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7 Attorneys for Complainant

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

10
11 In the Matter of:) CRMLA License No.: 413-0715
12 THE COMMISSIONER OF BUSINESS) ACCUSATION
13 OVERSIGHT,)
14 Complainant,)
15 vs.)
16 MLD MORTGAGE, INC. doing business as)
17 THE MONEY STORE and MORTGAGE)
18 LENDING DIRECT,)
19 Respondent.)

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

22 I

23 **Introduction**

24 1. MLD Mortgage, Inc. doing business as The Money Store and Mortgage Lending
25 Direct ("MLD") is licensed by the Commissioner of Business Oversight ("Commissioner" or
26 "Complainant") as a residential mortgage lender pursuant to the California Residential Mortgage
27 Lending Act ("CRMLA") (Fin. Code §50000 et seq.). MLD has its principal place of business
28 located at 30 B. Vreland Road, 3rd Floor, Florham Park, New Jersey 07932. MLD currently has 8

1 branch office locations under its CRMLA license located in California and elsewhere. MLD
2 employs mortgage loan originators in its CRMLA business.

3 **II**

4 **Unlicensed Servicing**

5 2. Pursuant to Financial Code section 50002 of the CRMLA, it is illegal to engage in the
6 business of servicing residential mortgage loans in California without first obtaining a license from
7 the Commissioner. Servicing is defined in Financial Code section 50003, subdivision (x) as
8 “receiving more than three installment payments of principal, interest, or other amounts held in
9 escrow, pursuant to the terms of a mortgage loan and performing services by a licensee relating to
10 that receipt or the enforcement of its receipt, on behalf of the holder of the note evidencing the loan.”

11 3. On or about June 27, 2013, the Department of Business Oversight (“Department”)
12 notified MLD through the Nationwide Mortgage Licensing System (“NMLS”) that it was engaging
13 in residential mortgage loan servicing without a license by posting the following license item: “[i]t is
14 noted that you are conducting servicing activities as reflected under Business Activities on the MU1.
15 The license issued to the company on 8/30/05 is for lending only. If you would like to add mortgage
16 loan servicing to your license authority, please complete and submit Amendment Checklist for
17 Change of License Authority.”

18 4. On or about October 15, 2013, MLD applied to add residential mortgage loan
19 servicing authority to its CRMLA license by submitting a California Residential Mortgage Lending
20 Act Amendment to the Commissioner.

21 5. The loss mitigation procedures submitted with the residential mortgage loan servicer
22 application of MLD were those of its subservicer LoanCare (“LoanCare”) and were marked
23 “confidential”. Accordingly, on or about August 26, 2014, MLD was notified in writing that a non-
24 confidential loss mitigation policy must be submitted.

25 6. MLD did not respond, so on or about September 22, 2014, a license item was posted
26 in NMLS requesting MLD to provide a business plan, to include a non-confidential loss mitigation
27 policy.

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1 7. On or about October 21, 2015, MLD inquired as to the license item posted on
2 September 22, 2014, and during that inquiry, represented to the Department that MLD is not a
3 servicer and does not need to amend its licensing authority to add servicing.

4 8. Thereafter, a review of financial statements for MLD disclosed that MLD held master
5 servicing rights, and a MU1 filed by MLD in NMLS reflected that MLD was a master servicer in
6 California. Based thereon, on or about November 6, 2015, the Department notified MLD through
7 NMLS that it required a servicing license in California, and to refer to the Change of License
8 Authority on the Amendment Checklist for the requirements to add servicing authority to its
9 CRMLA license to include the loss mitigation policy which complies with Assembly Bill 278 (2012)
10 better known as the California Homeowners Bill of Rights (“HBOR”).

11 9. Despite numerous communications between the parties since December 2015 via
12 email and NMLS and the submission of various documents, MLD has yet to provide the
13 Commissioner with a loss mitigation policy that meets the requirements of HBOR. Accordingly, the
14 Commissioner has not yet approved the residential mortgage loan servicing application of MLD.

15 10. On or about December 2, 2015, the Commissioner, by and through staff, commenced
16 a regulatory examination of the books and records of MLD under the CRMLA (“2015 regulatory
17 examination”). The 2015 regulatory examination disclosed that MLD was engaged in loan servicing
18 activity without a license in violation Financial Code section 50002 and had been since in or about
19 January 2012.

20 11. The 2015 regulatory examination disclosed a subservicing agreement entered into
21 between MLD and LoanCare on November 1, 2011 wherein LoanCare would service mortgage
22 loans in which MLD was the owner of the servicing rights.

23 12. A loan servicing report provided by MLD during the 2015 regulatory examination
24 disclosed that as of December 15, 2015, MLD, through LoanCare, was servicing 176 loans in
25 California.

26 13. The Report of Principal Amount of Loans Originated and Aggregate Amount of
27 Loans Serviced (“Loan Report”) filed by MLD with the Commissioner for 2012, 2013 and 2014
28 disclosed no servicing activity notwithstanding the representations in its audited financial and MU1

1 to the contrary. It is a violation of Financial Code section 50502 to make an untrue statement of a
2 material fact in any document filed with the Commissioner.

3 14. During the 2015 regulatory examination, MLD provided the Department with an
4 amended Loan Report for 2014. The 2014 Amended Loan Report disclosed a monthly average
5 aggregate dollar amount of loans serviced of \$13,346,461.00. The lowest monthly aggregate dollar
6 amount of loans serviced was \$3,691,150.00 in January 2014 and the highest was \$29,799,497.00 in
7 November 2014. A yearly average number of loans serviced can be approximated by dividing the
8 total dollar amount of loans originated for the year by the number of loans originated (“average loan
9 amount”) and then dividing the average loan amount into the average monthly dollar amount of
10 loans serviced. Using this equation, MLD was servicing an average of 46 loans in 2014.

11 15. On or about April 15, 2016, the Commissioner made demand on MLD to amend its
12 Loan Reports for 2012 and 2013 to reflect servicing activity. On or about May 6, 2016, MLD
13 submitted amended Loan Reports for 2012 and 2013. The 2012 Amended Loan Report disclosed a
14 monthly average aggregate dollar amount of loans serviced of \$68,415,967.00. The lowest monthly
15 aggregate dollar amount of loans serviced was \$6,736,978.00 in January 2012 and the highest was
16 \$135,532,262.00 in December 2012. Using the equation set forth in paragraph 14 above, MLD was
17 servicing an average of 199 loans in 2012.

18 16. The 2013 Amended Loan Report disclosed a monthly average aggregate dollar
19 amount of loans serviced of \$172,085,203.00. The lowest monthly aggregate dollar amount of loans
20 serviced was \$142,941,321 in January 2013 and the highest was \$198,640,018.00 in October 2013.
21 Using the equation set forth in paragraph 14 above, MLD was servicing an average of 430 loans in
22 2013.

23 17. On or about February 17, 2016, MLD submitted its Loan Report for 2015. The 2015
24 Loan Report disclosed a monthly average aggregate dollar amount of loans serviced of
25 \$47,061,909.00. The lowest monthly aggregate dollar amount of loans serviced was \$45,561,553.00
26 in February 2015 and the highest was \$47,970,138.00 in June 2015. Using the equation set forth in
27 paragraph 14 above, MLD was servicing an average of 143 loans in 2015.
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III

Penalty Statute

18. 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 any regulation prescribed by the commissioner under 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.

IV

Conclusion

19. The Commissioner finds that, by reason of the foregoing, MLD has violated Financial Code sections 50002 and 50502, and based thereon, grounds exist to assess penalties against MLD pursuant to Financial Code section 50513, subdivision (b).

V

Prayer

WHEREFORE, IT IS PRAYED that:

1. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against MLD for at least 818 violations of Financial Code section 50002, engaging in unlicensed servicing activities, according to proof, but in an amount of at least \$500.00 per violation, and

2. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against MLD for at least three violations of Financial Code section 50502, false Loan Report,

1 according to proof, but in an amount of at least \$1,500.00 per violation,

2 Dated: June 3, 2016
3 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

4 By _____
5 Judy L. Hartley
6 Senior Counsel
7 Enforcement Division

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