

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 JUDY L. HARTLEY (State Bar No. 110628)
Senior Corporations Counsel
4 Department of Business Oversight
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-7604
6 Facsimile: (213) 576-7181

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.: 413-0876
THE COMMISSIONER OF BUSINESS)
12 OVERSIGHT,) ACCUSATION
13)
Complainant,)
14)
vs.)
15)
16 POINT MORTGAGE CORPORATION doing)
business in California as POINT MORTGAGE)
17 FINANCIAL,)
18)
Respondent.)
19)

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. Point Mortgage Corporation doing business in California as Point Mortgage Financial
25 ("Point Mortgage") is a residential mortgage lender licensed by the Commissioner of Business
26 Oversight ("Commissioner" or "Complainant") pursuant to the California Residential Mortgage
27 Lending Act ("CRMLA") (Fin. Code §50000 et seq.). Point Mortgage has its principal place of
28 business located at 864 Amena Court, Chula Vista, California 91910. Point Mortgage currently has

1 4 branch office locations under its CRMLA license located in California. Point Mortgage employs
2 mortgage loan originators in its CRMLA business.

3 II

4 CRMLA Violations

5 2. On or about January 4, 2012, the Commissioner, by and through staff, commenced a
6 regulatory examination of the books and records of Point Mortgage under the CRMLA (“2012
7 regulatory examination”). The 2012 regulatory examination disclosed that in 6 of the 27 funded
8 loans reviewed, or approximately 22%, Point Mortgage was charging the borrower per diem interest
9 in excess of one day prior to the disbursement of loan proceeds in violation of Financial Code
10 section 50204, subdivision (o). The per diem interest overcharges averaged \$130.76 per loan. The
11 range of per diem interest overcharges was between \$46.74 and \$317.01. The range of days that
12 interest was overcharged was between 1 and 4.

13 3. On or about June 4, 2014, the Commissioner, based upon the findings of the 2012
14 regulatory examination, directed Point Mortgage, pursuant to Financial Code section 50307,
15 subdivision (b), to conduct a self-audit regarding per diem interest charges for all loans originated
16 from July 6, 2009 through June 4, 2014; make appropriate refunds; and submit a report as to the
17 findings of the self-audit (“self-audit report”). The self-audit report was to be submitted in electronic
18 format (Excel), and was to include at a minimum the loan number; borrower’s name; loan amount;
19 interest rate; date funds were disbursed by the settlement agent; the date per diem interest
20 commenced; daily per diem interest amount; per diem interest collected; per diem interest
21 overcharged; and the date refunded.

22 4. On or about September 15, 2014, Point Mortgage submitted its self-audit report to the
23 Commissioner. The self-audit report filed by Point Mortgage failed to identify: the date loan
24 proceeds were disbursed by the settlement agent; the date per diem interest commenced; per diem
25 interest collected; per diem interest overcharged; and the amount and date refunds were made, if any.

26 5. On or about October 10, 2014, Point Mortgage was notified in writing of its failure to
27 comply with the Commissioner’s directives regarding the self-audit report. Point Mortgage was then
28 directed to submit an audit report prepared by a third party to include all the information required in

1 the self-audit report. Point Mortgage has failed to submit the third party audit report as required by
2 the October 10, 2014 letter or otherwise respond.

3 **III**

4 **Suspension and Penalty Statutes**

5 6. Financial Code section 50327 provides in pertinent part:

6 (a) The commissioner may, after notice and a reasonable opportunity to
7 be heard, suspend or revoke any license, if the commissioner finds that:

8 (1) the licensee has violated any provision of this division or rule or order
9 of the commissioner thereunder; or (2) any fact or condition exists that, if
10 it had existed at the time of the original application for license, reasonably
11 would have warranted the commissioner in refusing to issue the license originally.

12 7. Financial Code section 50513 provides in pertinent part:

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

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

17 (b) The commissioner may impose a civil penalty on a mortgage loan originator
18 or any residential mortgage lender or servicer licensee employing a mortgage
19 loan originator, if the commissioner finds, on the record after notice and
20 opportunity for hearing, that the mortgage loan originator or any residential
21 mortgage lender or servicer licensee employing a mortgage loan originator
22 has violated or failed to comply with any requirement of this division or any
23 regulation prescribed by the commissioner under this division or order issued
24 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.

25 **IV**

26 **Conclusion**

27 The Commissioner finds that, by reason of the foregoing, Point Mortgage has violated
28 Financial Code sections 50204, subdivision (o), and 50307, subdivision (b), and based thereon,

1 grounds exist to (i) suspend the residential mortgage lender licenses of Point Mortgage, and (ii)
2 assess penalties against Point Mortgage pursuant to Financial Code section 50513, subdivision (b).

3 **V**

4 **Prayer**

5 WHEREFORE, IT IS PRAYED that:

6 1. Pursuant to Financial Code section 50327, the residential mortgage lender licenses of
7 Point Mortgage be suspended for a period of up to 12 months;

8 2. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied
9 against Point Mortgage for at least 6 violations of Financial Code sections 50504, subdivision (o),
10 overcharging per diem interest, according to proof, but in an amount of at least \$1,000.00 per
11 violation; and

12 3. Pursuant to the Financial Code section 50513, subdivision (b), a penalty be levied
13 against Point Mortgage for failure to submit a special report, in violation of Financial Code section
14 50307, subdivision (b), according to proof, but in an amount of at least \$25,000.00.

15 Dated: March 4, 2015
16 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

17 By _____
18 Judy L. Hartley
19 Senior Corporations Counsel
20 Enforcement Division