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

11 In the Matter of:)	CRMLA LICENSE NO.: 417-0015
)	CFL LICENSE NO.: 607-1771
12 THE COMMISSIONER OF BUSINESS)	STATEMENT OF FACTS IN SUPPORT OF
13 OVERSIGHT,)	ORDER TO DISCONTINUE VIOLATIONS
)	PURSUANT TO FINANCIAL CODE
14 Complainant,)	SECTION 50321 AND NOTICE OF INTENT
)	TO MAKE ORDER FINAL
15 v.)	
)	
16 SIERRA PACIFIC MORTGAGE COMPANY,)	
17 INC.,)	
)	
18 Respondent.)	
)	

20 The Complainant, the Commissioner of Business Oversight (Commissioner) of the
21 Department of Business Oversight (Department), is informed and believes, and based upon such
22 information and belief, alleges and charges Sierra Pacific Mortgage Company, Inc. (Sierra Pacific)
23 as follows:

24 1. Sierra Pacific is a residential mortgage lender and servicer licensed by the
25 Commissioner pursuant to the California Residential Mortgage Lending Act, commencing at Fin.
26 Code, § 50000 *et seq.* (CRMLA).

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1 2. Sierra Pacific is also a finance lender licensed by the Commissioner pursuant to the
2 California Financing Law, commencing at Fin. Code, § 50000 *et seq.* (CFL).¹

3 3. Sierra Pacific’s principal place of business is located at 1180 Iron Point Road, Suite
4 200, Folsom, California 95630. Sierra Pacific employs mortgage loan originators.

5 4. On or around July 2, 2018, the Commissioner commenced a regulatory examination
6 of the books and records of Sierra Pacific pursuant to Section 50302 of the CRMLA and Section
7 22701 of the CFL (2018 Regulatory Exam).

8 5. The 2018 Regulatory Exam disclosed multiple violations of the CRMLA and CFL,
9 as follows:

10 a. As of April 30, 2018 Sierra Pacific commingled operating funds with trust
11 account funds by having an excess of \$86,718.73 in account number ending in 7025, which is the
12 trust account for maintaining escrow impounds (Account 7025), and an excess of \$39.92 in account
13 number ending in 5860, which is the trust account for maintaining Mortgage Insurance Premium
14 (MIP) funds collected from borrowers (Account 5860), in violation of Financial Code section
15 50202, subdivision (b).

16 b. As of April 30, 2018, Sierra Pacific failed to reconcile the trust account
17 ledger cards with the liability controlling account at least once each week, and failed to reconcile
18 the trust account ledger cards and liability controlling accounts to the trust account bank statement
19 at least once each month, in violation of California Code of Regulations, title 10, section
20 1950.314.1.

21 c. On or around December 21, 2018, Sierra Pacific submitted updated financial
22 statements including its trial balance, reconciliation for cash accounts, and subsidiary ledgers
23 showing that as of October 31, 2018, Account 7025 had an excess of \$24,780.75 and Account 5860
24 had an excess of \$962.01, in violation of Financial Code section 50202, subdivision (b).

25 d. In or around May 2017, Sierra Pacific failed to provide the Consumer
26 Handbook on Adjustable Rate Mortgage (CHARM) booklet and the Adjustable Rate Mortgage

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28 ¹ Effective October 4, 2017, the name of the “California Finance Lenders Law” changed to the “California Financing Law.” (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the California Financing Law means the California Finance Lenders Law before October 4, 2017 and the California Financing Law on and after that date. (Fin. Code, § 22000.)

1 (ARM) disclosures to at least one borrower, in violation of Financial Code section 50505 and Code
2 of Federal Regulations, title 12, section 1026.19, paragraph (b).

3 e. In or around June through September 2017, Sierra Pacific failed to provide a
4 written loan brokerage agreement to at least three borrowers, in violation of Financial Code section
5 50701, subdivision (a).

6 f. In or around May through July 2017, Sierra Pacific provided a written loan
7 brokerage agreement to at least three borrowers that failed to state that “(1) the licensee is acting as
8 the agent of the borrower in providing brokerage services to the borrower, and (2) when acting as
9 agent for the borrower, it owes to that borrower a fiduciary duty of utmost care, honesty, and
10 loyalty in the transaction, including the duty of full disclosure of all material facts,” in
11 violation of Financial Code section 50701, subdivision (d).

12 g. In or around October 2017 and April 2018, Sierra Pacific charged at least one
13 borrower more than one fee for appraising the same real property, even though the borrower had not
14 obtained a new or additional loan and not more than one year had elapsed since the prior appraisal,
15 in violation of Financial Code section 22317. On or around October 18, 2018, Sierra Pacific
16 refunded the borrower the amount of the second appraisal fee.

17 h. In or around September 2017 through May 2018, Sierra Pacific stated
18 “Recording Fees” on the Final Settlement Statements and Final Closing Disclosures under “Taxes
19 and Other Government Fees” that exceeded the actual recording fees paid to various counties
20 recorders as shown on recorded documents, in violation of Financial Code section 50204,
21 subdivision (i) and Financial Code section 22336, subdivision (a). In or around October and
22 December 2018, Sierra Pacific refunded at least six borrowers in the amounts of the excess
23 recording fees.

24 6. By reason of the foregoing, Sierra Pacific has violated the following provisions of
25 the CRMLA and CFL:

26 i. Financial Code section 50202, subdivision (b);

27 ii. California Code of Regulations, title 10, section 1950.314.1;

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- iii. Financial Code section 50505 and Code of Federal Regulations, title 12, section 1026.19, paragraph (b);
- iv. Financial Code section 50701, subdivisions (a) and (d);
- v. Financial Code section 22317; and
- vi. Financial Code sections 50204, subdivision (i) and 22336, subdivision (a).

7. Financial Code section 50321 provides:

If, after investigation, the commissioner has reasonable grounds to believe that any licensee has violated its articles of incorporation or any law or rule binding upon it, the commissioner shall, by written order addressed to the licensee, direct the discontinuance of the violation. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 50323.

8. Financial Code section 50323 provides:

(a) No order issued pursuant to Section 50321 or 50322 may become final except after notice to the affected licensee of the commissioner’s intention to make the order final and of the reasons for the finding. The commissioner shall also notify the licensee that upon receiving a request the matter will be set for hearing to commence within 15 business days after receipt. The licensee may consent to have the hearing commence at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without hearing and the licensee shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted under that act. If, upon the hearing, it appears to the commissioner that the licensee is conducting business in an unsafe and injurious manner or is violating its articles of incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If the enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.

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WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to Financial Code Section 50321 and notifying Sierra Pacific Mortgage Company, Inc. of his intent to make the order final.

Dated: August 26, 2019
Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
SOPHIA C. KIM
Senior Counsel
Enforcement Division