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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. 413-1123  
13 )  
14 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) STATEMENT OF FACTS IN SUPPORT OF  
15 ) ORDER TO DISCONTINUE VIOLATIONS  
Complainant, ) PURSUANT TO CALIFORNIA FINANCIAL  
16 ) CODE SECTION 50321  
17 v. )  
18 NETWORK FUNDING, LP, )  
19 Respondent. )

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21 The Complainant, the California Commissioner of Business Oversight (“Commissioner”), is  
22 informed and believes, and based upon such information and belief, alleges and charges as follows:

23 1. Network Funding, LP (“Network”) is a residential mortgage lender licensed by the  
24 Commissioner, pursuant to the California Residential Mortgage Lending Act (Cal. Fin. Code § 50000  
25 et seq.) (“CRMLA”).

26 2. Network has its principal place of business located at 9700 Richmond Avenue, Suite  
27 320, Houston, TX 77042.

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1           3.       The Commissioner commenced a regulatory examination of Network's books and  
2 records, in or about March 2013, which revealed numerous violations of the CRMLA.

3           4.       The 2013 regulatory examination revealed that Network engaged in the business of  
4 servicing residential mortgage loans, in California, without obtaining a license from the  
5 Commissioner to service mortgage loans, in violation of California Financial code section 50002,  
6 subdivision (a). In or about September 2013, Network submitted an application to the Department  
7 for a servicing license to engage in the business of servicing residential mortgage loans. The  
8 Commissioner had not granted a servicing authority to Network at the time it was servicing  
9 residential mortgage loans.

10          5.       Network's Frost Bank account ending in 2065 utilized to maintain trust funds was not  
11 designated as a "trust account," in violation of California Financial Code section 50202.

12          6.       Also, Network's Frost Bank account ending in 2065 contained a trust fund shortage in  
13 the amount of \$550,097.01, as of April 30, 2013, in violation of California Code of Regulations, title  
14 10, section 1950.314.6. Network's Frost Bank account ending in 2065 contained a cash balance of  
15 \$1,347,697.27 while the subsidiary ledgers of the corresponding trust liability account totaled a trust  
16 liability payable in the amount of \$1,897,776.28, as of April 30, 2013.

17          7.       Network's Wells Fargo Trust Asset account ending in 9647 was inconsistent with the  
18 trust liabilities on the balance sheet as of February 28, 2013, in violation of California Code of  
19 Regulations, title 10, section 1950.314.1. Network's bank reconciliation report for Wells Fargo Trust  
20 Asset account had an adjusted balance of \$1,150,098.05; however, the liabilities in the amount of  
21 \$605,679.91 were not reflected on the balance sheet.

22          8.       The Government National Mortgage Association Escrow and Principal and Interest  
23 accounts listed on Network's balance sheet did not have a corresponding liability account; therefore,  
24 it could not be determined whether the accounts were reconciled properly, in violation of California  
25 Code of Regulations, title 10, section 1950.314.1.

26          9.       The 2013 regulatory examination also disclosed that in 6 out of 19 loans, or  
27 approximately 32% of the loan files reviewed, Network was charging its borrowers per diem interest  
28 in excess of one day prior to the date that the loan proceeds were disbursed from escrow, in violation

1 of California Financial Code section 50204, subdivisions (k) and (o), and California Civil Code  
2 section 2948.5.

3 10. The Commissioner instructed Network to conduct a self-audit of all California loans  
4 originated from March 17, 2011 through the end of 2014 to determine the number and amount of  
5 interest overcharges to borrowers. Network was also instructed to have a third party auditor conduct  
6 a quality control review of Network's self-audit, provide an audit report, and to refund to borrowers  
7 the amount of overcharges plus interest at the rate of 10% per annum. As instructed, Network  
8 conducted a self-audit review, had a third party auditor conduct a quality control review of the self-  
9 audit, provided the Commissioner with the audit report, and refunded the overcharged loans plus  
10 interest to borrowers.

11 11. The self-audit revealed that in 16 out of 106 loans, or approximately 15% of the loan  
12 files reviewed, Network was charging its borrowers per diem interest in excess of one day prior to the  
13 date that the loan proceeds were disbursed from escrow, in violation of California Financial Code  
14 section 50204, subdivisions (k) and (o), and California Civil Code section 2948.5.

15 12. The range of per diem interest overcharges was between \$18.95 to \$196.64. The range  
16 of days of per diem interest overcharges was between 2 and 4 days.

17 13. Network failed to maintain its books and records in a manner that would enable the  
18 Commissioner to determine whether the licensee was in compliance with the CRMLA and the rules  
19 and regulations promulgated therein, in violation of California Financial Code section 50314, and  
20 California Code of Regulations, title 10, section 1950.314.2. For instance, Network's balance sheet  
21 showed a balance of \$10,843.45 for its UBS account, as of February 2013. However, the adjusted  
22 bank balance per the January 2013 bank statement was zero, and the account was closed.

23 14. Network failed to provide the Fair Lending Notice to four borrowers upon submission  
24 of a written application; failed to timely provide the Fair Lending Notice to one borrower; and the  
25 Fair Lending Notice in two borrowers' files failed to direct the borrowers to the Department where  
26 complaints may be filed and where questions may be asked, in violation of California Health &  
27 Safety Code section 35830, and California Code of Regulations, title 21, section 7114.

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1 15. California Financial Code section 50321 provides in pertinent part:  
2 If, after investigation, the commissioner has reasonable grounds to  
3 believe that any licensee has violated its articles of incorporation or any  
4 law or rule binding upon it, the commissioner shall, by written order  
5 addressed to the licensee, direct the discontinuance of the violation.  
The order shall be effective immediately, but shall not become final  
except in accordance with the provisions of Section 50323.

6 (Cal. Fin. Code § 50321.)

7 16. California Financial Code section 50323 provides:  
8 (a) No order issued pursuant to Section 50321 or 50322 may become  
9 final except after notice to the affected licensee of the commissioner's  
10 intention to make the order final and of the reasons for the finding. The  
11 commissioner shall also notify the licensee that upon receiving a  
12 request the matter will be set for hearing to commence within 15  
13 business days after receipt. The licensee may consent to have the  
14 hearing commenced at a later date. If no hearing is requested within 30  
15 days after the mailing or service of the required notice, and none is  
16 ordered by the commissioner, the order may become final without  
17 hearing and the licensee shall immediately discontinue the practices  
18 named in the order. If a hearing is requested or ordered, it shall be held  
19 in accordance with the provisions of the administrative Procedure Act  
20 (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
21 Title 2 of the Government Code), and the commissioner shall have all  
22 the powers granted under that act. If, upon the hearing, it appears to the  
commissioner that the licensee is conducting business in an unsafe and  
injurious manner or is violating its articles of incorporation or any law  
of this state, or any rule binding upon it, the commissioner shall make  
the order of discontinuance final and the licensee shall immediately  
discontinue the practices named in the order.  
(b) The licensee has 10 days after an order is made final to commence  
to restrain enforcement of the order. If enforcement of the order is not  
enjoined within 10 days by the court in which the action is brought, the  
licensee shall comply with the order.

23 (Cal. Fin. Code § 50323.)

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