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

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11 In the Matter of:)
)
12 THE COMMISSIONER OF BUSINESS) CRMLA LICENSE NO.: 413-1010
13 OVERSIGHT,)
)
14 Complainant,) ACCUSATION
)
15 v.)
)
16 THE LENDING PARTNERS, LLC forced to do)
17 business in California as GREENPATH)
18 LENDING, LLC,)
)
19 Respondent.)

20 The Complainant, the Commissioner of Business Oversight (Commissioner), is informed and
21 believes, and based upon such information and belief, alleges and charges Respondent as follows:

22 **I.**

23 **Introduction**

24 1. The Lending Partners, LLC forced to do business in California as GreenPath Lending,
25 LLC (TLP) is a residential mortgage lender licensed by the Commissioner pursuant to the California
26 Residential Mortgage Lending Act (CRMLA) (Fin. Code Section §50000 et seq.). TLP has its
27 principal place of business located at 5560 Tennyson Parkway, Suite 201, Plano, Texas 75024. TLP
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ACCUSATION

1 has no branch locations under its CRMLA license. TLP employs mortgage loan originators in its
2 CRMLA business.

3 II.

4 Trust Account Violations

5 3. On or about March 13, 2017, the Commissioner, by and through staff, commenced a
6 regulatory examination of the books and records of TLP under the CRMLA (2017 regulatory
7 examination). The 2017 regulatory examination disclosed that TLP was: (i) failing to properly
8 reconcile certain of its trust accounts in violation of Financial Code section 50314 and California
9 Code of Regulations, title 10, section 1950.314.1; (ii) commingling its own funds with trust funds in
10 violation of Financial Code section 50202, subdivision (a); and (iii) causing debit balances
11 (shortages) to exist in certain of its trust accounts in violation of California Code of Regulations, title
12 10, section 1950.314.6.

13 4. In 2017, TLP maintained the relevant trust account at JPMorgan Chase Bank; trust
14 account ending in 6110. A review of the trust account reconciliation and other trust accounting
15 documentation for January 31, 2017 disclosed that TLP had failed to properly reconcile the trust
16 account for the period ended January 31, 2017 in violation of Financial Code section 50314,
17 subdivision (a) and California Code of Regulations, title 10, section 1950.314.1 due to an overage of
18 funds in the trust account in the amount of \$10,412.46. An overage of monies in a trust account(s)
19 indicates the existence of company funds on deposit in a trust account, which constitutes
20 commingling in violation of Financial Code section 50202, subdivision (a), except as allowed to
21 prevent a debit balance.

22 5. On or about June 5, 2017, TLP was requested to provide its unaudited financial
23 statements, including the balance sheet, trial balance, bank statement for trust account 6110, bank
24 reconciliation for trust account 6110, and corresponding loan level subsidiary ledgers for the period
25 ended April 31, 2017. TLP did not provide the documents as requested, but instead on August 9,
26 2017, TLP provided the requested documents for the period ended July 31, 2017. A review of the
27 trust account reconciliation and other trust accounting documentation for July 31, 2017 disclosed
28 that TLP had again failed to properly reconcile the trust account in violation of Financial Code

1 section 50314, subdivision (a) and California Code of Regulations, title 10, section 1950.314.1 due
2 this time to a debit balance (shortage) of funds in trust account 6110 in the amount of \$3,142.89.
3 The manner in which TLP reconciles its trust accounts failed to detect individual loan accounts with
4 debit balances totaling \$3,142.89. The failure to detect debit balances in individual loan accounts
5 caused the escrow trust liability to be understated, and resulted in the trust account shortage.
6 California Code of Regulations, title 10, section 1950.314.6 prohibits debit balances in any loan or
7 servicing account maintained by CRMLA licensees. Section 1950.314.6 does allow CRMLA
8 licensees to advance funds on behalf of a loan or servicing account for purposes of payment of taxes,
9 insurance, and other payments, if such a payment is required and the account has insufficient funds
10 to its credit to cover such required payment.

11 III.

12 Per Diem Interest Overcharges

13 6. The 2017 regulatory examination further disclosed that in 3 of 30 funded loans
14 reviewed, or approximately 10%, TLP was charging the borrower per diem interest in excess of one
15 day prior to the disbursement of loan proceeds in violation of California Financial Code section
16 50204, subdivision (o). A California Additional Per Diem Interest Charge Disclosure was found in
17 the 3 loans with per diem interest overcharges. The disclosures were not prepared in accordance
18 with California Civil Code section 2948.5, subdivision (b) or were not applicable, and therefore were
19 not considered in calculating per diem interest charges. The per diem interest overcharges averaged
20 \$45.41 per loan. The range of per diem interest overcharges was between \$34.29 and \$56.60. The
21 average number of days that interest was overcharged was 1 day.

22 7. On or about June 5, 2017, the Commissioner, based upon the findings of the 2017
23 regulatory examination, directed TLP to conduct a self-audit regarding per diem interest charges for
24 all loans originated from March 27, 2014 through October 26, 2015; the date TLP ceased originating
25 mortgage loans, make appropriate refunds, and submit a report as to the findings of the self-audit
26 (self-audit report). On or about July 14, 2017, TLP submitted its self-audit report to the
27 Commissioner. The self-audit report filed with the Commissioner, which covered the period from
28 March 11, 2014 to October 26, 2015, disclosed 37 per diem interest overcharges out of the 1,047

1 loans originated during that period.

2 8. From documentation submitted by TLP, the Commissioner believes that TLP has
3 made all the refunds for the per diem interest overcharges occurring during the period described in
4 paragraph 7 in addition to the overcharges described in paragraph 6 above.

5 9. The Commissioner found that TLP was overcharging per diem interest during the last
6 regulatory examination under the CRMLA that commenced in March 2013. Based upon the
7 findings of the 2013 regulatory examination, the Commissioner had instructed TLP to implement
8 such procedures as necessary to ensure that per diem interest was not overcharged in the future.

9 **IV.**

10 **CRMLA Suspension/Penalty Statutes**

11 10. Financial Code section 50327 provides in pertinent part:

12 (a) The commissioner may, after notice and a reasonable opportunity to
13 be heard, suspend or revoke any license, if the commissioner finds that:

14 (1) the licensee has violated any provision of this division or rule or order
15 of the commissioner thereunder; or (2) any fact or condition exists that, if
16 it had existed at the time of the original application for license, reasonably
17 would have warranted the commissioner in refusing to issue the license originally.

18 11. Financial Code section 50513 provides in pertinent part:

19 (a) The commissioner may do one or more of the following:

20 (4) Impose fines on a mortgage loan originator or any residential mortgage
21 lender or servicer licensee employing a mortgage loan originator pursuant
22 to subdivisions (b), (c), and (d).

23 (b) The commissioner may impose a civil penalty on a mortgage loan originator
24 or any residential mortgage lender or servicer licensee employing a mortgage
25 loan originator, if the commissioner finds, on the record after notice and
26 opportunity for hearing, that the mortgage loan originator or any residential
27 mortgage lender or servicer licensee employing a mortgage loan originator
28 has violated or failed to comply with any requirement of this division or any
regulation prescribed by the commissioner under this division or order issued
under authority of this division.

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

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

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V.

Conclusion

12. The Commissioner finds that, by reason of the foregoing, TLP has violated Financial Code sections 50202, subdivision (a), 50204, subdivision (o), and 50314, and California Code of Regulations, title 10, sections 1950.314.1 and 1950.314.6, and based thereon, grounds exist to (i) suspend the residential mortgage lender license of TLP; and (ii) assess penalties against TLP pursuant to Financial Code section 50513, subdivision (b).

VII.

Prayer

WHEREFORE, IT IS PRAYED that:

Pursuant to Financial Code section 50327, the residential mortgage lender license of The Lending Partners, LLC forced to do business in California as GreenPath Lending, LLC, be suspended for a period of up to 12 months;

Pursuant to Financial Code section 50513, subdivision (b), penalties be levied against The Lending Partners, LLC forced to do business in California as GreenPath Lending, LLC, for failure to properly reconcile its trust accounts on a monthly basis, in violation of Financial Code section 50314 and California Code of Regulations, title 10, section 1950.314.1 according to proof, but in an amount of at least \$15,000.00;

Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against The Lending Partners, LLC forced to do business in California as GreenPath Lending, LLC, for commingling its own funds with trust funds in violation of Financial Code section 50202, subdivision (a) according to proof, but in an amount of at least \$15,000.00;

Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against The Lending Partners, LLC forced to do business in California as GreenPath Lending, LLC, for causing debit balances (shortages) to exist in its trust account and/or individual loan accounts in violation of California Code of Regulations, title 10, section 1950.314.6 according to proof, but in an amount of at least \$15,000.00; and

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Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against The Lending Partners, LLC forced to do business in California as GreenPath Lending, LLC, for at least three violations of Financial Code sections 50504, subdivision (o), overcharging per diem interest, according to proof, but in an amount of at least \$1,000.00 per violation.

Dated: October 23, 2017
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Counsel
Enforcement Division