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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 Nos.: 603K515, 603K516,
)	603K776
13 THE COMMISSIONER OF BUSINESS)	
14 OVERSIGHT,)	CONSENT ORDER
)	
15 Complainant,)	
)	
16 v.)	
)	
17 LMF COMMERCIAL, LLC,)	
)	
18 Respondent.)	
)	
19 _____)	

20
21 The Commissioner of Business Oversight (Commissioner) and LMF Commercial, LLC
22 (LMF), formerly known as Rialto Mortgage Finance, LLC (collectively, Parties), enter into this
23 Consent Order with respect to the following facts:

24 RECITALS

25 A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities
26 engaged in the business of making consumer and commercial loans pursuant to the California
27 Financing Law (CFL) (Fin. Code, § 22000 et seq.).

28 B. LMF is a finance lender that was licensed by the Commissioner from December 10, 2013 to

1 December 29, 2019 (CFL License No. 603K515, 603K516, 603K776). LMF was previously known
2 as Rialto Mortgage Finance, LLC, but changed its name to LMF Commercial, LLC on January 31,
3 2020. LMF has its principal office located at 760 NW 107th Avenue, 4th Floor, Miami, Florida
4 33172.

5 C. LMF has one branch location in California.

6 D. John Herman is the Chief Investment Officer and a control person of LMF and, as such, is
7 authorized to enter into this Consent Order on LMF's behalf.

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

15 F. Pursuant to Financial Code section 22153, a licensee is required to submit a change of address
16 form 10 days prior to an address change.

17 G. On September 30, 2019, the Commissioner sent LMF the Assessment Notice per invoice
18 number CF2751. The notice was mailed to the address LMF registered with the Department
19 (Registered Address): 790 NW 107th Avenue, Suite 400, Miami, Florida 33172. The notice stated
20 that the annual assessment would become delinquent if not paid by October 31, 2019.

21 H. As of October 31, 2019, LMF had not paid its annual assessment. The failure to pay the annual
22 assessment on or before October 31, 2019 represents a violation of Financial Code section 22107.

23 I. As of November 6, 2019, LMF had not paid its annual assessment. As a result, the
24 Commissioner sent to LMF's Registered Address a Notice of Unpaid Assessment on November 6,
25 2019. The notice warned that failure to pay the assessment would result in summary revocation of
26 LMF's license. LMF did not respond to the Commissioner's notice.

27 J. As of December 6, 2019, LMF had not paid its annual assessment. As a result, on December
28 6, 2019, the Commissioner issued an Order Summarily Revoking California Financing Law License

1 Pursuant to Financial Code Section 22107 for CFL License Numbers 603K515, 603K516, 603K776
2 (Revocation Orders). The Commissioner mailed the Revocation Orders to LMF's Registered Address
3 along with notice that they would become effective December 30, 2019 unless payment of the annual
4 assessment was received by close of business on December 27, 2019.

5 K. As of December 27, 2019, the assessment remained unpaid. As such, the Revocation Orders
6 became effective December 30, 2019.

7 L. LMF stated that it did not receive the notices or the Revocation Orders because it failed to
8 properly notify the Commissioner that it had changed its place of business to a street address other than
9 that designated on its license, as required by Financial Code section 22153.

10 M. LMF admits to the jurisdiction of the Commissioner and it is the intention of the parties to
11 resolve this matter without the necessity of a hearing and/or other litigation.

12 N. The Commissioner finds that entering into this Consent Order is in the public interest and
13 consistent with the purposes fairly intended by the CFL.

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

16 TERMS

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

21 2. Desist and Refrain Order. Pursuant to Financial Code section 22712, LMF is hereby
22 ordered to desist and refrain from failing to timely pay the annual assessment in violation of
23 Financial Code section 22107.

24 3. Order Rescinding Revocation Order(s). The Commissioner hereby rescinds the
25 Revocation Orders, which were issued on December 6, 2019, and became effective on December 30,
26 2019, as of the effective date of revocation.

27 4. Order to Pay Annual Assessment. Pursuant to Financial Code section 22107, the
28 Commissioner hereby orders LMF to pay \$750.00 to the Department of Business Oversight for the

1 2019 – 2020 annual assessment. The annual assessment shall be paid to the Commissioner within 30
2 days of the Effective Date of this Consent Order as defined in paragraph 23. The annual assessment
3 shall be labeled “2019 – 2020 annual assessment” and made payable in the form of a cashier’s check
4 or Automated Clearing House deposit to the “Department of Business Oversight,” and transmitted to
5 the attention of:

6 ATTN: Accounting
7 Department of Business Oversight
8 1515 K Street, Suite 200
9 Sacramento, California 95814

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

12 5. Administrative Penalties and Fines. LMF shall pay administrative fines and penalties in
13 the amount of \$8,000.00 for the violation of the CFL enumerated herein. All fines and penalties shall
14 be labeled “fines and penalties” and made payable in the form of a cashier’s check or Automated
15 Clearing House deposit to the “Department of Business Oversight,” and transmitted to the attention
16 of:

17 ATTN: Accounting – Litigation
18 Department of Business Oversight
19 1515 K Street, Suite 200
20 Sacramento, California 95814

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

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

1 7. Failure to Comply with Consent Order. LMF agrees that if it fails to comply with the
2 terms of this Consent Order, the Commissioner may, in addition to all other available remedies it
3 may invoke under the CFL, summarily suspend or revoke the CFL license of LMF until LMF is in
4 compliance. LMF waives any notice and hearing rights to contest such summary suspension which
5 may be afforded under the CFL, the California Administrative Procedure Act, the California Code of
6 Civil Procedure, or any other provision of law in connection therewith.

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

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

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

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

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

25 13. Reliance. Each of the parties represents, warrants, and agrees that in executing this
26 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel.
27 Each of the parties further represents, warrants, and agrees that in executing this Agreement it has
28 placed no reliance on any statement, representation, or promise of any other party, or any other

1 person or entity not expressly set forth herein, or upon the failure of any party or any other person or
2 entity to make any statement, representation or disclosure of anything whatsoever. The parties have
3 included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to
4 execute this Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret,
5 supplement, or contradict the terms of this Agreement.

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

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

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

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

25 18. Effect Upon Future Proceedings. If LMF applies for any license, permit, or qualification
26 under the Commissioner's current or future jurisdiction, or is the subject of any future action by the
27 Commissioner to enforce this Consent Order, then the subject matter hereof shall be admitted for the
28 purpose of such application(s) or enforcement proceedings(s).

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

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

8 To LMF Commercial, LLC:

9 John Herman
10 LMF Commercial, LLC
11 590 Madison Avenue, Floor 9
12 New York, New York 10022
13 john.herman@lmfcommercial.com

14 To the Commissioner:

15 Trevor J. Carroll, Counsel
16 Department of Business Oversight
17 Enforcement Division
18 1515 K Street, Suite 200
19 Sacramento, California 95814
20 trevor.carroll@dbo.ca.gov

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

23 22. Public Record. LMF hereby acknowledges that this Consent Order is and will be a
24 matter of public record.

25 23. Effective Date. This Consent Order shall become final and effective when signed by all
26 parties and delivered by the Commissioner's agent via email to LMF's representative, at
27 john.herman@lmfcommercial.com.

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

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5 Dated: February 5, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

6
7 By _____
8 MARY ANN SMITH
9 Deputy Commissioner
10 Enforcement Division

11
12 Dated: February 5, 2020

By _____
LMF COMMERCIAL, LLC

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