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8 Attorneys for Complainant

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

12 In the Matter of:)	CFL License No.: 603D490
13 THE COMMISSIONER OF BUSINESS)	
14 OVERSIGHT,)	CONSENT ORDER
15 Complainant,)	
16 v.)	
17 FFC MORTGAGE CORP.,)	
18 Respondent.)	
19 _____)	

21 The Commissioner of Business Oversight (Commissioner) and FFC Mortgage Corp. (FFC),
22 (collectively, Parties), enter into this Consent Order with respect to the following facts:

23 RECITALS

- 24 A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities
- 25 engaged in the business of making consumer and commercial loans pursuant to the California
- 26 Financing Law (CFL) (Fin. Code, § 22000 et seq.).
- 27 B. FFC is a finance lender that was licensed by the Commissioner from August 28, 2006 to
- 28 December 29, 2019 (CFL License No. 603D490). FFC has its principal office located at 155

1 Corporate Woods, Suite 320, Rochester, New York 14623.

2 C. FFC has no branch locations in California.

3 D. Thomas Flaherty is the CEO and a control person of FFC and, as such, is authorized to enter
4 into this Consent Order on FFC's behalf.

5 E. In accordance with Financial Code section 22107, each finance lender, broker, or program
6 administrator licensee shall pay to the Commissioner its pro rata share of all costs and expenses,
7 including the costs and expenses associated with the licensing of mortgage loan originators it
8 employs, reasonably incurred in the administration of this division, as estimated by the
9 Commissioner, for the ensuing year and any deficit actually incurred or anticipated in the
10 administration of the program in the year in which the assessment is made. CFL licensees must pay
11 the annual assessment on or before the 31st day of October each year.

12 F. On September 30, 2019, the Commissioner sent FFC an Assessment Notice per invoice
13 number CF1237. The notice was mailed to the address FFC registered with the Department
14 (Registered Address): 155 Corporate Woods, Suite 320, Rochester, New York 14623. The notice
15 stated that the annual assessment would become delinquent if not paid by October 31, 2019.

16 G. As of October 31, 2019, FFC had not paid its annual assessment. The failure to pay the annual
17 assessment on or before October 31, 2019 represents a violation of Financial Code section 22107.

18 H. As of November 6, 2019, FFC had not paid its annual assessment. As a result, the
19 Commissioner sent to FFC Mortgage's Registered Address a Notice of Unpaid Assessment on
20 November 6, 2019. The notice warned that failure to pay the assessment would result in summary
21 revocation of FFC's license. FFC did not respond to the Commissioner's notice.

22 I. As of December 6, 2019, FFC had not paid its annual assessment. As a result, on December 6,
23 2019, the Commissioner issued an Order Summarily Revoking California Financing Law License
24 Pursuant to Financial Code Section 22107 for CFL License Number 603D490 (Revocation Order).
25 The Commissioner mailed the Revocation Order to FFC's Registered Address along with notice that
26 it would become effective December 30, 2019 unless payment of the annual assessment was received
27 by close of business on December 27, 2019.

28 J. As of December 27, 2019, the assessment remained unpaid. As such, the Revocation Order

1 became effective December 30, 2019.

2 K. Upon receiving the Revocation Order, FFC timely notified the Commissioner that FFC was
3 requesting a hearing on the Revocation Order.

4 L. FFC admits to the jurisdiction of the Commissioner and it is the intention of the parties to resolve
5 this matter without the necessity of a hearing and/or other litigation.

6 M. The Commissioner finds that entering into this Consent Order is in the public interest and
7 consistent with the purposes fairly intended by the CFL.

8 NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set
9 forth herein, the Parties agree as follows:

10 TERMS

11 1. Purpose. This Consent Order resolves the issues before the Commissioner described
12 above in a manner that avoids the expense of a hearing and other possible court proceedings,
13 protects consumers, is in the public interest, and is consistent with the purposes, policies, and
14 provisions of the CFL.

15 2. Desist and Refrain Order. Pursuant to Financial Code section 22712, FFC is hereby
16 ordered to desist and refrain from failing to timely pay the annual assessment in violation of
17 Financial Code section 22107.

18 3. Order Rescinding Revocation Order(s). The Commissioner hereby rescinds the
19 Revocation Order, which was issued on December 6, 2019, and became effective on December 30,
20 2019, as of the effective date of revocation.

21 4. Order to Pay Annual Assessment. Pursuant to Financial Code section 22107, the
22 Commissioner hereby orders FFC to pay \$250.00 to the Department of Business Oversight for the
23 2019 – 2020 annual assessment. The annual assessment shall be paid to the Commissioner within 30
24 days of the Effective Date of this Consent Order as defined in paragraph 23. The annual assessment
25 shall be labeled “2019 – 2020 annual assessment” and made payable in the form of a cashier’s check
26 or Automated Clearing House deposit to the “Department of Business Oversight,” and transmitted to
27 the attention of:
28

1 ATTN: Accounting
2 Department of Business Oversight
3 1515 K Street, Suite 200
 Sacramento, California 95814

4 Notice of payment shall be made via email to Trevor Carroll, Counsel at Department of
5 Business Oversight, at trevor.carroll@dbo.ca.gov.

6 5. Administrative Penalties and Fines. FFC shall pay administrative fines and penalties in
7 the amount of \$2,500.00 for the violation of the CFL enumerated herein. All fines and penalties shall
8 be labeled “fines and penalties” and made payable in the form of a cashier’s check or Automated
9 Clearing House deposit to the “Department of Business Oversight,” and transmitted to the attention
10 of:

11 ATTN: Accounting – Litigation
12 Department of Business Oversight
13 1515 K Street, Suite 200
 Sacramento, California 95814

14 Notice of payment shall be made via email to Trevor Carroll, Counsel at Department of
15 Business Oversight, at trevor.carroll@dbo.ca.gov.

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

24 7. Failure to Comply with Consent Order. FFC agrees that if it fails to comply with the
25 terms of this Consent Order, the Commissioner may, in addition to all other available remedies it
26 may invoke under the CFL, summarily suspend or revoke the CFL license of FFC until FFC is in
27 compliance. FFC waives any notice and hearing rights to contest such summary suspension which
28 may be afforded under the CFL, the California Administrative Procedure Act, the California Code of

1 Civil Procedure, or any other provision of law in connection therewith.

2 8. Information Willfully Withheld or Misrepresented. This Consent Order may be revoked,
3 and the Commissioner may pursue any and all remedies available under law against FFC if the
4 Commissioner discovers that FFC knowingly or willfully withheld or misrepresented information
5 used for and relied upon in this Consent Order.

6 9. Future Actions by the Commissioner. If FFC fails to comply with any terms of the
7 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
8 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions
9 against FFC, or any of its partners, owners, officers, shareholders, directors, employees or successors
10 for any and all unknown violations of the CFL.

11 10. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's
12 ability to assist any other government agency (city, county, state, or federal) with any prosecution,
13 administrative, civil or criminal brought by that agency against FFC or any other person based upon
14 any of the activities alleged in this matter or otherwise.

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

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

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

1 14. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
2 this Consent Order will be valid or binding unless it is in writing and signed by each of the parties.
3 The waiver of any provision of this Consent Order will not be deemed a waiver of any other
4 provision. No waiver by either party of any breach of, or of compliance with, any condition or
5 provision of this Consent Order by the other party will be considered a waiver of any other condition
6 or provision or of the same condition or provision at another time.

7 15. Full Integration. This Consent Order is the final written expression and the complete and
8 exclusive statement of all the agreements, conditions, promises, representations, and covenant
9 between the parties with respect to the subject matter hereof, and supersedes all prior or
10 contemporaneous agreements, negotiations, representations, understandings, and discussions
11 between and among the parties, their respective representatives, and any other person or entity, with
12 respect to the subject matter covered hereby.

13 16. Governing Law. This Consent Order will be governed by and construed in accordance
14 with California law. Each of the parties hereto consents to the jurisdiction of such court, and hereby
15 irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to
16 the maintenance of such action or proceeding in such court.

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

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

24 19. Voluntary Agreement. FFC enters this Consent Order voluntarily and without coercion
25 and acknowledges that no promises, threats or assurances have been made by the Commissioner or
26 any officer, or agent thereof, about this Consent Order. The parties each represent and acknowledge
27 that he, she or it is executing this Consent Order completely voluntarily and without any duress or
28 undue influence of any kind from any source.

1 20. Notice. Any notice required under this Consent Order be provided to each party at the
2 following addresses:

3 To FFC:

4 Thomas Flaherty
5 FFC Mortgage Corp
6 155 Corporate Woods, Suite 320
7 Rochester, New York 14623
8 tflaherty@ffcmortgage.com

8 To the Commissioner:

9 Trevor J. Carroll, Counsel
10 Department of Business Oversight
11 Enforcement Division
12 1515 K Street, Suite 200
13 Sacramento, California 95814
14 trevor.carroll@dbo.ca.gov

14 21. Signatures. A fax or electronic mail signature shall be deemed the same as an original
15 signature.

16 22. Public Record. FFC hereby acknowledges that this Consent Order is and will be a matter
17 of public record.

18 23. Effective Date. This Consent Order shall become final and effective when signed by all
19 parties and delivered by the Commissioner's agent via email to FFC's representative, at
20 tflaherty@ffcmortgage.com.

21 24. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary
22 capacity and authority to sign and enter into this Consent Order and undertake the obligations set
23 forth herein.

25 Dated: February 6, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

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By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: February 5, 2020

By _____
FFC MORTGAGE CORP.
