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

11 In the Matter of:)
)
12 THE COMMISSIONER OF BUSINESS) CRMLA LICENSE NO.: 413-0514
13 OVERSIGHT,) CFL LICENSE NO.: 603-A340 et al.
)
14 Complainant,) ACCUSATION
)
15 v.)
)
16 FREEDOM MORTGAGE CORPORATION,)
17)
18 Respondent.)
)

19
20 The Complainant is informed and believes, and based upon such information and belief,
21 alleges and charges Respondent as follows:

22 **I.**

23 **Introduction**

24 1. Freedom Mortgage Corporation (Freedom Mortgage) is licensed by the
25 Commissioner of Business Oversight (Commissioner) as a residential mortgage lender and servicer
26 pursuant to the California Residential Mortgage Lending Act ("CRMLA") (Fin. Code § 50000 et
27 seq.). Freedom Mortgage has its principal place of business located at 907 Pleasant Valley Avenue,
28 Suite 3, Laurel, New Jersey 08054. Freedom Mortgage currently has 51 branch office locations

ACCUSATION

1 under its CRMLA license. Freedom Mortgage employs mortgage loan originators in its CRMLA
2 business.

3 2. Freedom Mortgage is also licensed by the Commissioner as a finance lender pursuant
4 to the California Financing Law (CFL) (Fin. Code § 22000 et seq.). Freedom Mortgage has its
5 principal place of business under the CFL also located at 907 Pleasant Valley Avenue, Suite 3,
6 Laurel, New Jersey 08054. Freedom Mortgage has 11 branch office location under its CFL license.
7 Freedom Mortgage employs mortgage loan originators in its CRMLA business.

8 **II.**

9 **Trust Accounting Violations**

10 3. On or about August 220, 2018, the Commissioner, by and through staff, commenced
11 a regulatory examination of the books and records of Freedom Mortgage under the CRMLA and the
12 CFL (2018 regulatory examination). The 2018 regulatory examination disclosed that Freedom
13 Mortgage had: (i) failed to properly reconcile certain of its trust accounts due to shortages and/or
14 overages in several of its trust accounts in violation of Financial Code section 50314 and California
15 Code of Regulations, title 10, section 1950.314.1; (ii) commingled operating funds with trust monies
16 in violation of Financial Code section 50202, subdivision (a); and (iii) caused debit balances to exist
17 in borrower impound accounts in violation of California Code of Regulations, title 10, section
18 1950.314.6.

19 4. In 2018, Freedom Mortgage maintained the relevant trust accounts at TD Bank. The
20 relevant trust accounts were: (i) TD Bank trust account ending in 3821 for VA funding fees collected
21 at loan closing (VA Account); (ii) TD Bank trust account ending in 9686 for private mortgage
22 insurance funds collected at loan closing (PMI Account); (iii) TD Bank trust account ending in 4788
23 for mortgage insurance premiums collected at loan closing (MIP Account); (iv) TD Bank trust
24 account ending in 2740 for escrow funds collected at loan closing (Escrow Account); (v) TD Bank
25 account ending in 5943 for USDA guarantee fees collected at loan closing (USDA Guarantee
26 Account); (vi) TD Bank trust account ending in 22895 for escrow repair funds (collected at loan
27 closing (Escrow Repair Account); and (vii) TD Bank trust account ending in 1329 for appraisal fees
28 collected at loan closing (Appraisal Account). The trust funds are to be held until time for

1 disbursement to the Veterans Administration, Federal Housing Administration, tax authority,
2 insurance company, contractor, etc.

3 5. A review of the trust account reconciliations for May 31, 2018 disclosed that
4 Freedom Mortgage had failed to properly reconcile the above described trust accounts for the period
5 ended May 31, 2018. The VA Account, PMI Account, MIP Account, USDA Account, Escrow
6 Repair Account, and Appraisal Account had overages totaling \$44,182,448.57 and the Escrow
7 Account a shortage of \$94,207.23.

8 6. A trust account overage indicates that company operating funds have been
9 commingled with trust funds. Financial Code section 50202, subdivision (a) prohibits the
10 commingling of company funds with trust funds. Freedom Mortgage corrected the overages in the
11 VA Account, PMI Account, MIP Account, USDA Account, Escrow Repair Account, and Appraisal
12 Accounts on or about September 17, 2018.

13 7. A trust account shortage indicates there are insufficient funds available to pay all the
14 liabilities. California Code of Regulations, title 10, section 1950.314.6 prohibits debit balances
15 (shortages) in any loan or servicing account maintained by CRMLA licensees. Freedom Mortgage
16 corrected the shortages in the Escrow Account on or about September 17, 2018.

17 8. On or about October 23, 2018, Freedom Mortgage was instructed to submit its
18 September 30, 2018 financials to include the balance sheet, trial balance, trust account
19 reconciliation, bank account statement, and corresponding trust liability subsidiary ledgers for the
20 above described trust accounts. A review of the trust account reconciliations for September 30, 2018
21 disclosed that Freedom Mortgage failed to either include all the necessary documents to properly
22 reconcile the trust accounts and/or failed to timely deposit funds into the trust accounts.

23 9. On or about October 23, 2018, Freedom Mortgage was also instructed to submit the
24 policies and procedures implemented to ensure the trust account violations did not occur in the
25 future. To date, Freedom Mortgage has failed to submit such policies and procedures.

26 **III.**

27 **CFL Licenses**

28 10. The violations of the CRMLA described above, if committed by Freedom Mortgage

1 on or before having originally sought a license from the Commissioner under the CFL, would have
2 constituted grounds for the Commissioner to deny the license application(s) of Freedom Mortgage
3 under Financial Code section 22109. Pursuant to Financial Code section 22714, the Commissioner
4 may suspend any license if “a fact or condition exists that, if it had existed at the time of the original
5 application for the license, reasonably would have warranted the commissioner in refusing to issue
6 the license originally.” Pursuant to Financial Code section 22109, the Commissioner may refuse to
7 issue a license if the “applicant . . . has violated any provision of this division or the rules thereunder
8 or any similar regulatory scheme of the State of California . . .”

9 11 Thus, a fact or condition now exists that, if it had existed at the time of the original
10 application(s) of Freedom Mortgage for a license(s) under the CFL, reasonably would have
11 warranted the Commissioner in refusing to issue the license(s).

12 IV.

13 **CRMLA Suspension/Penalty Statutes**

14 12. Financial Code section 50327 provides in pertinent part:

15 (a) The commissioner may, after notice and a reasonable opportunity to
16 be heard, . . . suspend or revoke any license, if the commissioner finds that:

17 (1) the licensee has violated any provision of this division or rule or order
18 of the commissioner thereunder, or (2) any fact or condition exists that, if
19 it had existed at the time of the original application for license, reasonably
20 would have warranted the commissioner in refusing to issue the license originally.

21 13. Financial Code section 50513 provides in pertinent part:

22 (a) The commissioner may do one or more of the following:

23 (4) Impose fines on a mortgage loan originator or any residential mortgage
24 lender or servicer licensee employing a mortgage loan originator pursuant
25 to subdivisions (b), (c), and (d).

26 (b) The commissioner may impose a civil penalty on a mortgage loan originator
27 or any residential mortgage lender or servicer licensee employing a mortgage
28 loan originator, if the commissioner finds, on the record after notice and
opportunity for hearing, that the mortgage loan originator or any residential
mortgage lender or servicer licensee employing a mortgage loan originator
has violated or failed to comply with any requirement of this division or any
regulation prescribed by the commissioner under this division or order issued
under authority of this division.

1 (c) The maximum amount of penalty for each act or omission described in
2 subdivision (b) shall be twenty-five thousand dollars (\$25,000).

3 (d) Each violation or failure to comply with any directive or
4 order of the commissioner is a separate and distinct violation or
5 failure.

6 **V.**

7 **Conclusion**

8 14. The Commissioner finds that, by reason of the foregoing, Freedom Mortgage
9 Corporation has violated Financial Code sections 50202, subdivision (a) and 50314 and California
10 Code of Regulations, title 10, sections 1950.314.1 and 1950.314.6, and a fact or condition now
11 exists, that if it had existed at the time of original licensure under the CFL, reasonably would have
12 warranted the Commissioner in refusing to issue the CFL licenses, and based thereon, grounds exist
13 to (i) suspend the residential mortgage lender and servicer licenses and the finance lender licenses of
14 Freedom Mortgage Corporation, and (ii) assess penalties against Freedom Mortgage Corporation.

15 **VI.**

16 **Prayer**

17 WHEREFORE, IT IS PRAYED that:

18 1. Pursuant to Financial Code section 50327, the residential mortgage lender and
19 servicer licenses of Freedom Mortgage Corporation be suspended for a period of up to 12 months;

20 2. Pursuant to Financial Code section 22714, the finance lender licenses of Freedom
21 Mortgage Corporation be suspended for a period of up to 12 months;

22 3. Pursuant to Financial Code section 50513, subdivision (b), a penalty be levied against
23 Freedom Mortgage Corporation for failure to properly reconcile its trust accounts on a monthly
24 basis, in violation of Financial Code section 50314 and California Code of Regulations, title 10,
25 section 1950.314.1, according to proof, but in an amount of at least \$25,000.00;

26 4. Pursuant to the Financial Code section 50513, subdivision (b), a penalty be levied
27 against Freedom Mortgage Corporation for causing a shortage to exist in its Escrow Account in
28 violation of California Code of Regulations, title 10, section 1950.314.6 according to proof, but in an
amount of at least \$25,000.00; and

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5. Pursuant to the Financial Code section 50513, subdivision (b), a penalty be levied against Freedom Mortgage Corporation for commingling company funds with trust funds in its VA, PMI, MIP, USDA, Escrow Repair, and Appraisal Accounts in violation of Financial Code section 50202, subdivision (a), according to proof, but in an amount of at least \$50,000.00;

Dated: May 8, 2020
Los Angeles, CA

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Counsel
Enforcement Division