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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CRMLA NO.: 4150027
)	
THE COMMISSIONER OF BUSINESS OVERSIGHT,)	ACCUSATION IN SUPPORT OF NOTICE OF INTENTION TO ISSUE ORDER
)	SUSPENDING RESIDENTIAL MORTGAGE LENDING LICENSE AND IMPOSING PENALTIES
Complainant,)	
)	
v.)	
)	
RMR Financial, LLC,)	
)	
Respondent.)	

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

I. Introduction

1. Respondent RMR Financial, LLC, (“RMR”) is a residential mortgage lender licensed by the California Commissioner of Business Oversight (“Commissioner”) of the Department of Business Oversight (“Department”) pursuant to the California Residential Mortgage Lending Act (Cal. Fin. Code § 50000 et seq.) (“CRMLA”).¹ RMR has its principal place of business located at 16780 Lark

¹ All subsequent statutory references are to the Financial Code, unless otherwise noted.

1 Avenue, Los Gatos, California 95032.

2 **II. The January 2013 Regulatory Examination**

3 2. In or about January, 2013, the Commissioner commenced a regulatory examination of
4 RMR's books and records. The examination revealed that RMR improperly reconciled trust
5 accounts. In addition, RMR failed to provide the Commissioner supporting trust documentation to
6 determine compliance.

7 3. During the examination, the Commissioner discovered that the trust accounts were not
8 properly reconciled resulting in trust overages. As of November 30, 2012, RMR's Wells Fargo
9 Impound Trust Account showed an overage of \$13,170.36.

10 4. As of November 30, 2012, RMR's Wells Fargo Appraisal Trust Account showed an overage
11 of \$965,464.55.

12 5. Following the examination, the Department's Report of Examiner instructed RMR to state
13 the procedures implemented to comply with the trust accounting requirements and to provide the
14 Commissioner with the latest trust account information.

15 6. RMR failed to provide complete trust account information in response to the Report of
16 Examiner. In a follow-up letter dated October 20, 2014, the Commissioner requested RMR's latest
17 bank statements, RMR's bank reconciliations, and RMR's detailed trust liability ledgers for the trust
18 accounts.

19 7. RMR's response, dated October 30, 2014, failed to include adequate trust accounting
20 information or proper reconciliations for the trust accounts as of July 31, 2014. From the
21 information provided, however, the Commissioner determined that the Appraisal Trust Account
22 showed a shortage of \$3,845. RMR did not provide enough information to determine whether the
23 Impound Trust Account was properly reconciled.

24 8. On March 26, 2015, the Commissioner sent RMR another follow-up letter advising RMR
25 that the trust accounts were still not in compliance and requested the latest trust accounting
26 information.

27 9. RMR's April 13, 2015, response revealed that the company continues to conduct improper
28 reconciliation of their trust accounts. As of March 31, 2015, RMR's Impound Trust Account

1 showed a shortage of \$206.15. Their Appraisal Trust Account showed a shortage of \$2,825.00.

2 10. The findings of the 2013 regulatory examination demonstrate that RMR has continually
3 failed to implement procedures to ensure that their trust accounts would be reconciled in
4 compliance with provisions of the California Financial Code, specifically Section 50202 and the
5 accompanying regulations found at California Code of Regulations, title 10, sections 1950.314.1
6 and 1950.314.6.

7 11. By reason of the foregoing, RMR has violated section 50202 and the accompanying
8 regulations found at California Code of Regulations, title 10, sections 1950.314.1 and 1950.314.6.

9 **IV. Legal Grounds for Suspension**

10 12. Based on the above described conduct, the Commissioner may suspend Peoples’ CRMLA
11 License. Section 50327 provides in pertinent part:

12 (a) The commissioner may, after notice and a reasonable opportunity to be heard,
13 suspend or revoke any license, if the commissioner finds that: (1) the licensee has
14 violated any provision of this division [commencing with Fin. Code § 50000] or
15 rule or order of the commissioner thereunder . . .

16 RMR’s repeat conduct, discussed above, is a violation of section 50202, subdivision (a)(3),
17 and California Code of Regulations, title 10, sections 1950.314.1 and 1950.314.6.

18 Section 50202, subsection (a)(3) states: “Escrow funds . . . may not be comingled with a
19 licensee’s funds.”

20 California Code of Regulations, title 10, section 1950.314.1 provides, in part:

21 (a) A residential mortgage lender, residential mortgage lender and servicer, or
22 residential mortgage loan servicer shall establish, and maintain current, the
23 following books with reference to its trust accounts:

24 (1) A trust account ledger card for each account detailing receipts and
25 disbursement of all funds deposited by the borrower, lender or seller with the
26 licensee in connection with the origination, closing or servicing of any mortgage
27 loan. The funds shall be held in accordance with the terms of a written agreement
28 between the licensee and such borrower, lender or seller which provides that upon
the occurrence of a specific condition or event, the funds or a portion thereof shall
be disbursed to the borrower, lender or seller.

(2) Liability controlling account;

(3) Cash receipt and disbursement journal or a file containing copies of all
receipts and checks and/or check stubs of checks issued by the residential
mortgage lender or residential mortgage loan servicer as a medium of posting to

1 the records referred to in subsections (a) and (b) in which case adding machine
 2 tapes of totals of receipts and checks shall be retained.

3 (b) The records referred to in subsections (a)(1) and (2) shall be reconciled at least
 4 once each month with the bank statements of the trust account. The records
 5 referred to in subsection (a)(1) shall be reconciled at least once each week with
 6 the liability controlling account referred to in subsection (a)(2).

7 California Code of Regulations, title 10, section 1950.314.6 provides:

8 A residential mortgage lender, residential mortgage lender and servicer, or
 9 residential mortgage loan servicer shall not withdraw, pay out, or transfer moneys
 10 from any loan or servicing account in excess of the amount to the credit of the
 11 account at the time of the withdrawal, payment, or transfer.

12 However, a residential mortgage lender, residential mortgage lender and servicer,
 13 or residential mortgage loan servicer may advance its own funds to a loan or
 14 servicing account under an impound arrangement to pay taxes, insurance, and
 15 other payments, if the required withdrawal, payment, or transfer exceeds the
 16 amount of the credit for the account.

17 RMRs failure to reconcile the escrow accounts on a monthly and weekly basis has resulted
 18 in comingling of funds, trust fund overages, trust fund shortages, and improper and untimely
 19 transfers of funds in and out of the escrow accounts. In short, the Department’s findings during the
 20 2013 regulatory examination demonstrate that RMR has continually failed to implement procedures
 21 to ensure that their trust accounts would be reconciled in compliance with foregoing provisions.

22 **V. Legal Grounds for Penalties**

23 13. Fines and penalties should be imposed on RMR for the conduct discussed above. Section
 24 50513 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 mortgage
 28 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
 employing a mortgage loan originator has violated or failed to comply

1 with any requirement of this division [commencing with Fin. Code §
2 50000] or any regulation prescribed by the commissioner under this
3 division or order issued under authority of this division.

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

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

9 **VI. Conclusion**

10 By reason of the foregoing, the Commissioner finds RMR has repeatedly violated section
11 50202 and the regulations promulgated thereunder and, therefore, grounds exist to:

- 12 (1) suspend RMR’s CRMLA residential mortgage lender license pursuant to section 50327;
- 13 and
- 14 (2) levy penalties against RMR pursuant to section 50513.

15 **WHEREFORE, IT IS PRAYED** that:

- 16 1. The residential mortgage lender license of RMR Financial, LLC, be suspended for twelve
17 (12) months; and
- 18 2. Penalties be levied against RMR for at least the six (6) known violations of section 50202,
19 as described in paragraphs 3, 4, 7, and 9 above, discovered during, or in the follow-up to, the 2013
20 exam for a total amount of \$150,000, or according to proof.

21 Dated: January 5, 2016
22 Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

23 By _____
24 ERIK BRUNKAL
25 Senior Counsel
26 Enforcement Division