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7 Attorneys for Complainant

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

11 In the Matter of:	) CFL LICENSE NO.: 603H788
	) NMLS NO.: 258990
12 THE COMMISSIONER OF BUSINESS	)
OVERSIGHT,	)
13	) CONSENT ORDER
Complainant,	)
14	)
v.	)
15	)
16 INNOVATIVE MORTGAGE ALLIANCE	)
LLC,	)
17	)
Respondent.	)
18	)

19  
20 This Consent Order (Consent Order) is entered into between the Commissioner of Business  
21 Oversight (Commissioner) and Innovative Mortgage Alliance LLC (Respondent) (collectively the  
22 Parties) and is made with respect to the following facts:

23 **RECITALS**

24 A. The Commissioner has jurisdiction over the licensing and regulation of persons and  
25 entities engaged in the business of finance lending or brokering under the California Finance  
26 Lenders Law (CFLL) (Fin. Code, § 22000 et seq.).

27 B. The purpose of the CFLL is to ensure an adequate supply of credit to borrowers in  
28 California; to simplify, clarify, and modernize the law governing loans made by finance lenders; to

1 foster competition among finance lenders; to protect borrowers against unfair practices by some  
2 lenders, having due regard for the interests of legitimate and scrupulous lenders; to permit and  
3 encourage the development of fair and economically sound lending practices; and to encourage and  
4 foster a sound economic climate in this state. (Fin. Code, § 22001, subd. (a).)

5 C. Respondent is a Utah corporation with a principal place of business at 12401 South  
6 450 East, Suite F1, Draper, Utah 84020.

7 D. Peter Skaggs is the President and Owner of Respondent.

8 E. On November 16, 2009, Respondent was issued a license as a finance broker under  
9 license number 603H788.

10 F. Under Financial Code section 22159, CFLL licensees must file an annual report with  
11 the Commissioner by March 15 of each year (Annual Report).

12 G. On March 6, 2017, the Commissioner notified CFLL licensees of the March 15  
13 deadline for filing their annual reports by sending notice to the e-mail addresses designated by the  
14 licensees for receiving communications from the Commissioner according to the Commissioner’s  
15 Order on Electronic Communications dated November 22, 2013.

16 H. As of March 22, 2017, Respondent had not filed its Annual Report. The  
17 Commissioner sent a final notice dated March 22, 2017, to Respondent by certified mail, informing  
18 Respondent that if it did not file the Annual Report by April 11, 2017, its license would be  
19 summarily revoked under Financial Code section 22715.

20 I. On April 11, 2017, Respondent still had not filed its Annual Report. As a result, on  
21 April 19, 2017, the Commissioner issued an order summarily immediately revoking Respondent’s  
22 CFLL license (Revocation Order).

23 J. Under Financial Code section 22715, Respondent was entitled to request a hearing  
24 within 30 days of the issuance of the Revocation Order. Respondent did not timely request a  
25 hearing.

26 K. On June 26, 2017, Respondent filed its Annual Report, which was due on March 15,  
27 2017.

28

1 L. In connection with these proceedings, Respondent represented to the Commissioner  
2 that it accepted an application for and funded one loan following issuance of the Revocation Order,  
3 therefore engaging in the business of finance lending or brokering without a license in violation of  
4 Financial Code section 22100, subdivision (a).

5 M. The Commissioner finds that entering into this Consent Order is in the public  
6 interest and consistent with the purposes fairly intended by the policy and provisions of the CFLL.

7 The Parties therefore agree as follows:

8 **TERMS AND CONDITIONS**

9 1. Purpose. The Parties intend to resolve this matter for the purpose of judicial  
10 economy and expediency and without the uncertainty and expense of a hearing or other litigation.

11 2. Desist and Refrain Order. Respondent stipulates that under Financial Code section  
12 22712, it is ordered to desist and refrain from failing to file an annual report in violation of  
13 Financial Code section 22159 and from engaging in the business of a finance lender or broker  
14 without a license in violation of Financial Code section 22100, subdivision (a).

15 3. Administrative Penalty. Respondent shall pay an administrative penalty of  
16 \$5,000.00 no later than 30 days after the execution of this Consent Order. The penalty must be  
17 made payable in the form of a cashier's check or Automated Clearing House deposit to the  
18 Department of Business Oversight and transmitted to the attention of Accounting – Litigation, at the  
19 Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice  
20 of the payment shall concurrently be sent to Kelly Suk, Counsel, 320 West 4th Street, Suite 750,  
21 Los Angeles, California 90013.

22 4. Waiver of Hearing Rights. Respondent acknowledges that the Commissioner is  
23 ready, willing, and able to proceed with the filing of an administrative enforcement action on  
24 the charges and desist and refrain order contained in this Consent Order. Respondent hereby  
25 waives the right to any hearings and to any reconsideration, appeal, injunction, or other review that  
26 may be afforded under the Financial Code, California Administrative Procedure Act, Code of Civil  
27 Procedure, or any other provision of law. Respondent further waives any notice or hearing rights  
28 under Government Code section 11415.60, subdivision (b), the California Administrative Procedure

1 Act, Code of Civil Procedure, or any other provision of law. By waiving such rights, Respondent  
2 effectively consents to the finality of this Consent Order and the desist and refrain order  
3 contained in it.

4 5. Rescission of Revocation Order. The Commissioner hereby rescinds the April 19,  
5 2017, Revocation Order, which summarily revoked Respondent’s CFLL license number 603H788.  
6 CFLL license number 603H788 will be deemed restored as of the effective date of this Consent  
7 Order.

8 6. Summary Suspension of License for Failure to Comply. If Respondent fails to  
9 comply with paragraph 3, the Commissioner may summarily suspend Respondent from engaging in  
10 business under its license until it provides evidence of compliance to the Commissioner’s  
11 satisfaction. Respondent hereby waives any notice and hearing rights afforded under Government  
12 Code section 11415.60, subdivision (b), the California Administrative Procedure Act, Code of Civil  
13 Procedure or any other provision of law to contest the summary suspension.

14 7. Full and Final Resolution. Except as stated in paragraph 6, this Consent Order is  
15 intended to constitute a full and final resolution of the matters described in it. The Commissioner  
16 will not bring any further action or proceeding concerning the matter unless she discover violations  
17 by Respondent that do not form the basis for this Consent Order, including violations knowingly  
18 concealed from the Commissioner.

19 8. Commissioner’s Duties. Nothing in this Consent Order shall limit the  
20 Commissioner’s ability to assist any other government agency with any action brought by that  
21 agency against Respondent, including an action based on any of the acts, omission or events  
22 described in this Consent Order.

23 9. Independent Legal Advice. Each party represents that it has had the opportunity to  
24 seek independent legal advice or has received independent advice from its counsel or  
25 representatives regarding the advisability of executing this Consent Order.

26 10. Reliance. Each party represents that in executing this Consent Order it has relied  
27 solely on the statements in the Consent Order and on the advice of its counsel or representatives.  
28 Each party also represents that it has not relied on any statement or promise not contained in this

1 Consent Order from any other person or on the failure of such person to make a statement or  
2 promise. The Parties have included this clause to preclude any claim that a party was fraudulently  
3 induced to execute this Consent Order.

4 11. Integration. This Consent Order is the final written expression and the complete and  
5 exclusive statement of all the agreements, conditions, promises, representations, and covenants  
6 between the Parties concerning its subject matter and supersedes all discussion regarding such  
7 subject matter between the Parties, their representatives, and any other person. The Parties have  
8 included this clause to preclude the introduction of parol evidence to vary, interpret, supplement, or  
9 contradict the terms of this Consent Order.

10 12. No Presumption Against Drafting Party. Each party acknowledges that it has had the  
11 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the Parties  
12 intend that no presumption for or against the drafting party will apply in construing any part of this  
13 Consent Order. The Parties waive the benefit of Civil Code section 1654 as amended or  
14 corresponding provisions of any successor statute, which provide that in cases of uncertainty,  
15 language of a contract should be interpreted most strongly against the party that caused the  
16 uncertainty to exist.

17 13. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of  
18 this Consent Order will be valid or binding unless it is in writing and signed by all parties affected  
19 by it. Waiver of a provision of this Consent Order will not be deemed a waiver of any other  
20 provision.

21 14. Headings. The headings in this Consent Order are for convenience only and do not  
22 affect its meaning.

23 15. Governing Law. This Consent Order will be governed by and construed in  
24 accordance with the laws of the State of California.

25 16. Public Record. Respondent acknowledges that this Consent Order will be a matter of  
26 public record.

27 17. Voluntary Agreement. Respondent enters into this Consent Order voluntarily and  
28 without coercion and acknowledges that no promises, threats, or assurances about this Consent

1 Order have been made by the Commissioner or any of her officers or agents.

2 18. Counterparts. This Consent Order may be executed in any number of counterparts,  
3 each of which will be deemed an original when executed. All counterparts together will be deemed  
4 to constitute a single document.

5 19. Signature. A signature delivered by facsimile or electronic mail will be deemed an  
6 original signature.

7 20. Authority and Capacity to Sign. The Parties represents that the person signing this  
8 Consent Order on its behalf has the authority and capacity to do so.

9 21. Effective Date. This Consent Order will become effective on the date it is signed by  
10 the Parties and delivered to Respondent by the Commissioner via electronic mail.  
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JAN LYNN OWEN  
Commissioner Business Oversight

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16 Dated: 7/25/17

By: \_\_\_\_\_

Mary Ann Smith  
Deputy Commissioner, Enforcement Division

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20 INNOVATIVE MORTGAGE ALLIANCE LLC

21  
22 Dated: 7/24/17

By: \_\_\_\_\_

Peter Skaggs  
President