory represents and warrants that he/she possesses
22 the necessary capacity and authority to execute this Consent Order and bind the Parties.

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18. Effective Date. This Consent Order shall not become effective until signed by all parties and delivered by the Commissioner’s counsel by email to counsel for Homeward Residential, Inc.

Dated: June 26, 2018

JAN LYNN OWEN
Commissioner of Business Oversight

BY: _____
Mary Ann Smith, Deputy Commissioner

Dated: June 26, 2018

HOMEWARD RESIDENTIAL, INC.

BY: _____
John Britti, President