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

12 THE COMMISSIONER OF BUSINESS) Case No.: 413-1009
13 OVERSIGHT OF THE STATE OF)
14 CALIFORNIA,) STATEMENT OF FACTS IN SUPPORT OF
15 Complainant,) ORDER TO DISCONTINUE VIOLATIONS
16 vs.) PURSUANT TO CALIFORNIA FINANCIAL
17 PROFICIO MORTGAGE VENTURES, LLC,) CODE SECTION 50321
18 Respondent.)
)

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

21 1. PROFICIO MORTGAGE VENTURES, LLC (“Proficio”) is a residential mortgage
22 lender licensed by the Commissioner of Business Oversight of the State of California
23 (“Commissioner” or “Complainant”) pursuant to the California Residential Mortgage Lending Act
24 (“CRMLA”) (California Financial Code Section 50000 et seq.).

25 2. Proficio received its residential mortgage lender license from the Commissioner on
26 June 16, 2009.

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1 3. On or about August 6, 2012, the Commissioner commenced a regulatory examination
2 of the books and records of Proficio. The examination revealed that Proficio is engaging in
3 prohibited branch arrangements.

4 4. Proficio’s branch arrangements constitute transfers or assignments of their license to
5 other entities or branch managers in violation of section 50207(b) of the CRMLA, and are not in
6 compliance with U.S. Department of Housing and Urban Development Handbook 4060.1 REV-2
7 (“HUD Handbook”), which is a violation of CRMLA section 50505.

8 5. The HUD Handbook includes guidance for branch requirements as well as specific
9 prohibitions for branch arrangements. This is used by the Commissioner to assist in determining
10 whether branch arrangements result in the transfer or assignment of a license to another entity or
11 branch manager under federal law and in violation of Section 50207(b) of the CRMLA.

12 6. The HUD Handbook incorporates U.S. Department of Housing and Urban
13 Development’s (“HUD”) FHA Title II mortgagee approval and renewal requirements specified in
14 Title 24 of the Code of Federal Regulations (“CFR”), Parts 202, 203, 206, 241, and 266.

15 7. It is a violation of Section 50505 of the CRMLA for any person to violate the federal
16 Real Estate Settlement Procedures Act, as amended, the federal Truth in Lending Act, as amended,
17 the federal Home Ownership Equity Protection Act, and any regulation promulgated under those
18 acts. These include the CFR sections incorporated HUD’s FHA Title II mortgagee approval and
19 renewal requirements found in the HUD Handbook.

20 8. The regulatory examination disclosed that Proficio is charging operating expenses,
21 such as a monthly payroll fee, a new hire fee, and monthly employee fees directly to its branch
22 partners. This violates HUD guidelines in the HUD Handbook.

23 9. In addition, separate entities are operating as branches under the name “Proficio
24 Mortgage Ventures” and originating loans under one FHA license number. This is in violation of
25 HUD Handbook guidelines.

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WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to Financial Code Section 50321 and notifying Proficio of her intention to make the order final.

DATED: June 5, 2014
Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
JOANNE ROSS
Senior Corporations Counsel