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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	OAH CASE No. 2017080295
)	
THE COMMISSIONER OF BUSINESS OVERSIGHT,)	CRMLA LICENSE No. 413-1040
)	
Complainant,)	SETTLEMENT AGREEMENT
)	
vs.)	
)	
LOANDEPOT.COM, LLC,)	
)	
Respondent.)	
)	
_____)	

This Settlement Agreement is entered into between the Commissioner of Business Oversight (Commissioner) and loanDepot.com, LLC (loanDepot) and is made with respect to the following facts:

RECITALS

A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities engaged in the business of lending and servicing residential mortgage loans under the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.).

1 B. loanDepot is a residential mortgage lender licensed by the Commissioner under the
2 CRMLA. It also holds a finance lender and broker license under the California Financing Law¹.
3 loanDepot has its principal place of business at 26642 Towne Centre Drive, Foothill Ranch,
4 California. loanDepot operates multiple branch offices and employs mortgage loan originators in
5 California.

6 C. On or about November 28, 2012, loanDepot voluntarily applied to add residential
7 mortgage loan servicing authority to its CRMLA license by submitting a CRMLA Amendment to
8 the Commissioner (the November 28, 2012 CRMLA Amendment).

9 D. On or about February 11, 2013, the Commissioner posted a license item on the
10 Nationwide Mortgage Licensing System and Registry (NMLS) informing loanDepot that loanDepot
11 needed to “provide [a] detailed explanation regarding Cenlar,” the loanDepot subservicer responsible
12 for servicing all loans in California for which loanDepot holds master servicing rights. loanDepot
13 provided a response to the February 11, 2013 license item and thereafter, the license item was
14 cleared.

15 E. It is loanDepot’s position that the Commissioner granted the CRMLA Amendment
16 following the clearance of the license item on March 13, 2013, and therefore, it was in full
17 compliance with the CRMLA.

18 F. In or about August 2015, the Commissioner informed loanDepot that its CRMLA
19 Amendment had not, in fact, been granted. Over the course of the next four months, loanDepot
20 worked with the Commissioner to address any alleged deficiencies identified by the Commissioner in
21 the November 28, 2012 CRMLA Amendment. On or about November 14, 2015, loanDepot and the
22 Commissioner signed a settlement agreement in connection with another matter. loanDepot believed,
23 and still believes, that this agreement precluded enforcement actions relating to the November 28,
24 2012 CRMLA Amendment or any purported servicing activity loanDepot has carried out in
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26 _____
27 ¹ Effective October 4, 2017, the name of the “California Finance Lenders Law” changed to the “California Financing
28 Law.” (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the California
Financing Law means the California Finance Lenders Law before October 4, 2017 and the California Financing Law on
and after that date. (Fin. Code, § 22000.)

1 California. However, it is the Commissioner's position that the November 14, 2015 settlement
2 agreement resolved only the issues identified in the Accusation issued on January 30, 2015.

3 G. loanDepot believed at all relevant times that it was duly authorized to carry out the
4 activities in which it was engaged, and/or that the Commissioner had assured loanDepot that it would
5 not face enforcement action for alleged servicing activity conducted while the November 28, 2012
6 CRMLA Amendment was still under review.

7 H. Notwithstanding the foregoing, the Commissioner is of the opinion that during the
8 period of at least January 2013 through the date hereof, loanDepot engaged in the business of
9 servicing residential mortgage loans in this state without a servicer license in violation of Financial
10 Code section 50002, subdivision (a). Based on the Commissioner's determination that loanDepot
11 engaged in the business of servicing residential mortgage loans in this state without a servicer license,
12 on February 22, 2017, the Commissioner issued a Notice of Intention to Impose Penalties under
13 Financial Code section 50513, subdivision (b); Accusation; and accompanying documents
14 (collectively the 2017 Accusation). A true and correct copy of the 2017 Accusation is attached and
15 incorporated herein as **Exhibit A**.

16 I. loanDepot timely filed its Notice of Defense, dated March 7, 2017. In its Notice of
17 Defense, loanDepot denied that the Commissioner is entitled to any relief, and requested an
18 administrative hearing regarding the Accusation. A true and correct copy of loanDepot's Notice of
19 Defense is attached and incorporated herein as **Exhibit B**.

20 J. The Commissioner finds that entering into this Settlement Agreement is in the public
21 interest, protects consumers, and is consistent with the purposes fairly intended by the policies and
22 provisions of the CRMLA.

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

25 TERMS AND CONDITIONS

26 1. Purpose. It is the intention and desire of the parties to resolve the Accusation without
27 the necessity of a hearing or other litigation for the purpose of judicial economy and expediency and
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1 to avoid the expense of a hearing and possible further court proceedings. The events that form the
2 basis of this Settlement Agreement are the events described in the 2017 Accusation, as well as any
3 purported acts of unlicensed servicing activity by loanDepot in violation of Cal. Fin. Code § 50002
4 that may have occurred at any point prior to the date of execution of this Settlement Agreement.

5 2. Waiver of Hearing Rights. loanDepot agrees that this Settlement Agreement shall
6 have the effect of withdrawing its request for an administrative hearing on the matter set forth
7 herein. loanDepot acknowledges its right to an administrative hearing under the CRMLA in
8 connection with the Accusation and hereby waives such right to a hearing and to any
9 reconsideration, appeal, or other rights which may be afforded it under the CRMLA, the
10 Administrative Procedure Act (APA) (Gov. Code, § 11370 et seq.), the Code of Civil Procedure
11 (CCP) (Code Civ. Proc., § 1 et seq.), or any provision of law in connection with these matters.

12 3. Acknowledgment. loanDepot acknowledges only that the Commissioner issued the
13 2017 Accusation, in which the Commissioner alleges the company engaged in the business of
14 servicing residential mortgage loans in this state without a license from the Commissioner in
15 violation of Financial Code section 50002, subdivision (a), as set forth above.

16 4. Administrative Fee. Under Financial Code section 50513, loanDepot agrees to pay
17 an administrative fee of \$10,000 (the Fee). The Fee shall be due within 48 hours of the date of
18 execution of this Settlement Agreement as defined in paragraph 19, made payable in the form of a
19 cashier's check or Automated Clearing House deposit to the "Department of Business Oversight,"
20 and transmitted to the attention of: Accounting – Enforcement Division, at the Department of
21 Business Oversight located at 1515 K Street, Suite 200, Sacramento, California, 95814. Notice of
22 all payments shall be sent to Marlou de Luna, Senior Counsel, Department of Business Oversight,
23 320 West 4th Street, Suite 750, Los Angeles, California 90013.

24 5. Servicing Authority. The Commissioner hereby acknowledges that the November 28,
25 2012 CRMLA Amendment, which was amended by loanDepot in February 2017, is ready to be
26 approved. The Commissioner hereby agrees to approve the November 28, 2012 CRMLA
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1 Amendment immediately after receipt of the Fee as discussed in paragraph 4, with an effective date
2 as of the date of execution of this Settlement Agreement as defined in paragraph 19.

3 6. Remedy for Breach. loanDepot acknowledges that failure to comply with the
4 payment term of this Settlement Agreement shall be deemed a breach and cause for the
5 Commissioner to immediately suspend any licenses held by or deny any pending application(s) of
6 loanDepot, its successors, and assigns, by whatever names they might be known. loanDepot hereby
7 waives any notice and hearing rights to contest such suspension(s) or denial(s) which may be
8 afforded under the CRMLA, the Administrative Procedure Act, the Code of Civil Procedure, or any
9 other provision of law in connection with this matter.

10 7. Full and Final Settlement. The parties hereby acknowledge and agree that this
11 Settlement Agreement is intended to constitute a full, final, and complete resolution of loanDepot's
12 alleged violations of the CRMLA as identified in the 2017 Accusation, as well as any purported acts
13 of unlicensed servicing activity by loanDepot in violation of Cal. Fin. Code § 50002 that may have
14 occurred at any point prior to the execution of this Settlement Agreement. No further proceedings
15 or actions will be brought by the Commissioner in connection with these alleged violations under
16 the CRMLA, subject to the exceptions set forth in paragraph 8 below.

17 8. Exceptions to Full and Final Settlement. Nothing in paragraph 7 above or anything
18 else in this Settlement Agreement shall be construed to prohibit or restrict or preclude the
19 Commissioner from taking any of the following actions:

- 20 a) Bringing a proceeding to enforce compliance with the terms of this Settlement
21 Agreement;
- 22 b) Bringing a proceeding based upon discovery of violations of the CRMLA
23 occurring after the effective date of this Settlement Agreement;
- 24 c) Bringing a proceeding based upon discovery of violation of the CRMLA which do
25 not form the basis for this Settlement Agreement; or
- 26 d) Bringing a proceeding based upon discovery of violations of the CRMLA which
27 loanDepot knowingly concealed from the Commissioner.
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1 9. Commissioner's Duties. The parties further acknowledge and agree that nothing in
2 this Settlement Agreement shall limit the Commissioner's ability to assist any other agency (city,
3 county, state, or federal) with any prosecution, administrative, civil, or criminal, brought by any
4 such agency against loanDepot or any other person based upon any of the activities alleged in these
5 matters or otherwise.

6 10. Binding. This Settlement Agreement is binding on all heirs, assigns, or successors in
7 interest.

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

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

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

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

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

26 16. Full Integration. Each of the parties represents, warrants, and agrees that in executing
27 this Settlement Agreement it has relied solely on the statements set forth herein and the advice of its
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1 own counsel. Each of the parties further represents, warrants, and agrees that in executing this
2 Settlement Agreement it has placed no reliance on any statement, representation, or promise of any
3 other party, or any other person or entity not expressly set forth herein, or upon the failure of any
4 party or any other person or entity to make any statement, representation, or disclosure of anything
5 whatsoever. The parties have included this clause (1) to preclude any claim that any party was in
6 any way fraudulently induced to execute this Settlement Agreement and (2) to preclude the
7 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
8 Settlement Agreement.

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

16 18. Voluntary Agreement. loanDepot enters into this Settlement Agreement voluntarily
17 and without coercion and acknowledges that no promises, threats, or assurances have been made by
18 the Commissioner, or any officer or agent thereof, about this Settlement Agreement.

19 19. Effective Date. This Settlement Agreement shall become final and effective when
20 signed by all parties and delivered by the Commissioner's agent via e-mail to loanDepot's counsel
21 at flevin@BuckleySandler.com.

22 20. Notice. Any notices required under this Settlement Agreement shall be provided to
23 each party at the following addresses:

24
25 If to Respondent to: loanDepot.com, LLC
26 26642 Towne Centre Dr.
27 Foothill Ranch, CA 92610

28 If to the Commissioner to: Marlou de Luna, Senior Counsel
Department of Business Oversight

320 West 4th Street, Suite 750
Los Angeles, California 90026

21. Authority to Execute. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto have approved and executed this Settlement Agreement on the dates set forth opposite their respective signatures.

Dated: 1/5/18 JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 1/5/18 LOANDEPOT.COM, LLC

By _____
Peter Macdonald, EVP, General Counsel
On behalf of loanDepot.com, LLC

Approved as to Form and Content

By _____
Fredrick Levin, Esq.
Buckley Sandler LLP
Attorneys on behalf of loanDepot.com, LLC