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

12 In the Matter of:) CRMLA LICENSE NO.: 41DBO-50352
13)
14 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
15 Complainant,) CONSENT ORDER
16 v.)
17 RESOURCE FINANCIAL SERVICES, INC.,)
18 Respondent.)
19)
20)

21 The Commissioner of Business Oversight (Commissioner) and Resource Financial Services,
22 Inc. (RFS), enter this Consent Order with respect to the following facts:

23 I.

24 RECITALS

25 A. The Commissioner has jurisdiction over the licensing and regulation of persons and
26 entities engaged in the business of making residential mortgage loans under the California
27 Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.).
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1 B. RFS is a corporation with a principal place of business at 2717 Devine Street,
2 Columbia, South Carolina 29205.

3 C. RFS is licensed as a mortgage lender under the CRMLA under license number
4 41DBO-50352.

5 D. On or about September 26, 2018, the Commissioner provided RFS with a notice of its
6 annual assessment pursuant to Financial Code 50401, subdivision (c).

7 E. Financial Code section 50401, subdivision (c) requires CRMLA licensees to pay their
8 annual assessment within 20 days of receipt of their assessment notice.

9 F. Financial Code section 50401, subdivision (d) provides that if a CRMLA licensee
10 does not pay its annual assessment on or before the 30th day following the day upon which payment
11 is due, the Commissioner may summarily suspend or revoke the license issued to the licensee.

12 F. RFS did not pay its annual assessment on or before the 30th day following the
13 assessment due date.

14 G. In accordance with Financial Code section 50401, subdivision (d), the Commissioner
15 issued an order summarily revoking RFS's CRMLA license (Summary Revocation Order) on
16 February 1, 2019.

17 H. On March 8, 2019, RFS paid its overdue annual assessment.

18 L. The Commissioner finds that entering this Consent Order is in the public interest and
19 consistent with the purposes fairly intended by the policies and provisions of the CRMLA.

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

22 **II.**

23 **TERMS AND CONDITIONS**

24 1. Purpose. This Consent Order resolves the issues before the Commissioner in a
25 manner that avoids the expense of a hearing and other possible court proceedings, protects
26 consumers, is in the public interest, and is consistent with the purposes, policies, and provisions of
27 the applicable law.

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1 2. Order Rescinding Revocation Order. The Commissioner hereby rescinds the
2 Summary Revocation Order issued on February 1, 2019.

3 3. Administrative Penalty. RFS shall pay an administrative penalty of \$5,000.00 no later
4 than 30 days after the effective date of this Consent Order as defined in paragraph 19. The penalty
5 must be made payable in the form of a cashier’s check or Automated Clearing House deposit to the
6 Department of Business Oversight and transmitted to the attention of Accounting – Litigation, at the
7 Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice
8 of the payment must be concurrently sent to Charles Carriere, Counsel, Department of Business
9 Oversight, One Sansome Street, Suite 600, San Francisco, California 94104.

10 4. Failure to Pay Administrative Penalty. If RFS fails to comply with paragraph 3, the
11 Commissioner may summarily suspend it from engaging in business under its license until it
12 provides evidence of compliance to the Commissioner’s satisfaction. RFS hereby waives any notice
13 or hearing rights afforded under the Administrative Procedure Act, including Government Code
14 section 11415.60, subdivision (b); the Code of Civil Procedure; or any other provision of law to
15 contest the summary suspension contemplated by this paragraph.

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

24 6. Full and Final Resolution. Except as stated in paragraph 4, this Consent Order is
25 intended to constitute a full and final resolution of the matter described in it. The
26 Commissioner will not bring any further action or proceeding concerning the matter unless she
27 discovers violations by RFS that do not form the basis for this Consent Order, including violations
28 knowingly concealed from the Commissioner.

1 7. Information Willfully Withheld. This Consent Order may be revoked and the
2 Commissioner may pursue any and all remedies available under law against RFS if the
3 Commissioner later discovers that RFS knowingly or willfully withheld information used for and
4 relied upon in this Consent Order.

5 8. Commissioner’s Duties. Nothing in this Consent Order limits the
6 Commissioner’s ability to assist any other government agency with any action brought by that
7 agency against RFS, including an action based on any of the acts, omissions, or events
8 described in this Consent Order.

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

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

22 11. Full Integration. This Consent Order is the final written expression and the complete
23 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
24 between the parties with respect to the subject matter hereof, and supersedes all prior or
25 contemporaneous agreements, negotiations, representations, understandings, and discussions
26 between and among the parties, their respective representatives, and any other person or entity, with
27 respect to the subject matter covered hereby. The parties have included this clause to preclude the
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1 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Consent
2 Order.

3 12. No Presumption Against Drafter. In that the parties have had the opportunity to draft,
4 review, and edit the language of this Consent Order, no presumption for or against any party arising
5 out of drafting all or any part of this Consent Order will be applied in any action relating to,
6 connected to, or involving this Consent Order. Accordingly, the parties waive the benefit of Civil
7 Code section 1654 and any successor or amended statutes, 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 13. Voluntary Agreement. RFS hereby enters in this Consent Order voluntarily and
11 without coercion and acknowledges that no promises, threats, or assurances have been made by the
12 Commissioner or any officer, or agent thereof, about this Consent Order.

13 14. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
14 this Consent Order will be valid or binding unless it is in writing and signed by all parties
15 affected by it. Waiver of a provision of this Consent Order will not be deemed a waiver of
16 any other provision.

17 15. Counterparts. The parties agree that this Consent Order may be executed in one or
18 more separate counterparts, each of which when so executed, shall be deemed an original. A fax or
19 electronic mail signature shall be deemed the same as an original signature. Such counterparts shall
20 together constitute and be one and the same instrument.

21 16. Public Record. RFS acknowledges that the Consent Order is public record.

22 17. Headings. The headings to the paragraphs of this Consent Order are inserted for
23 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
24 the provisions hereof.

25 18. Governing Law. This Consent Order shall be construed and enforced in accordance
26 with and governed by California law.

27 19. Effective Date. This Consent Order will become effective on the date it is
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signed by all parties and delivered by the Commissioner to RFS’s Counsel Michael Pfeifer by electronic mail.

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

21. Settlement Authority. Each party represents that the person signing this Consent Order on its behalf has the authority and capacity to do so.

Dated: March 28, 2019

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: March 28, 2019

Resource Financial Services, Inc.,

By _____
ALBERT DOUROUX
President