

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN M. ROONEY  
Assistant Chief Counsel  
3 MARLOU de LUNA (State Bar No. 162259)  
Senior Counsel  
4 Department of Business Oversight  
5 320 West 4th Street, Suite 750  
Los Angeles, California 90013-2344  
6 Telephone: (213) 576-7606  
7 Facsimile: (213) 576-7181  
8 Attorneys for Complainant

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

13	In the Matter of:	)	CRMLA LICENSE NO. 413-1040
14		)	
15	THE COMMISSIONER OF BUSINESS	)	ACCUSATION IN SUPPORT OF ORDER
16	OVERSIGHT,	)	IMPOSING PENALTIES
17	Complainant,	)	
18	v.	)	
19	LOANDEPOT.COM, LLC,	)	
20	Respondent.	)	

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

24 **I.**

25 **Jurisdiction and Venue**

26 1. The Commissioner brings this action under the provisions of Financial Code section  
27 50513.

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2. The Commissioner is authorized to administer and enforce the provisions of the California Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.) (CRMLA) and the rules promulgated under title 10 of the California Code of Regulations (CCR) that regulate the business and activities of residential mortgage lenders and mortgage loan servicers.

**II.**

**Statement of Facts**

3. loanDepot.com, LLC (loanDepot) is a residential mortgage lender licensed by the Commissioner under the CRMLA. It also holds a finance lender and broker license under the California Finance Lender Law. Its principal place of business is located at 26642 Towne Centre Drive, Foothill Ranch, California. At all relevant times herein, loanDepot operates numerous branch offices in the State of California. The company employs mortgage loan originators in its CRMLA business.

4. On or about November 28, 2012, loanDepot applied to add residential mortgage loan servicing authority to its CRMLA license by submitting a California Residential Mortgage Lending Act Amendment to the Commissioner. But the company’s residential mortgage loan application was incomplete. The loss mitigation procedures submitted with loanDepot’s application were those of its subservicer, CENLAR (Central Loan Administration & Reporting).

5. The servicing agreement entered into between loanDepot and CENLAR on April 19, 2012 disclosed CENLAR would service mortgage loans in which loanDepot was the owner of the servicing rights.

6. On or about February 11, 2013, the Commissioner notified the company, through NMLS, that it needed to “provide detailed explanation regarding Cenlar.”

7. The Commissioner also notified loanDepot through numerous emails dating from October 2 through 27, 2015 that the loss mitigation plan policy submitted by the company was deficient because it did not comply with the California Homeowners Bill of Rights (HBOR). Furthermore, the Commissioner advised loanDepot through emails dated October 5, 16 and 20, 2015 that the loss mitigation plan must be available for its public file. loanDepot has yet to provide the

1 Commissioner with a loss mitigation policy that meets the requirements of the HBOR. Accordingly,  
2 the Commissioner has not yet approved the residential mortgage loan servicing application of  
3 loanDepot.

4 8. Under Financial Code section 50002, licensees are prohibited from engaging in the  
5 business of servicing residential mortgage loans in California without first obtaining a license from  
6 the Commissioner.

7 9. A review of loanDepot's Mortgage Call Reports (MCRs), filed in NMLS, disclosed  
8 servicing activity in the state of California in 2013, 2014, 2015 and 2016. The MCRs filed by  
9 loanDepot reflect the servicing of approximately 41 loans in 2013; 21,895 loans in 2014; 25,049  
10 loans in 2015; and 27,245 loans in 2016 in the state of California.

11 **III.**

12 **Applicable Statutes**

13 10. Financial Code section 50002 provides:

14 (a) No person shall engage in the business of making residential  
15 mortgage loans or servicing residential mortgage loans, in this state,  
16 without first obtaining a license from the commissioner in accordance  
17 with the requirements of Chapter 2 (commencing with Section 50120)  
18 or Chapter 3 (commencing with Section 50130), and any rules  
19 promulgated by the commissioner under this law, unless a person or  
20 transaction is excepted from a definition or exempt from licensure by a  
21 provision of this law or a rule of the commissioner.

22 (b)(1) An employee of a licensee or of a person exempt from licensure  
23 is not required to be licensed when acting within the scope of his or her  
24 employment and shall be exempt from any other law from which his or  
25 her employer is exempt, except that an individual who meets the  
26 definition of a mortgage loan originator in Section 50003.5 shall be  
27 subject to this division.

28 (2) A person exempt from this division may apply to the commissioner  
for an exempt company registration for the purpose of sponsoring one  
or more individuals required to be licensed as mortgage loan  
originators as defined in Section 50003.5 and pursuant to the SAFE  
Act.

(3) An exempt person applying under the exempt company registration  
procedure shall comply with all rules and orders that the commissioner  
deems necessary to ensure compliance with the SAFE Act and shall  
pay an annual registration fee established by the commissioner.

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- (c) The following persons are exempt from subdivision (a):
- (1) Any bank, trust company, insurance company, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States that is authorized to transact business in this state.
  - (2) A federally chartered savings and loan association, federal savings bank, or federal credit union that is authorized to transact business in this state.
  - (3) A savings and loan association, savings bank, or credit union organized under the laws of this or any other state that is authorized to transact business in this state.
  - (4) A person engaged solely in business, commercial, or agricultural mortgage lending.
  - (5) A wholly owned service corporation of a savings and loan association or savings bank organized under the laws of this state or the wholly owned service corporation of a federally chartered savings and loan association or savings bank that is authorized to transact business in this state.
  - (6) An agency or other instrumentality of the federal government, or state or municipal government.
  - (7) An employee or employer pension plan making residential mortgage loans only to its participants, or a person making those loans only to its employees or the employees of a holding company, or an owner who controls that person, affiliate, or subsidiary of that person.
  - (8) A person acting in a fiduciary capacity conferred by the authority of a court.
  - (9) A real estate broker licensed under California law, when making, arranging, selling, or servicing a residential loan.
  - (10) A California finance lender or broker licensed under Division 9 (commencing with Section 22000), when acting under the authority of that license.
  - (11) A trustee under a deed of trust pursuant to the Civil Code, when collecting delinquent loan payments, interest, or other loan amounts, or performing other acts in a judicial or nonjudicial foreclosure proceeding.
  - (12) A mortgage loan originator who has obtained a license under Chapter 3.5 (commencing with Section 50140), provided that the

1 mortgage loan originator is employed by a residential mortgage lender  
2 or servicer.

3 (13) A registered mortgage loan originator described in subdivision (e).

4 (d) An individual, unless specifically exempted under subdivision (e),  
5 shall not engage in the business of a mortgage loan originator with  
6 respect to any dwelling located in this state without first obtaining and  
7 maintaining annually a license in accordance with the requirements of  
8 Chapter 3.5 (commencing with Section 50140) and any rules  
9 promulgated by the commissioner under that chapter. Each licensed  
10 mortgage loan originator shall register with and maintain a valid unique  
11 identifier issued by the Nationwide Mortgage Licensing System and  
12 Registry.

13 (e) A registered mortgage loan originator is exempt from licensure  
14 under subdivisions (a) and (d), when he or she is employed by a  
15 depository institution, a subsidiary of a depository institution that is  
16 owned and controlled by a depository institution and regulated by a  
17 federal banking agency, or an institution regulated by the Farm Credit  
18 Administration.

19 (f) A loan processor or underwriter who is an independent contractor  
20 employed by a residential mortgage lender or servicer may not perform  
21 the activities of a loan processor or underwriter under this division  
22 unless the independent contractor loan processor or underwriter obtains  
23 and maintains a license under Section 50120.

24 11. Financial Code section 50003, in relevant parts, provides:

25 (g) "Engage in the business" means the dissemination to the public, or  
26 any part of the public, by means of written, printed, or electronic  
27 communication or any communication by means of recorded telephone  
28 messages or spoken on radio, television, or similar communications  
media, of any information relating to the making of residential  
mortgage loans, the servicing of residential mortgage loans, or both.  
"Engage in the business" also means, without limitation, making  
residential mortgage loans or servicing residential mortgage loans, or  
both.

(q) "Mortgage servicer" or "residential mortgage loan servicer" means a  
person that (1) is an approved servicer for the Federal Housing  
Administration, Veterans Administration, Farmers Home  
Administration, Government National Mortgage Association, Federal  
National Mortgage Association, or Federal Home Loan Mortgage  
Corporation, and (2) directly services or offers to service mortgage  
loans.

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(x) "Service" or "servicing" means receiving more than three installment payments of principal, interest, or other amounts placed in escrow, pursuant to the terms of a mortgage loan and performing services by a licensee relating to that receipt or the enforcement of its receipt, on behalf of the holder of the note evidencing that loan.

12. Financial Code section 50513 provides in pertinent part:

(a) The commissioner may do one or more of the following:

(4) impose fines on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).

(b) The commissioner may impose a civil penalty on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator has violated or failed to comply with any requirement of this division or order issued under authority of this division

(c) The maximum amount of penalty for each act or omission described in subdivision (b) shall be twenty-five thousand dollars (\$25,000).

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

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**IV.**

**Prayer**

The Commissioner finds that, by reason of the foregoing, loanDepot has violated Financial Code section 50002, and based thereon, grounds exist to assess penalties against loanDepot under Financial Code section 50513, subdivision (b).

WHEREFORE, IT IS PRAYED that:

Under Financial Code section 50513, subdivision (b), penalties be levied against loanDepot for at least 27,245 violations of Financial Code section 50002, engaging in unlicensed loan servicing activities, according to proof, or the maximum amount of \$25,000.00 per violation.

Dated: February 22, 2017

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
MARLOU de LUNA  
Senior Counsel  
Enforcement Division