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10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
11 OF THE STATE OF CALIFORNIA

12 In the Matter of THE COMMISSIONER OF ) Case No.: 413-0570  
13 BUSINESS OVERSIGHT, )  
14 Complainant, ) STATEMENT OF FACTS IN SUPPORT OF  
15 vs. ) ORDER TO DISCONTINUE VIOLATIONS  
16 INTERNATIONAL CITY MORTGAGE, INC., ) PURSUANT TO FINANCIAL CODE  
17 Respondent. ) SECTION 50321  
18 )  
19 )  
20 )

21 Complainant is informed and believes and based upon such information and belief, alleges  
22 and charges as follows:

23 1. Respondent International City Mortgage, Inc. (“ICM”) is a residential mortgage  
24 lender licensed by the California Commissioner of Business Oversight (“Commissioner”) of the  
25 Department of Business Oversight (“Department”) pursuant to the California Residential Mortgage  
26 Lending Act (Fin. Code § 50000 et seq.) (“CRMLA”).

27 2. On or about May 5, 2014, the Commissioner commenced a regulatory examination  
28 of the books and records of ICM at its corporate office in Orange, California. The regulatory

1 examination disclosed that ICM collected mortgage insurance premiums (“MIP”s) and impound  
2 taxes and insurance (“Impound”) at the close of loan files and did not timely transfer these funds  
3 from the general account to the MIP and Impound trust accounts. This is in violation of Financial  
4 Code section 50202, subdivision (a)(3). Consequently, the escrow accounts had debit balances, in  
5 violation of California Code of Regulations, title 10, section 1950.314.6.

6 3. ICM had trust shortages every month, from January to May, 2014. This is in violation of  
7 California Code of Regulations, title 10, section 1950.314.1. At the start of the regulatory  
8 examination on May 5, 2014, ICM had trust shortages of twenty-three thousand four hundred forty-  
9 three dollars and seventeen cents (\$23,443.17) and one thousand seven hundred thirteen dollars and  
10 twenty-one cents (\$1,713.21) in the MIP and Impound trust accounts, respectively. Don Masula,  
11 Chief Financial Officer for ICM, told the Department’s Examiner that the shortages were caused by  
12 the company’s lack of liquidity. Despite this lack of liquidity, the Department’s Examiner found  
13 that as of March 31, 2014, the company had loaned three hundred seventy-nine thousand five  
14 hundred dollars (\$379,500.00) to its President, Kirk Hankla. This loan was outstanding as of the  
15 date of the examination, and the payment terms were undetermined.

16 4. Additionally, in the Notes to Financial Statements December 31, 2013, the CPA for ICM  
17 stated that ICM had received cash deposits from customers for appraisal and credit report fees  
18 totaling forty-five thousand seven hundred sixty-three dollars (\$45,763.00). The Commissioner’s  
19 Examiner requested the detailed monthly escrow liability ledger, bank reconciliation, and related  
20 bank statements for these deposits. The company provided a letter from the CPA, dated June 6,  
21 2014, which indicated that no funds from these deposits were maintained. On June 18, 2014, the  
22 Examiner demanded the detailed monthly escrow liability ledger, bank reconciliation, and related  
23 bank statements for these deposits. As of the date of the Examiner’s Report, on August 18, 2014,  
24 these have not been provided by ICM. This is in violation of Financial Code section 50314,  
25 subdivisions (a) and (b).

26 5. The regulatory examination disclosed that ICM charged borrowers per diem interest several  
27 days prior to the disbursement of loan proceeds, in excess of the one-day allowed grace period.  
28 This is in violation of Financial Code section 50204, subdivisions (k) and (o), and Civil Code

1 section 2948.5. The per diem interest overcharges averaged ninety-five dollars (\$95.00) per loan.  
2 The range of per diem interest overcharges was between forty-seven dollars (\$47.00) and one  
3 hundred seventy-five dollars (\$175.00) per loan. The range of days the interest was overcharged  
4 was between one (1) and eleven (11) days.

5 6. This is a repeat violation. In 2007, ICM was required to perform a self-audit and to refund  
6 eight thousand three hundred ninety-five dollars and ninety-three cents (\$8,395.93) on three  
7 hundred two (302) loans for per diem interest overcharges. ICM was again required to refund per  
8 diem interest overcharges as a result of a 2011 examination.

9 7. ICM continues to overcharge its borrowers for per diem interest or understates the per diem  
10 interest credit due borrowers, in violation of Financial Code section 50204, subdivisions (o) and (k)  
11 and Civil Code section 2948.5. In addition, ICM failed to provide requested information during the  
12 exam in violation of Financial Code section 50314.

13 8. By reason of the foregoing, ICM has violated Financial Code sections 50204, subdivisions  
14 (k) and (o), and Civil Code section 2948.5.

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

16 If, after investigation, the commissioner has reasonable grounds to believe  
17 that any licensee has violated its articles of incorporation or any law or  
18 rule binding upon it, the commissioner shall, by written order addressed to  
19 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.

20 10. Financial Code section 50323 provides:

21 (a) No order issued pursuant to Section 50321 or 50322 may become final  
22 except after notice to the affected licensee of the commissioner's intention  
23 to make the order final and of the reasons for the finding. The  
24 commissioner shall also notify the licensee that upon receiving a request  
25 the matter will be set for hearing to commence within 15 business days  
26 after receipt. The licensee may consent to have the hearing commenced at  
27 a later date. If no hearing is requested within 30 days after the mailing or  
28 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

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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 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.

11. Additionally, ICM has violated California Code of Regulations, title 10, section 1950.314.6, which provides:

A residential mortgage lender, residential mortgage lender and servicer, or residential mortgage loan servicer shall not withdraw, pay out, or transfer moneys from any loan or servicing account in excess of the amount to the credit of the account at the time of the withdrawal, payment, or transfer.

However, a residential mortgage lender, residential mortgage lender and servicer, or residential mortgage loan servicer may advance its own funds to a loan or servicing account under an impound agreement to pay taxes, insurance, and other payments, if the required withdrawal, payment, or transfer exceeds the amount of the credit for the account.

WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to Financial Code Section 50321 and notifying ICM of her intention to make the Order final.

Dated: January 22, 2015  
Sacramento, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
JOANNE ROSS  
Senior Corporations Counsel  
Enforcement Division