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Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 JUDY L. HARTLEY (State Bar No. 110628)
Senior Counsel
4 Department of Business Oversight
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7 Attorneys for Complainant

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

10

11 In the Matter of:)
)
12 THE COMMISSIONER OF BUSINESS) CRMLA LICENSE NO.: 4130296
13 OVERSIGHT,)
) CONSENT ORDER
14 Complainant,)
)
15 v.)
)
16 SKYLINE FINANCIAL CORP.,)
17)
18 Respondent.)
19)

20

21 This Consent Order (Consent Order) is entered into by and between the Commissioner of
22 Business Oversight (Commissioner) and Skyline Financial Corp. (Skyline) (collectively the parties),
23 and is made with respect to the following facts:

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I

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Recitals

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27 A. Skyline is a corporation in good standing, duly formed and existing pursuant to the
28 laws of the State of California, and authorized to conduct business in California.

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B. Skyline is a residential mortgage lender licensed by the Commissioner pursuant to the California Residential Mortgage Lending Act (CRMLA)(Fin.Code § 50000 et seq.). Skyline has its principal place of business located at 27001 Agoura Road, Suite 350, Calabasas, California 91301. Skyline currently has 57 branch office locations under its CRMLA license located in California, and other states. Skyline employs mortgage loan originators in its CRMLA business. Skyline has been approved to do business under its CRMLA licenses under the names Elite Lending, Madison Lending Group, Madison Mortgage Lending, Manhattan Correspondent Lending, New Leaf Affinity, New Leaf Direct, New Leaf Lending, New Leaf Wholesale, Rancho Financial, SFC Financial Network, and Skyline Home Loans.

C. Skyline is also licensed by the Commissioner as a finance lender and broker pursuant to the California Finance Lenders Law (CFL) (Fin. Code § 22000 et seq.). Skyline has its principal place of business under the CFL also located at 27001 Agoura Road, Suite 350, Calabasas, California 91301. Skyline has two branch office locations under its CFL license. Skyline has been approved to do business under its CFL license under the names Elite Lending, Madison Lending Group, Madison Mortgage Lending, Manhattan Correspondent Lending, New Leaf Affinity, New Leaf Direct, New Leaf Lending, New Leaf Wholesale, Rancho Financial, SFC Financial Network, and Skyline Home Loans.

D. The Department of Business Oversight (Department), through the Commissioner, has jurisdiction over the licensing and regulation of persons and entities engaged in the business of lending and/or servicing pursuant to the CRMLA and lending and brokering pursuant to the CFL, including mortgage loan originators.

E. William Dallas is the president of Skyline, and, as such, is authorized to enter into this Consent Order on behalf of Skyline.

F. During a regulatory examination of Skyline commenced in 2013, the Commissioner discovered that Skyline had (i) overcharged borrowers for third party appraisal fees in violation of Financial Code section 50203, and (ii) engaged in the business of servicing residential mortgage loans without proper licensure in violation of Financial Code section 50002.

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

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

5 **II**

6 **Terms and Conditions**

7 1. Purpose. This Consent Order is intended to resolve the findings of the 2013
8 regulatory examination of Skyline described in paragraph F. above in a manner that avoids the
9 expense of a hearing, and possible further court proceedings, is in the public interest, protects
10 consumers, and is consistent with the purposes, policies, and provisions of the CRMLA.

11 2. Finality of Consent Order. Skyline agrees to comply with this Consent Order and
12 stipulates this Consent Order is hereby deemed final.

13 3. Final Order to Discontinue Violations: In accordance with Financial Code section
14 50321, Skyline stipulates that it is ordered to immediately discontinue charging borrowers third party
15 appraisal fees in excess of the amount(s) allowed under Financial Code section 50203, subdivision
16 (a)(1).

17 4. Administrative Penalty. Skyline agrees to pay an administrative penalty in the
18 amount of \$350,000.00 upon execution of this Consent Order. The payment shall be made by
19 cashiers' check payable to the Department of Business Oversight and shall be sent to the
20 Department, attention, Accounting-Litigation, 1515 K Street, Suite 200, Sacramento, CA 95814-
21 4052.

22 5. Waiver of Hearing Rights. Skyline acknowledges that the Commissioner is ready,
23 willing, and able to proceed with the filing of an administrative enforcement action on the charges
24 contained in this Consent Order. Skyline hereby waives the right to any hearings, and to any
25 reconsideration, appeal, or other right to review which may be afforded pursuant to the CRMLA, the
26 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
27 provision of law. Skyline further expressly waives any requirement for the filing of an Accusation
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1 pursuant to Government Code section 11415.60, subdivision (b). By waiving such rights, Skyline
2 effectively consents to this Consent Order and Order to Discontinue Violations becoming final.

3 6. Policies and Procedures: The Commissioner hereby acknowledges that Skyline has
4 submitted information demonstrating that it has adopted policies and procedures addressing the
5 issues described in paragraph F. above.

6 7. CPA Audit – January 1, 2010 through June 30, 2014. Skyline agrees to have its
7 January 1, 2010 through June 30, 2014 self-audit of third party appraisal fee charges on all
8 California loans conducted anew by and through an independent certified public accountant (re-
9 audit). Skyline, by and through its CPA, shall submit to the Commissioner the results of the re-audit
10 (re-audit report) within 90 days of the date of execution of this Consent Order. The re-audit report
11 shall include at a minimum, the total number of loans made during this period, the number of loans
12 with appraisal fee overcharges, and for each loan, the report shall list the borrower loan number,
13 name, address, loan amount, loan date, interest rate, appraisal fee charged, actual appraisal fee,
14 overcharge amount (if applicable), date of refund (if applicable), proof of refund (if applicable), and
15 whether the overcharge was previously reported in the self-audit. Skyline further agrees that it shall
16 pay an administrative penalty to the Commissioner, upon submission of the re-audit report, equal to
17 \$120.00 for each appraisal fee overcharge discovered during the re-audit that (i) was not previously
18 reported in the self-audit, and (ii) was not refunded to the borrower within 30 days of loan funding.

19 8. CPA Audit – July 1, 2014 through June 30, 2017. Skyline agrees to conduct an audit
20 of third party appraisal fee charges on all California loans for the period July 1, 2014 through June
21 30, 2017 by and through an independent certified public accountant (audit). Skyline, by and through
22 its CPA, shall submit to the Commissioner the results of the audit (audit report) within 180 days of
23 the completion of the date of execution of this Consent Order. The audit report shall include the
24 same information required in the re-audit report described in paragraph 7 above, except as to
25 whether the overcharge was previously reported in the self-audit. Skyline further agrees that it shall
26 pay an administrative penalty to the Commissioner, upon submission of the audit report, equal to
27 \$120.00 for each appraisal fee overcharge discovered during the audit that was not refunded to the
28 borrower within 30 days of loan funding.

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9. CPA Quarterly Audits – July 1, 2017 through June 30, 2018. Skyline also agrees to conduct quarterly audits of third party appraisal fee charges on all California loans originated during the quarter, by and through an independent certified public accountant, for a period of one year to commence on July 1, 2017 (quarterly audits). Skyline, by and through its CPA, shall submit to the Commissioner the results of the quarterly audits (quarterly audit report) within 60 days of the completion of the quarter. The quarterly audit reports shall include the same information required in the re-audit report described in paragraph 7 above, except whether the overcharge was previously reported in the self-audit. Skyline further agrees that it shall pay an administrative penalty to the Commissioner, upon submission of the quarterly audit report, equal to \$120.00 for each appraisal fee overcharge discovered during the quarterly audit(s) that was not refunded to the borrower within 30 days of loan funding.

10. Payment of Refunds: Borrower refunds made pursuant to paragraphs 7-9 shall include interest at the rate of 10 percent per annum from the date of loan funding, and shall be mailed to the last known address of each borrower prior to submission of the applicable report to the Commissioner.

11. Prior Refunds. Skyline has made refunds for the excessive appraisal fees found during its self-audit for loans originated between November 1, 2010 and June 30, 2014.

12. Outstanding Refunds. Skyline shall be responsible for ensuring that any outstanding refund payment owed to any borrower identified in the CPA audits described in paragraphs 7-9 above shall be escheated to the State of California pursuant to the provisions of the California Unclaimed Property Law (Code Civ. Proc., § 1500 et seq.).

13. Amended Annual Reports. Skyline agrees to submit to the Commissioner Amended Reports of Principal Amounts of Loans Originated and Aggregate Amount of Loans Serviced for the calendar years 2014, 2015 and 2016 within 30 days of execution of this Consent Order.

14. Servicing Authority. The Commissioner hereby acknowledges that the mortgage loan servicer application filed by Skyline on or about June 10, 2014 is ready to be approved, and the

1 Commissioner hereby agrees to approve Skyline’s residential mortgage loan servicer application
2 within five days of execution of this Consent Order.

3 15. Effect of Consent Order on License. In consideration of the information provided to
4 the Commissioner by Skyline as described in paragraph 6 above and Skyline’s agreement to the
5 entry of this Consent Order and payment of penalties as provided for in paragraphs 2-4 above, the
6 Commissioner hereby agrees that, except as otherwise set forth in this Consent Order, she shall not
7 suspend and/or revoke the residential mortgage lender licenses or finance lender/broker license of
8 Skyline. Accordingly, this Consent Order does not affect the licensing status of Skyline.

9 16. Information Willfully Withheld. This Consent Order may be revoked and the
10 Commissioner may pursue any and all remedies available under law against Skyline if the
11 Commissioner later discovers that Skyline knowingly or willfully withheld information used for and
12 relied upon in this Consent Order.

13 17. Failure to Comply with Consent Order. Skyline agrees that if it fails to comply with
14 the terms of this Consent Order within five days after written notice of demand, the Commissioner
15 may, in addition to all other available remedies under the CRMLA and CFLL, summarily suspend
16 the CRMLA and CFLL licenses of Skyline until Skyline is in compliance. Skyline waives any
17 notice and hearing rights to contest such summary suspensions which may be afforded under the
18 CRMLA, the CFLL, the California Administrative Procedure Act, the California Code of Civil
19 Procedure, or any other provision of law in connection therewith.

20 18. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
21 interest.

22 19. Third Party Actions. This Consent Order does not create any private rights or
23 remedies against Skyline, create any liability for Skyline or limit defenses of Skyline for any person
24 or entity not a party to this Consent Order.

25 20. Full and Final Settlement. The parties hereby acknowledge and agree that this
26 Consent Order is intended to constitute a full, final, and complete resolution of the findings of the
27 2013 regulatory examination described in paragraph F. above, up to and including through the date
28 of execution of this Consent Order, and that no further proceedings or actions will be brought by the

1 Commissioner in connection with these matters either under the CRMLA, CFLL, or any other
2 provision of law, excepting therefrom any proceeding to enforce compliance with the terms of this
3 Consent Order.

4 21. Commissioner’s Duties: The parties acknowledge and agree that nothing contained
5 in this Consent Order shall operate to limit the Commissioner’s ability to assist any other agency
6 (city, county, state or federal) with any prosecution, administrative, civil or criminal, brought by any
7 such agency against Skyline or any other person based upon any of the activities alleged in these
8 matters or otherwise.

9 22. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
10 has received independent advice from its attorney(s) and/or representatives with respect to the
11 advisability of executing this Consent Order.

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

21 24. Full Integration. This Consent Order is the final written expression and the complete
22 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
23 between the parties with respect to the subject matter hereof, and supersedes all prior or
24 contemporaneous agreements, negotiations, representations, understandings, and discussions
25 between and among the parties, their respective representatives, and any other person or entity, with
26 respect to the subject matter covered hereby.

27 25. No Presumption from Drafting. In that the parties have had the opportunity to draft,
28 review and edit the language of this Consent Order, no presumption for or against any party arising

1 out of drafting all or any part of this Consent Order will be applied in any action relating to,
2 connected to, or involving this Consent Order. Accordingly, the parties waive the benefit of Civil
3 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
4 language of a contract should be interpreted most strongly against the party who caused the
5 uncertainty to exist.

6 26. Waiver, Modification, and Qualified Integration. The waiver of any provision of this
7 Consent Order shall not operate to waive any other provision set forth herein. No waiver,
8 amendment, or modification of this Consent Order shall be valid or binding to any extent unless it is
9 in writing and signed by all of the parties affected by it.

10 27. Headings and Governing Law. The headings to the paragraphs of this Consent Order
11 are inserted for convenience only and will not be deemed a part hereof or affect the construction or
12 interpretation of the provisions hereof. This Consent Order shall be construed and enforced in
13 accordance with and governed by California law.

14 28. Effective Date. This Consent Order shall not become effective until signed and
15 delivered by all parties.

16 29. Counterparts. This Consent Order may be executed in one or more separate
17 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
18 together constitute a single document.

19 30. Notice. Any notice required under this Consent Order shall be addressed as follows:

20 To Skyline Financial Corp.: Daniella Casseres, Esq.
21 Offit Kurman
22 535 5th Avenue, Suite 2545
23 New York, New York 10017
dcasseres@offitkurman.com

24 To the Commissioner: Judy L. Hartley, Esq.
25 Senior Counsel
26 Department of Business Oversight
27 320 W. 4th Street, Suite 750
28 Los Angeles, California 90013-2344
judy.hartley@dbo.ca.gov

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31. Public Record. Skyline acknowledges that this Consent Order is a public record.

32. Settlement Authority. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Consent Order.

Dated: 8/3/17 JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner

Dated: 8/1/17 SKYLINE FINANCIAL CORP.

By _____
WILLIAM DALLAS, President

APPROVED AS TO FORM:
OFFIT KURMAN

By _____
DANIELLA CASSERES, ESQ. attorneys for
SKYLINE FINANCIAL CORP.

Commissioner of Business Oversight

By _____
JUDY L. HARTLEY, ESQ.
Senior Counsel