

1 MARY ANN SMITH  
Deputy Commissioner  
2 DOUGLAS M. GOODING  
Assistant Chief Counsel  
3 MARISA I. URTEAGA-WATKINS (State Bar No. 236398)  
4 Counsel  
Department of Business Oversight  
5 1515 K Street, Suite 200  
Sacramento, California 95814  
6 Telephone: (916) 445-9626  
7 Facsimile: (916) 445-6985

8 Attorneys for Complainant

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

11  
12 In the Matter of: ) CRMLA License No. 413-1047  
13 )  
14 ) SETTLEMENT AGREEMENT  
UNION HOME MORTGAGE )  
15 CORPORATION, )  
16 Respondent. )  
17 )

18 This Settlement Agreement is entered into between Union Home Mortgage Corporation  
19 (“UHMC” or “Respondent”) and the Commissioner of Business Oversight of the State of California  
20 (“Commissioner” or “Complainant”) and is made with respect to the following facts:

21 **RECITALS**

22 A. UHMC’s principal place of business is located at 8241 Dow Circle W, Strongsville,  
23 Ohio 44136. UHMC also has a second office location at 3491 Concours, Suite 101, Ontario, CA  
24 91764.

25 B. Respondent is a residential mortgage lender licensed by the Department of Business  
26 Oversight (“Department”) pursuant to the California Residential Mortgage Act (“CRMLA”) (Fin.  
27 Code §§ 50000 et seq.). Under its CRMLA license (#413-1047) Respondent currently employs  
28 mortgage loan originators in its CRMLA business.

1 C. The Department, through the Commissioner, has jurisdiction over the licensing and  
2 regulation of persons and entities engaged in the business of lending and/or servicing residential  
3 mortgage loans pursuant to the CRMLA, including mortgage loan originators.

4 D. The Commissioner has alleged that, in an exam commencing February 24, 2014 at the  
5 UHMC Ontario California location (“Examination”), the following violations were discovered: trust  
6 fund imbalances in violation of Financial Code section 50202 and California Code of Regulations,  
7 title 10, section 1950.314.6; and trust asset accounts that did not reconcile to trust liability accounts,  
8 liability ledgers, and trust bank balances in violation of California Code of Regulations, title 10,  
9 section 1950.314.1. These are set forth in more detail in the Department’s Order to Discontinue  
10 Violations issued on July 24, 2015.

11 E. On July 24, 2015, the Commissioner served Respondent through certified mail the  
12 following documents: Notice of Intention to Issue Orders Suspending License and Imposing  
13 Penalties; Accusation in Support of Notice of Intention to Issue Order Suspending License and  
14 Levying Penalties; Notice of Defense for Accusation in Support of Notice of Intention to Issue Order  
15 Suspending License and Levying Penalties; Statement to Respondent; Notice of Defense for Order  
16 to Discontinue Violations Pursuant to Financial Code section 50321; Notice of Intention to Make  
17 Order to Discontinue Violations Final; Order to Discontinue Violations pursuant to Financial Code  
18 section 50321; and Statement of Facts in Support of Order to Discontinue Violations pursuant to  
19 Financial Code section 50321 (“Administrative Action”)

20 F. Respondent has advised the Commissioner that, rather than filing a Notice of Defense  
21 contesting the Commissioner’s accusations through the Administrative Action, Respondent desires  
22 to resolve this matter informally and cooperatively by way of settlement.

23 G. The Commissioner acknowledges that Respondent has submitted information  
24 demonstrating that it has adopted policies and procedures addressing the issues described in the  
25 Administrative Action and intended to prevent future violations of the type alleged in the  
26 Administrative Action.

27 H. It is the intention and desire of the parties to resolve this matter without the necessity  
28 of a hearing and/or other litigation.

1 I. The Commissioner finds that this action is appropriate, in the public interest, and  
2 consistent with the purposes fairly intended by the policy and provisions of this law.

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

5 **TERMS AND CONDITIONS**

6 1. Purpose. The purpose of this Settlement Agreement is to resolve the charges alleged in  
7 the Administrative Action in a manner that avoids the expense of a hearing and possible further court  
8 proceedings, is in the public interest, protects consumers, and is consistent with the purposes,  
9 policies and provisions of the CRMLA.

10 2. Finality of Order. Respondent hereby agrees that the Order to Discontinue Violations  
11 issued on July 24, 2015 is deemed final.

12 3. Waiver of Hearing Rights. Respondent acknowledges that the Commissioner is ready  
13 willing and able to proceed to an administrative hearing on the charges contained in the  
14 Administrative Action, and Respondent hereby waives the right to a hearing, and to any  
15 reconsideration, appeal, or other right to review which may be afforded pursuant to the CRMLA, the  
16 Administrative Procedure Act, the Code of Civil Procedure, or any other provision of law; and by  
17 waiving such rights, Respondent effectively withdraws its hearing request and consents to the  
18 Settlement Agreement becoming final.

19 4. Payment by Respondent. Respondent agrees to pay the sum of fifty thousand dollars  
20 (\$50,000.00) in administrative fees as part of the resolution of the Administrative Action. This  
21 amount shall be due within (20) calendar days of the effective date of this Settlement Agreement, as  
22 such date is defined in Paragraph 19, made payable by cashier's check to the Department of  
23 Business Oversight, sent to the attention of: Marisa I. Urteaga-Watkins, Counsel, Enforcement  
24 Division, at the Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, CA  
25 95814.

26 5. Effect of Settlement Agreement on License. In consideration of the information provided  
27 to the Commissioner by Respondent as described in the paragraphs above and Respondent's  
28 payment of administrative fees as provided herein, the Commissioner hereby agrees that except as

1 set forth in this Settlement Agreement, she shall not suspend the residential mortgage lender or  
2 servicer license of Respondent or take any further action based on the alleged violations of the  
3 provisions cited in the Administrative Action for the period through the date of execution of this  
4 Settlement Agreement, as such date is described in Paragraph. Accordingly, this Settlement  
5 Agreement, which resolves the Administrative Action, does not affect the licensing status of  
6 Respondent.

7       6. Full and Final Settlement. The parties hereby acknowledge and agree that this Settlement  
8 Agreement is intended to constitute a full, final, and complete resolution of the Administrative  
9 Action and that no further proceedings or actions will be brought by the Commissioner in connection  
10 with these matters either under the CRMLA, or any other provision of law, excepting therefrom any  
11 proceeding or action if such proceeding or action is based upon discovery of new violations of the  
12 CRMLA which do not form the basis for this Settlement Agreement and which are not related to  
13 violations of either Civil Code section 2948.5 or Financial Code section 50204(o), or which were  
14 knowingly concealed from the Commissioner by Respondent.

15       7. Binding. This Settlement Agreement is binding on all heirs, assigns and/or successors in  
16 interest.

17       8. Commissioner's Duties. The parties further acknowledge and agree that nothing  
18 contained in this Settlement Agreement shall operate to limit the Commissioner's ability to assist  
19 any other agency, (city, county, state or federal) with any prosecution, administrative, civil or  
20 criminal, brought by any such agency against Respondent or any other person based upon any of the  
21 activities alleged in these matters or otherwise.

22       9. Third Party Actions. It is the intent and understanding between the parties that this  
23 Settlement Agreement does not create any private rights or remedies against Respondent, create any  
24 liability for Respondent or limit defenses of Respondent for any person or entity not a party to this  
25 Settlement Agreement.

26       10. Future Actions by Commissioner. This Settlement Agreement may be revoked and the  
27 Commissioner may pursue any and all remedies available under law against Respondent if the  
28 Commissioner later discovers that Respondent knowingly or willfully withheld information used and

1 relied upon in this Settlement Agreement. Further, Respondent agrees that this Settlement  
2 Agreement does not resolve any penalties that may be assessed by the Commissioner upon discovery  
3 of new or additional alleged violations of the CRMLA which do not form the basis for the current  
4 Administrative Action.

5 11. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it  
6 has received independent advice from its attorney(s) and/or representatives with respect to the  
7 advisability of executing this Settlement Agreement.

8 12. Counterparts. The parties agree that this Settlement Agreement may be executed in one  
9 or more separate counterparts, each of which when so executed, shall be deemed an original. A fax  
10 signature shall be deemed the same as an original signature. Such counterparts shall together  
11 constitute and be one and the same instrument.

12 13. Waiver, Modification, and Qualified Integration. The waiver of any provision of this  
13 Settlement Agreement shall not operate to waive any other provision set forth herein. No waiver,  
14 amendment, or modification of this Settlement Agreement shall be valid or binding to any extent  
15 unless it is in writing and signed by all of the parties affected by it.

16 14. Headings and Governing Law. The headings to the paragraphs of this Settlement  
17 Agreement are inserted for convenience only and will not be deemed a part hereof or affect the  
18 construction or interpretation of the provisions hereof. This Settlement Agreement shall be  
19 construed and enforced in accordance with and governed by California law.

20 15. Full Integration. Each of the parties represents, warrants, and agrees that in executing  
21 this Settlement Agreement it has relied solely on the statements set forth herein and the advice of its  
22 own counsel. Each of the parties further represents, warrants, and agrees that in executing this  
23 Settlement Agreement it has placed no reliance on any statement, representation, or promise of any  
24 other party, or any other person or entity not expressly set forth herein, or upon the failure of any  
25 party or any other person or entity to make any statement, representation or disclosure of anything  
26 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in  
27 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the  
28

1 introduction of parole evidence to vary, interpret, supplement, or contradict the terms of this  
2 Settlement Agreement.

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

10 17. Voluntary Agreement. Respondent enters into this Settlement Agreement voluntarily  
11 and without coercion and acknowledges that no promises, threats or assurances have been made by  
12 the Commissioner or any officer, or agent thereof, about this Settlement Agreement.

13 18. Effective Date. This Settlement Agreement shall not become effective until signed by  
14 all parties and delivered by the Commissioner’s counsel to Respondent’s counsel at Pfeifer & de la  
15 Mora, LLP, 765 The City Drive South, Suite 440, Orange, CA. 92868.

16 19. Public Record. Respondent acknowledges that this Settlement Agreement is a public  
17 record.

18 20. Authority to Execute. Each signator hereto covenants that he/she possesses all necessary  
19 capacity and authority to sign and enter into this Settlement Agreement.  
20

21 Dated: 9/9/16

JAN LYNN OWEN  
Commissioner of Business Oversight

23 By \_\_\_\_\_  
24 MARY ANN SMITH  
25 Deputy Commissioner  
26 Enforcement Division

26 //  
27 //  
28 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: 9/8/16

UNION HOME MORTGAGE CORPORATION

By \_\_\_\_\_  
BILL COSGROVE  
President & Chief Executive Officer