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

12 In the Matter of:) CRMLA LICENSE NO. 413-0924
13)
14 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) ACCUSATION IN SUPPORT OF ORDER
15) SUSPENDING RESIDENTIAL MORTGAGE
Complainant,) LENDER LICENSE AND IMPOSING
16) PENALTIES
17 v.)
18)
METROPOLITAN HOME MORTGAGE,)
19 INC., doing business as GW)
MORTGAGE, INTELLILOAN,)
20 STREAMLINE DIVISION and)
WHOLESALE HOME LENDERS,)
21)
Respondent.)

23 The Complainant, the Commissioner of Business Oversight, is informed and believes, and
24 based upon such information and belief, alleges and charges as follows:

25 I
26 **Introduction**

27 1. Respondent Metropolitan Home Mortgage, Inc., doing business as GW Mortgage,
28 Intelliloan, Streamline Division, and Wholesale Home Lenders ("MHM") is a residential mortgage

1 lender (Cal. Fin. Code § 50120) licensed by the Commissioner of Business Oversight
2 (“Commissioner”), pursuant to the California Residential Mortgage Lending Act (Cal. Fin. Code §
3 50000 et seq.) (“CRMLA”).

4 2. MHM has its principal place of business located at 4 Park Plaza, Suite
5 800, Irvine, CA 92614.

6 **II**
7 **Violations of the CRMLA**

8 3. The Commissioner commenced a regulatory examination of MHM’s books and
9 records, on or about July 7, 2014.

10 4. The 2014 regulatory examination disclosed that MHM engaged in the business of
11 servicing residential mortgage loans, in California, without obtaining a license from the
12 Commissioner to service mortgage loans, in violation of California Financial code sections 50002,
13 subdivision (a), and 50130.

14 5. The 2014 regulatory examination also disclosed that in 9 out of 42 loans, or
15 approximately 21% of the loan files reviewed, MHM was charging its borrowers per diem interest in
16 excess of one day prior to the date that the loan proceeds were disbursed from escrow, in violation of
17 Section 50204, subdivisions (k) and (o), and California Civil Code section 2948.5.

18 6. The range of per diem interest overcharges was between \$23.17 and \$289.83. The
19 range of days of per diem interest overcharges was between 1 and 4 days.

20 7. Prior regulatory examinations conducted in March 2009 and October 2011 had
21 revealed similar violations, as described above in paragraph 5.

22 8. The Commissioner had conducted a regulatory examination in March 2009, which had
23 revealed that in 10 out of 30 loans, or approximately 33% of the loan files reviewed, MHM was
24 charging the borrowers per diem interest in excess of one day prior to the date that the loan proceeds
25 were disbursed from escrow, in violation of Section 50204, subdivisions (k) and (o), and California
26 Civil Code section 2948.5.

27 9. Based upon the findings of the March 2009 examination, the Commissioner instructed
28 MHM to perform a per diem interest self-audit review of all loans that were originated since 2008,

1 and to refund the amount of excess per diem interest charged to the borrowers.

2 10. A regulatory examination conducted in October 2011 revealed that in 4 out of 30
3 loans, or approximately 13% of the loan files reviewed, MHM was charging the borrowers per diem
4 interest in excess of one day prior to the date that the loan proceeds were disbursed from escrow, in
5 violation of Section 50204, subdivisions (k) and (o), and California Civil Code section 2948.5.

6 11. Based upon the October 2011 examination findings, the Commissioner instructed
7 MHM to refund the excess per diem interest charged to the borrowers.

8 **III**
9 **Suspension**

10 12. Based on the above described violations, the Commissioner may suspend MHM's
11 CRMLA License under Section 50327, which provides in pertinent part:

12 (a) The commissioner may, after notice and a reasonable opportunity to
13 be heard, suspend or revoke any license, if the commissioner finds that:
14 (1) the licensee has violated any provision of this division
15 [commencing with Fin. Code § 50000] or rule or order of the
16 commissioner thereunder; or (2) any fact or condition exists that, if it
17 had existed at the time of the original application for license,
18 reasonably would have warranted the commissioner in refusing to issue
19 the license originally.

20 (Cal. Fin. Code § 50327.)

21 **IV**
22 **Penalties**

23 13. Penalties should be imposed on MHM for the violations discussed above, under Section
24 50513, which provides in pertinent part:

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

26 . . .

27 (4) Impose fines on a mortgage loan originator or any residential
28 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

1 employing a mortgage loan originator has violated or failed to comply
2 with any requirement of this division [commencing with Fin. Code §
3 50000] or any regulation prescribed by the commissioner under this
4 division or order issued under authority of this division.

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

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

(Cal. Fin. Code § 50513.)

8 **V**
Conclusion

9 The Commissioner finds that, by reason of the foregoing, Metropolitan Home Mortgage, Inc.,
10 doing business as GW Mortgage, Intelliloan, Streamline Division, and Wholesale Home Lenders has
11 repeatedly violated Sections 50002, 50130, and 50204, subdivisions (k) and (o), and California Civil
12 Code section 2948.5. Therefore, grounds exist to suspend the residential mortgage lender license of
13 Metropolitan Home Mortgage, Inc., doing business as GW Mortgage, Intelliloan, Streamline
14 Division, and Wholesale Home Lenders, pursuant to Section 50327; and levy penalties against
15 Metropolitan Home Mortgage, Inc., doing business as GW Mortgage, Intelliloan, Streamline
16 Division, and Wholesale Home Lenders, pursuant to Section 50513.

17 WHEREFORE, IT IS PRAYED that:

18 (1) The residential mortgage lender license of Metropolitan Home Mortgage, Inc., doing
19 business as GW Mortgage, Intelliloan, Streamline Division, and Wholesale Home Lenders be
20 suspended, pursuant to Section 50327, for the *greater* period of:

21 a. 12 months, or

22 b. Until Metropolitan Home Mortgage, Inc., doing business as GW Mortgage,
23 Intelliloan, Streamline Division, and Wholesale Home Lenders (i) completes a self-
24 audit review of all loans that have been originated from October 1, 2011 to the
25 present; (ii) submits to the Commissioner a detailed report of its findings of the self-
26 audit review. The report shall include the loan numbers, borrowers' name, loan
27 amounts, interest rate, date of disbursement from the settlement agent, starting date of
28 interest collected, interest overcharged/credited, and dates and amounts of refund; *and*

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(iii) complies with the Order to Refund Excessive Per Diem Interest Charges; (iv) complies with the Desist and Refrain Order; and

(2) Pursuant to Section 50513, subdivision (b), penalties shall be levied against Metropolitan Home Mortgage, Inc., doing business as GW Mortgage, Intelliloan, Streamline Division, and Wholesale Home Lenders, for at least 9 known violations of Financial Code section 50204, whereby Metropolitan Home Mortgage, Inc., doing business as GW Mortgage, Intelliloan, Streamline Division, and Wholesale Home Lenders, overcharged borrowers per diem interest on loans funded during the period from January 1, 2014 to June 30, 2014, in an amount of \$2,500.00 per violation, for a total amount of penalties of at least \$22,500.00, or more to be determined by the Commissioner upon receipt of a reliable audit report, or according to proof.

Dated: June 5, 2015
San Diego, California

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
AFSANEH EGHBALDARI
Counsel
Enforcement Division