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

10
11 In the Matter of:) OAH Nos. 2014110921 & 2014110922
THE COMMISSIONER OF BUSINESS)
12 OVERSIGHT,) CRMLA LICENSE No.: 413-0944
13)
Complainant,)
14)
v.) SETTLEMENT AGREEMENT
15)
16 SIRVA MORTGAGE, INC.,)
Respondent.)
17)
18)
19)

20 This Settlement Agreement is entered into between Respondent Sirva Mortgage, Inc.
21 (“Sirva”) and Complainant the Commissioner of Business Oversight (“Commissioner”), and is made
22 with respect to the following facts:

23 **RECITALS**

24 A. Sirva is a corporation in good standing, duly formed and existing pursuant to the laws
25 of the State of Ohio, and authorized to conduct business in the State of California.

26 B. Sirva is a residential mortgage lender and loan servicer licensed by the Commissioner
27 pursuant to the California Residential Mortgage Lending Act ("CRMLA") (Financial Code §50000
28 et seq.). Sirva has been licensed as a residential mortgage lender since May 7, 2008 and a residential

1 mortgage lender and loan servicer since July 13, 2015. Sirva has its principal place of business
2 located at 6200 Oak Tree Boulevard, Suite 300, Independence, Ohio 44131. Sirva currently has 3
3 branch office locations under its CRMLA license located in California, and other states. Sirva
4 employs mortgage loan originators in its CRMLA business.

5 C. The Department of Business Oversight (“Department”), through the Commissioner,
6 has jurisdiction over the licensing and regulation of persons and entities engaged in the business of
7 lending and/or servicing pursuant to the CRMLA, including mortgage loan originators.

8 D. On October 15, 2014, Sirva was personally served by the Commissioner with a
9 Notice of Intention to Issue License Suspension, Deny Application for Authority to Service Loans,
10 and Levy Penalties, Accusation/Statement of Issues, and accompanying documents dated October
11 14, 2014 (“Accusation”). Sirva has filed a Notice of Defense with the Commissioner regarding the
12 Accusation.

13 E. On October 15, 2014, Sirva was also personally served by the Commissioner with an
14 Order to Discontinue Violations Pursuant to Financial Code Section 50321 and Statement of Facts In
15 Support of Order to Discontinue Violations Pursuant to Financial Code Section 50321 and Notice of
16 Intent to Make Order Final dated October 14, 2014 (“Order to Discontinue Violations”). Sirva has
17 filed a request for a hearing with the Commissioner regarding the Orders to Discontinue Violations.

18 F. The Commissioner hereby acknowledges that Sirva has submitted information
19 demonstrating that it has adopted policies and procedures addressing the issues described in the
20 Accusation and Order to Discontinue Violations.

21 G. It is the intention and desire of the parties to resolve this matter without the necessity
22 of a hearing and/or other litigation.

23 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
24 forth herein, the parties agree as follows:

25 **TERMS AND CONDITIONS**

26 1. This Settlement Agreement is entered into for the purpose of judicial economy and
27 expediency, and to avoid the expense of a hearing, and possible further court proceedings.

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1 2. The Commissioner hereby dismisses the allegations contained in Section IV,
2 paragraphs C., D., and E. of the Accusation.

3 3. Sirva hereby consents to the immediate issuance by the Commissioner of an
4 Amended Order to Discontinue Violations Pursuant to Financial Code Section 50321, a copy of
5 which is attached and incorporated as Exhibit A. This Amended Order to Discontinue Violations
6 shall supersede the Order to Discontinue Violations issued on October 14, 2014.

7 4. The Commissioner hereby agrees to amend the Statement of Facts In Support of the
8 Order to Discontinue Violations issued on October 14, 2014 as set forth in the Amended Statement
9 of Facts attached and incorporated as Exhibit B.

10 5. Sirva, by entering into this Settlement Agreement, does not admit or deny any of the
11 allegations set forth in the Accusation, Amended Order to Discontinue Violations, and/or Amended
12 Statement of Facts.

13 6. Sirva acknowledges its right to an administrative hearing under the CRMLA in
14 connection with the Accusation and/or Amended Order to Discontinue Violations and hereby waives
15 that right to a hearing, and to any reconsideration, appeal, or other rights which may be afforded
16 pursuant to the CRMLA, the CFLL, the California Administrative Procedure Act, the California
17 Code of Civil Procedure, or any other provision of law in connection with these matters.

18 7. Sirva further agrees to pay to the Commissioner the sum of \$28,000.00 in
19 administrative fees upon execution of this Settlement Agreement.

20 8. In consideration of the information provided to the Commissioner by Sirva as
21 described in paragraph F above and Sirva’s agreement to the finality of the Amended Order and
22 payment of penalties as provided for in paragraphs 3 and 7 above, the Commissioner hereby agrees
23 not to pursue a suspension of Sirva’s residential mortgage lender and/or loan servicer licenses.
24 Accordingly, this Settlement Agreement does not affect the licensing status of Sirva set forth in
25 paragraph B of the above Recitals.

26 9. This Settlement Agreement may be revoked and the Commissioner may pursue any
27 and all remedies available under law against Sirva, if the Commissioner later finds out that Sirva
28 knowingly or willfully withheld information used and relied upon in this Settlement Agreement.

1 10. This Settlement Agreement is binding on all heirs, assigns and/or successors in
2 interest.

3 11. This Settlement Agreement does not create any private rights or remedies against
4 Sirva, create any liability for Sirva or limit defenses of Sirva for any person or entity not a party to
5 this Settlement Agreement.

6 12. The parties hereby acknowledge and agree that this Settlement Agreement is intended
7 to constitute a full, final and complete resolution of the actions described herein. However, the
8 parties acknowledge and agree that nothing contained in this Settlement Agreement shall operate to
9 limit the Commissioner's ability to assist any other agency, (city, county, state or federal) with any
10 prosecution, administrative, civil or criminal, brought by any such agency against Sirva or any other
11 person based upon any of the activities alleged in these matters or otherwise.

12 13. Each of the parties represents, warrants, and agrees that it has received independent
13 advice from its attorney(s) and/or representatives with respect to the advisability of executing this
14 Settlement Agreement.

15 14. Each of the parties represents, warrants, and agrees that in executing this Settlement
16 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel
17 and/or representative. Each of the parties further represents, warrants, and agrees that in executing
18 this Settlement Agreement it has placed no reliance on any statement, representation, or promise of
19 any other party, or any other person or entity not expressly set forth herein, or upon the failure of any
20 party or any other person or entity to make any statement, representation or disclosure of anything
21 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in
22 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
23 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
24 Settlement Agreement.

25 15. This Settlement Agreement is the final written expression and the complete and
26 exclusive statement of all the agreements, conditions, promises, representations, and covenants
27 between the parties with respect to the subject matter hereof, and supersedes all prior or
28 contemporaneous agreements, negotiations, representations, understandings, and discussions

1 between and among the parties, their respective representatives, and any other person or entity, with
2 respect to the subject matter covered hereby.

3 16. In that the parties have had the opportunity to draft, review and edit the language of
4 this Settlement Agreement, no presumption for or against any party arising out of drafting all or any
5 part of this Settlement Agreement will be applied in any action relating to, connected, to, or
6 involving this Settlement Agreement. Accordingly, the parties waive the benefit of California Civil
7 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
8 language of a contract should be interpreted most strongly against the party who caused the
9 uncertainty to exist.

10 17. The waiver of any provision of this Settlement Agreement shall not operate to waive
11 any other provision set forth herein, and any waiver, amendment and/or change to the terms of this
12 Settlement Agreement must be in writing signed by the parties.

13 18. This Settlement Agreement shall not become effective until signed and delivered by
14 all parties.

15 19. This Settlement Agreement may be executed in one or more counterparts, each of
16 which shall be an original but all of which, together, shall be deemed to constitute a single
17 document. This Settlement Agreement may be executed by facsimile signature, and any such
18 facsimile signature by any party hereto shall be deemed to be an original signature and shall be
19 binding on such party to the same extent as if such facsimile signature were an original signature.

20 20. Each signatory hereto covenants that he/she possesses all necessary capacity and
21 authority to sign and enter into this Settlement Agreement.

22 Dated: 8/20/15 JAN LYNN OWEN
23 Commissioner of Business Oversight

24 By _____
25 MARY ANN SMITH
26 Deputy Commissioner

26 Dated: 8/18/15 SIRVA MORTGAGE, INC.

27
28 By _____
PAUL E. KLEMME, President

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APPROVED AS TO FORM:
K&L GATES LLP
By _____
JONATHAN D. JAFFE, ESQ. Attorneys for
SIRVAMORTGAGE, INC.

Commissioner of Business Oversight

By _____
JUDY L. HARTLEY
Senior Counsel