

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN M. ROONEY  
Assistant Chief Counsel  
3 DANIELLE A. STOUMBOS (State Bar No. 264784)  
Senior Counsel  
4 Department of Business Oversight  
320 West 4th Street, Suite 750  
5 Los Angeles, California 90013  
Telephone: (213) 576-7591  
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

11 In the Matter of:	)	CRMLA LICENSE NO.: 415-0080
12 THE COMMISSIONER OF BUSINESS	)	NMLS NO.: 460151
13 OVERSIGHT,	)	
14 Complainant,	)	CONSENT ORDER
15 v.	)	
16 PRIVATE MORTGAGE ADVISORS, LLC,	)	
17 Respondent.	)	

18  
19 This Consent Order is entered into between the Commissioner of Business Oversight  
20 (Commissioner) and Private Mortgage Advisors, LLC (PMA) (collectively the Parties) and is made  
21 with respect to the following facts:

22 **I.**

23 **Recitals**

24 A. The Department of Business Oversight, through the Commissioner, is authorized to  
25 administer and enforce the provisions of the California Residential Mortgage Lending Act (Fin.  
26 Code, § 50000 et seq.) (CRMLA) and the rules issued under title 10 of the California Code of  
27 Regulations (CCR) that regulate the business and activities of residential mortgage lenders.

1 B. Private Mortgage Advisors, LLC is a residential mortgage lender licensed by the  
2 Commissioner under the CRMLA. PMA has a principle place of business located at 390 Diablo  
3 Road, Suite 100, Danville, California.

4 C. On or around August 17, 2017, the Commissioner commenced a regulatory  
5 examination (the 2017 Exam) of PMA’s books and records under the CRMLA.

6 D. During the 2017 Exam, the Commissioner found that PMA’s partial owner, Stearns  
7 Lending, LLC, was listed as the lender on two HUD-1 settlement statements prepared by a third-  
8 party title company which PMA reviewed and did not correct in 2015. The Commissioner  
9 maintains that in such circumstances, PMA engaged in business as a residential mortgage lender  
10 under a name other than the name that appears on its license in violation of Financial Code section  
11 50120, subdivision (b).

12 E. The Commissioner finds that entering into this Consent Order is in the public  
13 interest and consistent with the purposes fairly intended by the policy and provisions of the  
14 CRMLA.

15 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set  
16 forth herein, the Parties agree as follows:

17 **II.**

18 **Terms and Conditions**

19 1. Purpose. This Consent Order resolves the issues before the Commissioner [findings  
20 of the 2017 Exam of PMA set forth in paragraph D above] in a manner that avoids the expense of a  
21 hearing and other possible court proceedings, protects consumers, is in the public interest, and is  
22 consistent with the purposes, policies, and provisions of the applicable law.

23 2. Order to Discontinue Violations. PMA hereby agrees that in accordance with  
24 Financial Code section 50321, it will immediately discontinue the violations set forth herein.

25 3. Final Order to Discontinue. PMA agrees that the Order to Discontinue Violations as  
26 described in Paragraph 2 above is hereby deemed a final order.  
27  
28

1           4.     Penalties. PMA shall pay a penalty of \$2,500.00 for the violations discussed herein.  
2 The Commissioner acknowledges receipt of payment of the penalty from PMA contemporaneous  
3 with the execution of this Consent Order.

4           5.     Policies and Procedures. PMA submitted to the Commissioner procedures  
5 implemented to correct and prevent the violations set forth in this Consent Order.

6           6.     Waiver of Hearing Rights. PMA acknowledges the Commissioner is ready, willing,  
7 and able to proceed with the filing of an administrative enforcement action on the charges contained  
8 in this Consent Order. PMA hereby waives the right to any hearings, and to any reconsideration,  
9 appeal, or other right to review which may be afforded pursuant to the CRMLA, the California  
10 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law.  
11 PMA further expressly waives any requirement for the filing of an Accusation pursuant to  
12 Government Code section 11415.60, subdivision (b). By waiving such rights, PMA effectively  
13 consents to this Consent Order and Order to Discontinue Violations becoming final.

14           7.     Full and Final Settlement. The Parties hereby acknowledge and agree that this  
15 Consent Order is intended to constitute a full, final, and complete resolution of the violations  
16 described herein and that no further proceedings or actions will be brought by the Commissioner in  
17 connection with these matters except under the CRMLA or any other provision of law, excepting  
18 therefrom any proceeding to enforce compliance with the terms of this Consent Order.

19           8.     Failure to Comply with Consent Order. PMA agrees that if it fails to comply with  
20 the terms of this Consent Order, the Commissioner may, in addition to all other available remedies  
21 it may invoke under the CRMLA, summarily suspend/revoke the CRMLA licenses of PMA until  
22 PMA is in compliance. PMA waives any notice and hearing rights to contest such summary  
23 suspensions which may be afforded under the CRMLA, the California Administrative Procedure  
24 Act, the California Code of Civil Procedure, or any other provision of law in connection therewith.

25           9.     Information Willfully Withheld. This Consent Order may be revoked, and the  
26 Commissioner may pursue any and all remedies available under the law against PMA if the  
27 Commissioner discovers that PMA knowingly or willfully withheld information used for and relied  
28 upon in this Consent Order.

1           10.    Future Actions by Commissioner. If PMA fails to comply with any term of the  
2 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise  
3 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions  
4 against PMA, or any of its partners, owners, officers, shareholders, directors, employees or  
5 successors for any and all unknown violations of the CRMLA.

6           11.    Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner’s  
7 ability to assist any other government agency (city, county, state, or federal) with any prosecution,  
8 administrative, civil or criminal brought by that agency against PMA or any other person based  
9 upon any of the activities alleged in this matter or otherwise.

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

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

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

24          15.    Waiver, Amendments, and Modifications. No waiver, amendment, or modification  
25 of this Consent Order will be valid or binding unless it is in writing and signed by each of the  
26 Parties. The waiver of any provision of this Settlement Agreement will not be deemed a waiver of  
27 any other provision.  
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1           16.    Full Integration. This Consent Order is the final written expression and the complete  
2 and exclusive statement of all the agreements, conditions, promises, representations, and covenant  
3 between the parties with respect to the subject matter hereof, and supersedes all prior or  
4 contemporaneous agreements, negotiations, representations, understandings, and discussions  
5 between and among the parties, their respective representatives, and any other person or entity with  
6 respect to the subject matter covered hereby.

7           17.    No Presumption Against Drafting Party. Each party acknowledges that it has had the  
8 opportunity to draft, review and edit the language of this Consent Order. Accordingly, the Parties  
9 intend that no presumption for or against the drafting party will apply in construing any part of this  
10 Consent Order. The Parties waive the benefit of Civil Code section 1654 as amended or  
11 corresponding provisions of any successor statute, which provide that in cases of uncertainty,  
12 language of a contract should be interpreted most strongly against the party who caused the  
13 uncertainty to exist.

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

17           19.    Effect Upon Future Proceedings. If Respondent applies for any license, permit, or  
18 qualification under the Commissioner’s current or future jurisdiction, or is the subject of any future  
19 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be  
20 admitted for the purpose of such application(s) or enforcement proceeding(s).

21           20.    Third Party Actions. This Consent Order does not create any private rights or  
22 remedies against PMA, create any liability for PMA, create any contractual third-party  
23 beneficiaries, or limit defenses of PMA for any person or entity not a party to this Consent Order.

24           21.    Governing Law. This Consent Order will be governed by and construed in  
25 accordance with California law.

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

1           23.    Voluntary Agreement. PMA enters this Consent Order voluntarily and without  
2 coercion and acknowledges that no promises, threats or assurances have been made by the  
3 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each  
4 represent and acknowledge that he, she or it is executing this Consent Order completely voluntarily  
5 and without any duress or undue influence of any kind from any source.

6           24.    Notice. Any notice required under this Consent Order shall be provided to each  
7 party at the following addresses:

8           To PMA:                           Private Mortgage Advisors, LLC  
9   390 Diablo Road, Suite 100  
10    Danville, California 94526

11    and

12    Todd Bergwall, Counsel for PMA  
13    tbergwall@stearns.com

14           To the Commissioner:           Danielle A. Stoumbos, Senior Counsel  
15    Department of Business Oversight  
16    320 West 4<sup>th</sup> Street Suite 750  
17    Los Angeles, California 90013  
18    Danielle.Stoumbos@dbo.ca.gov

19           25.    Signatures. This Consent Order may be executed by facsimile or scanned signature,  
20 and any such facsimile or scanned signature by any party hereto shall be deemed to be an original  
21 signature and shall be binding on such party to the same extent as if such facsimile or scanned  
22 signature were an original signature.

23           26.    Public Record. PMA acknowledges that this Consent Order is and will be a matter  
24 of public record.

25           27.    Effective Date. This Consent Order shall become final and effective when signed by  
26 all parties and delivered by the Commissioner’s agent via e-mail to PMA’s counsel, Todd Bergwall  
27 at tbergwall@stearns.com.

28    ///  
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1           28.    Authority to Sign. Each signatory hereto covenants that he/she possesses all  
2 necessary capacity and authority to sign and enter into this Consent Order and undertake the  
3 obligations set forth herein.

4 Dated: 6/11/19

MANUEL P. ALVAREZ  
Commissioner of Business Oversight

6 By: \_\_\_\_\_  
7 MARY ANN SMITH  
8 Deputy Commissioner

9 Dated: 6/4/19

PRIVATE MORTGAGE ADVISORS, LLC

11 By: \_\_\_\_\_  
12 JOHN F. DUTRA  
13 President