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9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA
12

13 In the Matter of:) CRMLA License No.: 413-1047
)
14 THE COMMISSIONER OF BUSINESS) ACCUSATION IN SUPPORT OF NOTICE OF
OVERSIGHT,) INTENTION TO ISSUE ORDER SUSPENDING
15) LICENSE AND LEVYING PENALTIES
16 Complainant,)
)
17 v.)
)
18 UNION HOME MORTGAGE)
CORPORATION,)
19)
20 Respondent.)
21)
22)

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

25 **I.**

26 **INTRODUCTION**

27 Union Home Mortgage Corporation (“UHMC” or “Respondent”) is a residential mortgage
28 lender licensed by the Commissioner of Business Oversight (“Commissioner” or “Complainant”)

1 pursuant to the Residential Mortgage Lending Act (“CRMLA”) (Financial Code sections 50000 et.
2 seq.). On March 9, 2010, the Department of Business Oversight (“Department”) issued CRMLA
3 License No. 413-1047 to Respondent. UHMC has a principal place of business at 8241 Dow Circle
4 W, Strongsville, Ohio 44136. UHMC also has a second office location at 3491 Concoors, Suite 101,
5 Ontario, CA 91764. UHMC employs mortgage loan originators. The Commissioner, in the public
6 interest, seeks to suspend License No. 413-1047 for twelve (12) calendar months because of
7 Respondent’s violations of the CRMLA pursuant to Financial Code section 50327. The
8 Commissioner also seeks to issue penalties, in the public interest, for Respondent’s violations of the
9 CRMLA, pursuant to Financial Code section 50513.

10 II.

11 FACTS AND VIOLATIONS

12 On February 24, 2014, the Department commenced a duly noticed regulatory examination
13 of the Respondent’s books and records at the UHMC Ontario office location, pursuant to the
14 CRMLA (“Examination”).

15 Violation 1

16 The Examination disclosed that UHMC did not maintain sufficient funds in trust account(s).
17 UHMC experienced a trust shortage of \$15,258.11 on or about January 31, 2014, in violation of
18 Financial Code section 50202 and California Code of Regulations, title 10, section 1950.314.6.
19 UHMC financial statements, bank accounts and liability ledgers noted a \$12,002.88 and then a
20 \$3,255.23 shortage totaling \$15,258.11 in its “Huntington Bank Real Estate” trust account.

21 Violation 2

22 Also, the Examination disclosed that UHMC experienced a trust overage in another trust
23 account of \$155,461.01 on or about January 31, 2014, in violation of Financial Code section 50202
24 and California Code of Regulations, title 10, section 1950.314.1. UHMC bank information
25 revealed that, as of January 31, 2014, UHMC’s “Huntington Servicers Escrow” trust account was
26 overfunded by \$155,461.01.

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1 Violation 3

2 Moreover, an examination of UHMC’s escrow liability subsidiary ledgers disclosed that
3 UHMC did not reconcile its escrow liability ledgers to UHMC’s control account at least one time
4 each week, in violation of California Code of Regulations, title 10, section 1950.314.1.

5 Violation 4

6 Finally, an examination of the UHMC’s trial balance and general ledger for both trust asset
7 and trust liability accounts disclosed that UHMC also did not reconcile its escrow liability ledgers
8 to bank statement balances at least one time each month, also in violation of California Code of
9 Regulations, title 10, section 1950.314.1.

10 **III.**

11 **STATUTORY AUTHORITY**

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

13 (a) A residential mortgage lender, residential mortgage lender and
14 servicer, or residential mortgage loan servicer shall establish, and maintain
15 current, the following books with reference to its trust accounts: (1) A
16 trust account ledger card for each account detailing receipts and
17 disbursement of all funds deposited by the borrower, lender or seller with
18 the licensee in connection with the origination, closing or servicing of any
19 mortgage loan. The funds shall be held in accordance with the terms of a
20 written agreement between the licensee and such borrower, lender or seller
21 which provides that upon the occurrence of a specific condition or event,
22 the funds or a portion thereof shall be disbursed to the borrower, lender or
23 seller; (2) Liability controlling account; (3) Cash receipt and disbursement
24 journal or a file containing copies of all receipts and checks and/or check
25 stubs of checks issued by the residential mortgage lender or residential
26 mortgage loan servicer as a medium of posting to the records referred to in
27 subsections (a) and (b) in which case adding machine tapes of totals of
28 receipts and checks shall be retained.

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

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

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A residential mortgage lender, residential mortgage lender and servicer, or residential mortgage loan servicer shall not withdraw, pay out, or transfer moneys from any loan or servicing account in excess of the amount to the credit of the account at the time of the withdrawal, payment, or transfer. However, a residential mortgage lender, residential mortgage lender and servicer, or residential mortgage loan servicer may advance its own funds to a loan or servicing account under an impound arrangement to pay taxes, insurance, and other payments, if the required withdrawal, payment, or transfer exceeds the amount of the credit for the account.

Financial Code section 50202 provides in pertinent part:

- (a) Escrow funds for a purpose authorized by the residential mortgage loan contract (1) shall be subject to and satisfy all applicable state and federal requirements, including Section 2609 of the federal Real Estate Settlement Procedures Act of 1974, as amended (12 U.S.C. Sec. 2601 et seq.) and all applicable provisions of the Civil Code, (2) shall be maintained in a depository institution as described in subdivision (b), and (3) may not be commingled with a licensee’s funds.
- (b) Except as provided in subdivision (f), a trust account shall be placed in a non-interest-bearing account in a federally insured depository institution, a federal home loan bank, a federal reserve bank, or other similar government-sponsored enterprise, to be removed and used only for the following:
 - (1) Payments authorized by the borrower, allowed by the mortgage loan contract, or required by federal or state law.
 - (2) Refunds to the borrower.
 - (3) Transfer to another institution that is described in this subdivision.
 - (4) Forwarding to the appropriate servicer in case of a transfer of servicing.
 - (5) Any other purpose authorized by the residential mortgage loan contract.
 - (6) Compliance with a regulatory or court order.
- (c) As used in this section, “trust funds” means funds collected by a licensee in connection with the making or servicing of a residential mortgage loan that the licensee holds on behalf of another.

...

Financial Code section 50327 provides in pertinent part:

- (a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license, if the commissioner finds that:
 - (1) the licensee has violated any provision of this division or rule or order of the commissioner thereunder.

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Financial Code section 50513 provides in pertinent part:

- (a) The commissioner may do one or more of the following:
 - ...
 - (4) Impose fines on a mortgage loan originator or any residential mortgage 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 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.

Pursuant to Financial Code section 50513, Union Home Mortgage Corporation is hereby ordered to pay to the Commissioner an administrative penalty of six thousand two hundred fifty dollars (\$6,250) for each of the four (4) violations of the CRMLA referenced herein, totaling twenty five thousand dollars (\$25,000), or according to proof, specifically, two (2) violations of Financial Code section 50202 together with California Code of Regulations, title 10, section 1950.314.6; and two (2) violations of California Code of Regulations, title 10, section 1950.314.1.

Said penalties shall be payable by check to the Department of Business Oversight and received by Marisa I. Urteaga-Watkins, Counsel, at 1515 K Street, Suite 200, Sacramento, CA 95814, no later than thirty (30) days from the date of the final order.

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V.
CONCLUSION

The Commissioner finds, by reason of the foregoing, that Union Home Mortgage Corporation has violated Financial Code section 50202 and California Code of Regulations, title 10, sections 1950.314.1 and 1950.314.6 of the CRMLA. Therefore, in the public interest, grounds exist to suspend License No. 413-1047 and levy penalties against Union Home Mortgage Corporation.

WHEREFORE, IT IS PRAYED that, pursuant to Financial Code section 50327, Union Home Mortgage Corporation License No. 413-1047 be suspended for a period of twelve (12) calendar months from the date of any final order issued in this Accusation.

WHEREFORE, IT IS ALSO PRAYED that, pursuant to Financial Code section 50513, penalties be levied against Union Home Mortgage Corporation, in an amount of at least \$6,500.00 per violation, for a total amount of at least \$25,000.00, or according to proof.

Dated: July 24, 2015

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARISA I. URTEAGA-WATKINS
Counsel
Enforcement Division