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

11 In the Matter of the Accusation of THE) Case No.: 413-1017
12 COMMISSIONER OF BUSINESS)
13 OVERSIGHT,) **ACCUSATION IN SUPPORT OF NOTICE**
14 Complainant,) **OF INTENT TO ISSUE ORDER**
15 vs.) **SUSPENDING RESIDENTIAL**
16 MOUNT OLYMPUS MORTGAGE) **MORTGAGE LENDING LICENSE AND**
17 COMPANY, doing business as MOMCO, INC.) **IMPOSING PENALTIES**
18 and TRU MORTGAGE,)
19 Respondent.)

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

22 **I.**

23 Respondent Mount Olympus Mortgage Company ("Mount Olympus") is a residential
24 mortgage lender licensed by the California Commissioner of Business Oversight ("Commissioner")
25 of the Department of Business Oversight ("Department") pursuant to the California Residential
26 Mortgage Lending Act (Cal. Fin. Code § 50000 et seq.) ("CRMLA"). Mount Olympus also engages
27 in business under the names MOMCO, Inc. and Tru Mortgage. Mount Olympus has its principal
28 place of business located at 2600 Michelson Drive, Suite 600, Irvine, CA 92612.

1 **II.**

2 **The January 24, 2011 Regulatory Examination**

3 On or about January 24, 2011, the Commissioner commenced a regulatory examination of
4 the books and records of Mount Olympus. The regulatory examination disclosed that in seven (7)
5 out of thirty (30) loans, or approximately twenty-three percent (23%) of the loan files reviewed,
6 Mount Olympus was charging the borrowers per diem interest in excess of one day prior to the date
7 that the loan proceeds were disbursed from escrow, in violation of the CRMLA section 50204,
8 subdivisions (k) and (o), and California Civil Code section 2948.5. During 2011, Mount Olympus
9 originated 651 loans in California.

10 The per diem interest overcharges averaged \$98.50 per loan. The range of per diem interest
11 overcharges was between \$14.42 and \$195.77. The range of days the interest was overcharged was
12 between one (1) and five (5) days.

13 Based upon the findings of the 2011 regulatory examination, Mount Olympus was instructed
14 by the Commissioner's examination staff to take measures to prevent any recurrence of per diem
15 overcharge to borrowers in the future.

16 Additionally, the Commissioner's examination staff instructed Mount Olympus to review all
17 loans it made since its date of licensure to the present and make appropriate refunds. Mount
18 Olympus was also required to provide a detailed report to the Commissioner's examination staff of
19 the files reviewed and the dollar amount of the overcharges established through the review,
20 including, but not limited to, the loan number, borrower's name, loan amount, interest rate, date
21 disbursed, date interest started being collected, interest overcharged and date interest was
22 refunded to the borrower.

23 The Commissioner's examination staff instructed Mount Olympus that failure to file the
24 report will result in a penalty of \$100 for every day that report is not filed, up to a maximum of ten
25 days. Further, the Commissioner's examination staff instructed Mount Olympus that failure to file
26 the report constitutes grounds for suspension or revocation of its license. Mount Olympus failed to
27 file the report and failed to pay the \$100 a day penalty.

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The August 5, 2013 Regulatory Examination

A subsequent regulatory exam conducted, on or about August 5, 2013, again disclosed violations of overcharging per diem interest in seven (7) out of thirty (30) loans, or approximately twenty-three percent (23%) of the loan files reviewed, in violation of the CRMLA section 50204, subdivisions (k) and (o), and California Civil Code section 2948.5. During 2013, Mount Olympus originated 467 loans in California.

The per diem interest overcharges averaged \$98.84 per loan. The range of per diem interest overcharges was between \$17.46 and \$362.42. The range of days that interest was overcharged was between one (1) and thirteen (13) days.

Additionally, the Commissioner's examination staff instructed Mount Olympus to review all loans it made since its date of licensure and make appropriate refunds. Mount Olympus was also required to provide a detailed report to the Commissioner's examination staff of the files reviewed and the dollar amount of the overcharges established through the review, including, but not limited to the loan number, borrower's name, loan amount, interest rate, date disbursed, date interest started being collected, interest overcharged and date interest was refunded to the borrower.

The findings of the 2013 regulatory examination demonstrate that Mount Olympus has failed to implement procedures to ensure that per diem interest would not continue be overcharged, as requested by the Commissioner's examination staff.

III.

Based on the above described conduct, the Commissioner may suspend Mount Olympus' CRMLA License under any one (1) of three (3) different statutory grounds.

California Financial Code section 50327 provides in pertinent part:

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

(Cal. Fin. Code § 50327).

1 First, pursuant to CRMLA section 50327, subdivision (a)(1), the Commissioner may
2 suspend or revoke a license if a licensee has violated “any provision of this division or any rule or
3 order of the commissioner thereunder.” Mount Olympus’s repeat conduct, discussed above, is a
4 violation of CRMLA section 50204, subdivisions (k) and (o), which states:

5 A licensee may not do any of the following:

6 . . .
(k) Do an act . . . that constitutes fraud or dishonest dealings.

7 . . .
(o) Commit an act in violation of Section 2948.5 of the Civil Code

8 (Cal. Fin. Code § 50204.) Civil Code section 2948.5, subdivision (a)(1), prohibits a lender from
9 requiring a borrower to pay more than one (1) day of interest on a loan, prior to the day of
10 disbursement to the borrower or on the borrower’s behalf.

11 Second, the violations of the CRMLA described above, if committed by Mount Olympus on
12 or before having originally sought a license from the Department under the CRMLA, would have
13 constituted grounds for the Commissioner to deny the application of Mount Olympus under the
14 CRMLA section 50327, subdivision (a)(2). Thus, a fact or condition now exists that, if it had
15 existed at the time of the original application of Mount Olympus for a license under the CRMLA,
16 reasonably would have warranted the Commissioner in refusing to issue the license.

17 Third, Mount’s Olypmus’ failure to file the detailed report of per diem overcharges, as
18 required by the Commissioner’s examination staff, is grounds to suspend or revoke its CRMLA
19 license under the CRMLA section 50326. This section states:

20 If any licensee fails to do any of the following, the licensee shall
21 forfeit to the people of the state a sum of up to one hundred dollars
22 (\$100) for every day up to the 10th day: (a) to make any report
23 required by law or by the commissioner within 10 days from the day
24 designate for the making of the report, or within any extension of
time granted by the commissioner, or (b) fails to include therein any
matter required by law or by the commissioner. Thereafter, any
failure shall constitute grounds for the suspension or revocation of
the license held by the residential mortgage lender or residential
mortgage loan servicer.

25 (Cal. Fin. Code § 50326.) As stated above, Mount Olympus failed to file the report and failed to pay
26 the penalty.

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1 IV.

2 Fines and penalties should be imposed on Mount Olympus for the conduct discussed above.

3 California Financial Code section 50513 provides in pertinent part:

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

5 . . .

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

9 . . .

10 (b) The commissioner may impose a civil penalty on a mortgage
11 loan originator or any residential mortgage lender or servicer
12 licensee employing a mortgage loan originator, if the commissioner
13 finds, on the record after notice and opportunity for hearing, that the
14 mortgage loan originator or any residential mortgage lender or
15 servicer licensee employing a mortgage loan originator has violated
16 or failed to comply with any requirement of this division
17 [commencing with Fin. Code § 50000] or any regulation prescribed
18 by the commissioner under this division or order issued under
19 authority of this division.

20 (c) The maximum amount of penalty for each act or omission
21 described in subdivision (b) shall be twenty-five thousand dollars
22 (\$25,000).

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

26 (Cal. Fin. Code § 50513.)

27 V.

28 The Commissioner finds that, by reason of the foregoing, Mount Olympus has violated
CRMLA section 50204.

For all the foregoing reasons, grounds exist to:

(1) suspend Mount Olympus' CRMLA residential mortgage lender license pursuant to
CRMLA sections 50326 and 50327; and

(2) levy penalties against Mount Olympus pursuant to CRMLA sections 50326 and 50513.

WHEREFORE, IT IS PRAYED that:

1. The residential mortgage lender license of Mount Olympus Mortgage Company,
doing business as MOMCO, Inc. and Tru Mortgage be suspended, pursuant to CRMLA sections

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50326 and 50327, for the *greater* period of:

a. 12 months, or

b. Until (i) Mount Olympus has submitted a complete self-audit report providing all the information demanded by the Commissioner; (ii) the complete self-audit report has been determined by the Commissioner to be trustworthy; *and* (iii) Mount Olympus has complied fully with the Order to Refund Excessive Per Diem Interest Charges Pursuant To California Financial Code Section 50504;

2. Pursuant to CRMLA section 50326, a penalty be levied against Mount Olympus for failure to make a report required by law or by the Commissioner within 10 days from the day designated for the making of the report, or within any extension of time granted by the Commissioner, or failure to include therein any matter required by law or by the Commissioner, in an amount of at least \$1,000, or according to proof;

3. Pursuant to Financial Code section 50513, subdivision (b), penalties be levied against Mount Olympus for at least fourteen (14) known violations of Financial Code section 50204, subdivision (k) and (o), whereby Mount Olympus overcharged borrowers per diem interest on loans funded during the period from June 24, 2009 to the present, in an amount of \$2,500 per violation, for a total amount of \$35,000, or according to proof;

Dated: June 30, 2014
San Diego, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
ALEX M. CALERO
Senior Corporations Counsel
Enforcement Division