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

12 In the Matter of:) CFL LICENSE NOS.: 60DBO-85027
13) 60DBO-97048
14 THE COMMISSIONER OF BUSINESS) 60DBO-103868
15 OVERSIGHT,)
16 Complainant,)
17 v.) AMENDED CONSENT ORDER
18 MORTGAGE PROCESSING GROUP, LLC,)
19 Respondent.)
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21 This Consent Order is entered into between the Commissioner of Business Oversight
22 (Complainant or Commissioner) and Respondent Mortgage Processing Group, LLC (Respondent)
23 and is made with respect to the following facts:

24 **I.**

25 **RECITALS**

26 A. The Commissioner has jurisdiction over the licensing and regulation of persons and
27 entities engaged in the business of finance lending or brokering under the California Financing Law
28 (CFL) (Fin. Code, § 22000 et seq.).

1 B. Respondent is a corporation, with a principal place of business at 2525 W. Medina
2 Ave., Mesa, Arizona 85202.

3 C. Respondent is licensed as a finance broker the CFL with main license numbers
4 60DBO-85027, 60DBO-97048, and 60DBO-103868.

5 D. Respondent operates 1 branch office in Arizona.

6 E. In accordance with Financial Code section 22159, CFL licensees must file an annual
7 report with the Commissioner by March 15 of each year (Annual Report).

8 F. On December 16, 2019, the Commissioner notified CFL licensees of the March 15,
9 2020 deadline to file their annual reports by sending notice to the email address of each CFL
10 licensee established pursuant to the Commissioner's Order on Electronic Communications, dated
11 November 22, 2013. The notification admonished licensees that the Commissioner could assess
12 penalties for untimely filing or failing to file pursuant to Financial Code section 22715(b).

13 G. On January 29, 2020, the Commissioner again notified CFL licensees of the March
14 15, 2020 deadline to file their annual reports by sending notice to the email address each CFL
15 licensee established pursuant to the Commissioner's Order on Electronic Communications, dated
16 November 22, 2013. The notification again warned that the Commissioner could assess monetary
17 penalties for untimely filing or failing to file pursuant to Financial Code section 22715(b).

18 H. On March 2, 2020, the Commissioner again notified CFL licensees of the March 15,
19 2020 deadline to file their annual reports by sending notice to the email address each CFL licensee
20 established pursuant to the Commissioner's Order on Electronic Communications, dated November
21 22, 2013. The notification warned that the Commissioner could assess penalties and summarily
22 revoke licenses for untimely filing or failing to file pursuant to Financial Code section 22715.

23 I. As of March 15, 2020, Respondent had not filed its Annual Report with the
24 Commissioner. As a result, the Commissioner issued a notice on March 18, 2020 to Respondent to
25 Respondent's email address established pursuant to the Commissioner's Order on Electronic
26 Communications, dated November 22, 2013, advising Respondent that it should file its annual report
27 by or before March 30, 2020 or else its license would be summarily revoked pursuant to Financial
28 Code section 22715 (Notice email).

1 J. As of March 30, 2020, Respondent had not filed its Annual Report with the
2 Commissioner as directed in the Notice email. As a result, on April 3, 2020, the Commissioner
3 issued an Order Summarily Revoking Finance Lenders and/or Brokers License(s) Pursuant to
4 Financial Code Section 22715 for CFL License Numbers 60DBO-85027, 60DBO-97048, and
5 60DBO-103868 (Summary Revocation Order).

6 K. Upon receiving the Summary Revocation Order(s), Respondent timely notified the
7 Commissioner that Respondent was requesting a hearing on the Summary Revocation Order(s).

8 L. On April 10, 2020, Respondent submitted its Annual Report, which was due on
9 March 15, 2020, 19 business days late. Pursuant to Financial Code Section 22715, the maximum
10 penalty that may be imposed for filing 19 business days late is \$7,500.00 (\$100 per business day for
11 the first five business days and \$500 per business day thereafter up to a maximum of \$25,000).

12 M. In connection with these proceedings, Respondent represented to the Commissioner
13 that it had taken no new applications under its license.

14 N. The Commissioner finds that entering into this Amended Consent Order is in the
15 public interest and consistent with the purposes fairly intended by the policies and provisions of the
16 CFL.

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

19 **II.**

20 **TERMS AND CONDITIONS**

21 **1. Purpose.** The parties intend to resolve this matter for the purpose of judicial economy
22 and expediency and without the uncertainty and expense of a hearing or other litigation.

23 **2. Order Rescinding Penalty Order.** The Commissioner hereby rescinds the Order
24 Summarily Revoking California Finance Lenders License which had been issued on April 3, 2020.

25 **3. Administrative Penalty.** Respondent shall pay an administrative penalty of \$7,500.00
26 no later than 30 days after the effective date of this Amended Consent Order as defined in paragraph
27 25. The penalty must be made payable in the form of a cashier's check or Automated Clearing
28 House deposit to the Department of Business Oversight and transmitted to the attention of

1 Accounting – Litigation, at the Department of Business Oversight, 1515 K Street, Suite 200,
2 Sacramento, California 95814. Notice of the payment must be concurrently sent to Vanessa T. Lu,
3 Counsel, Department of Business Oversight, 1350 Front Street, Room 2034, San Diego, California
4 92101.

5 **4. Failure to Pay Administrative Penalty.** If Respondent fails to comply with paragraph
6 3, the Commissioner may summarily suspend Respondent from engaging in business under its
7 license until it provides evidence of compliance to the Commissioner’s satisfaction. Respondent
8 hereby waives any notice or hearing rights afforded under the Administrative Procedure Act,
9 including Government Code section 11415.60, subdivision (b); Code of Civil Procedure; or any
10 other provision of law to contest the summary suspension contemplated by this paragraph.

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

20 **6. Full and Final Resolution.** The parties hereby acknowledge and agree that this
21 Amended Consent Order is intended to constitute a full and final resolution of the violations
22 described herein, and that no further proceedings or actions will be brought by the Commissioner in
23 connection with these matters except under the CFL or any other provision of law, excepting
24 therefrom any proceeding to enforce compliance with the terms of this Amended Consent Order.

25 **7. Failure to Comply with Amended Consent Order.** Respondent agrees that if it fails to
26 comply with the terms of this Amended Consent Order, the Commissioner may, in addition to all
27 other available remedies it may invoke under the CFL, summarily suspend/revoke the CFL license
28 of Respondent until Respondent is in compliance. Respondent waives any notice and hearing rights

1 to contest such summary suspensions/revocations which may be afforded under the CFL, the
2 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
3 provision of law in connection therewith.

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

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

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

17 **11. No Presumption Against Drafter.** Each party acknowledges that it has had the
18 opportunity to draft, review, and edit the language of this Amended Consent Order. Accordingly,
19 the parties intend no presumption for or against the drafting party will apply in construing any part
20 of this Amended Consent Order. The parties waive the benefit of Civil Code section 1654 as
21 amended or corresponding provisions of any successor statute, which provide that in cases of
22 uncertainty, language of a contract should be interpreted most strongly against the party who caused
23 the uncertainty to exist.

24 **12. Independent Legal Advice.** Each of the parties represents, warrants, and agrees that it
25 has received independent advice from its attorney(s) and/or representatives with respect to the
26 advisability of executing this Amended Consent Order.

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1 **13. Headings.** The headings to the paragraphs of this Amended Consent Order are
2 inserted for convenience only and will not be deemed a part hereof or affect the construction or
3 interpretation of the provisions hereof.

4 **14. Binding.** This Amended Consent Order is binding on all heirs, assigns, and/or
5 successors in interest.

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

16 **16. Waiver, Amendments, and Modifications.** No waiver, amendment, or modification of
17 this Amended Consent Order will be valid or binding unless it is in writing and signed by each of the
18 parties. The waiver of any provision of this Amended Consent Order will not be deemed a waiver of
19 any other provision. No waiver by either party of any breach of, or of compliance with, any
20 condition or provision of this Amended Consent Order by the other party will be considered a waiver
21 of any other condition or provision or of the same condition or provision at another time.

22 **17. Full Integration.** This Amended Consent Order is the final written expression and the
23 complete and exclusive statement of all the agreements, conditions, promises, representations, and
24 covenants 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.

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1 **18. Governing Law.** This Amended Consent Order will be governed by and construed in
2 accordance with California law. Each of the parties hereto consents to the jurisdiction of such court
3 and thereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
4 forum to the maintenance of such action or proceeding in such court.

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

8 **20. Effect Upon Future Proceedings.** If Respondent applies for any license, permit or
9 qualification under the Commissioner's current jurisdiction, or are the subject of any future action by
10 the Commissioner to enforce this Amended Consent Order, then the subject matter hereof shall be
11 admitted for the purpose of such application(s) or enforcement proceeding(s).

12 **21. Voluntary Agreement.** Respondent hereby enters in this Amended Consent Order
13 voluntarily and without coercion and acknowledges that no promises, threats, or assurances have
14 been made by the Commissioner or any officer, or agent thereof, about this Amended Consent
15 Order. The parties each represent and acknowledge that he, she or it is executing this Amended
16 Consent Order completely voluntarily and without any duress or undue influence of any kind from
17 any source.

18 **22. Notice.** Any notice required under this Amended Consent Order be provided to each
19 party at the following addresses:

20 To Respondent Mortgage Processing Group, LLC:

Mortgage Processing Group, LLC
c/o Gary Nelson Smith, Member
2525 W. Medina Ave.
Mesa, Arizona 85202
gsmith@mortgageprocessinggroup.com

25 To the Commissioner:

Vanessa T. Lu, Counsel
Department of Business Oversight
1350 Front Street, Room 2034
San Diego, California 92101
Vanessa.Lu@dbo.ca.gov

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

24. Public Record. Respondent hereby acknowledges that the Amended Consent Order is and will be a matter of public record.

25. Effective Date. This Amended Consent Order shall become final and effective when signed by all parties and delivered by the Commissioner’s agent via e-mail to Respondent at the following email address: gsmith@mortgageprocessinggroup.com.

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

Dated: May 6, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: May 6, 2020

MORTGAGE PROCESSING GROUP, LLC

By _____
GARY NELSON SMITH
Managing Member