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

11 In the Matter of:) CRMLA LICENSE NO.: 413-0944
12)
13 THE COMMISSIONER OF BUSINESS) AMENDED STATEMENT OF FACTS IN
OVERSIGHT,) SUPPORT OF ORDER TO DISCONTINUE
14) VIOLATIONS PURSUANT TO FINANCIAL
Complainant,) CODE SECTION 50321
15)
16 vs.)
17 SIRVA MORTGAGE, INC.,)
18 Respondent.)

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

22 1. Sirva Mortgage, Inc. (“Sirva”) is a residential mortgage lender licensed by the
23 Commissioner of Business Oversight ("Commissioner" or "Complainant") pursuant to the California
24 Residential Mortgage Lending Act ("CRMLA") (Fin. Code, §§ 50000 et seq.). Sirva has its
25 principal place of business located at 6022 Oak Tree Boulevard, Suite 300, Independent, Ohio
26 44131. Sirva currently has 3 branch office locations under its CRMLA license located in California,
27 and other states. Sirva employs mortgage loan originators in its CRMLA business.

28 2. On or about December 26, 2012, the Commissioner commenced a regulatory
examination of the books and records of Sirva under the CRMLA (“2012 regulatory examination”).

1 The 2012 regulatory examination disclosed that Sirva had been depositing trust funds into its
2 company operations account. As of October 31, 2012, Sirva’s trust liability was \$181,305.71, which
3 was comprised of trust funds in the form of tax and insurance impounds. However, Sirva’s
4 operating account where such trust funds were maintained had a balance of \$392,648.09. Financial
5 Code section 50202(a) prohibits the commingling of trust funds with funds of the licensee.
6 Moreover, Financial Code section 50202(a) and (b) require trust funds be maintained in an account
7 designated as a “trust account”. The Commissioner did not find that any trust funds were used by
8 Sirva for its own operating purposes.”

9 3. The Commissioner had found that Sirva was commingling trust funds with its
10 operating funds during the last regulatory examination that commenced on December 6, 2010.
11 Based upon the findings of the 2010 regulatory examination, the Commissioner instructed Sirva to
12 implement such procedures as necessary to ensure that its funds were not commingled with the trust
13 funds in the future.

14 4. The 2012 regulatory examination further disclosed that in two loans, Sirva had
15 charged the borrowers per diem interest in excess of one day prior to the disbursement of loan
16 proceeds in violation of Financial Code section 50204(o). The per diem interest overcharges in the
17 two loans totaled \$152.23. Sirva conducted a self-audit of all loans originated during 2012 regarding
18 per diem interest charges. The self-audit disclosed twenty-six (26) per diem interest overcharges.

19 5. The Commissioner found that Sirva had overcharged per diem interest in at least one
20 loan transaction during the 2010 regulatory examination.

21 6. By reason of the foregoing, Sirva has violated Financial Code sections 50202,
22 subdivisions (a) and (b) and 50204, subdivision (o).

23 7. Financial Code section 50321 provides in pertinent part:

24 If, after investigation, the commissioner has reasonable grounds
25 to believe that any licensee has violated its articles of incorporation or
26 any law or rule binding upon it, the commissioner shall, by written order
27 addressed to the licensee, direct the discontinuance of the violation. The
28 order shall be effective immediately, but shall not become final except
in accordance with the provisions of Section 50323.

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8. Financial Code section 50323 provides:

(a) No order issued pursuant to Section 50321 or 50322 may become final except after notice to the affected licensee of the commissioner's intention to make the order final and of the reasons for the finding. The commissioner shall also notify the licensee that upon receiving a request the matter will be set for hearing to commence within 15 business days after receipt. The licensee may consent to have the hearing commenced at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without hearing and the licensee shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all 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 an action 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.

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

Dated: August 20, 2015
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Counsel
Enforcement Division