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8 Attorneys for Complainant

9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12	In the Matter of:)	CRMLA LICENSE NO.: 413-1217
13)	
14	THE COMMISSIONER OF BUSINESS)	ACCUSATION
15	OVERSIGHT,)	
16	Complainant,)	
17	v.)	
18	RESIDENTIAL BANCORP,)	
19	Respondent.)	
20)	
21)	

22 The Complainant is informed and believes, and based upon such information and belief,
23 alleges and charges Respondent as follows.

24 **I.**

25 **Introduction**

26 1. Residential Bancorp (Residential Bancorp) is licensed by the Commissioner of
27 Business Oversight (Commissioner) as a residential mortgage lender and servicer under the
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1 California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.).

2 2. Residential Bancorp has its principal place of business located at 5686 Dressler Road
3 NW, North Canton, Ohio.

4 3. Residential Bancorp operates branch office locations in California under its CRMLA
5 license.

6 4. Residential Bancorp employs mortgage loan originators in its CRMLA business.

7 **II.**

8 **Trust Accounting Violations**

9 5. On December 11, 2017, the Commissioner, by and through his audit staff, commenced
10 a regulatory examination of the books and records of Residential Bancorp under the CRMLA (the
11 2017 regulatory examination).

12 6. The 2017 regulatory examination disclosed that Residential Bancorp had (i) failed to
13 properly reconcile certain of its trust accounts due to overages in the trust accounts in violation of
14 Financial Code section 50314 and California Code of Regulations (CCR), title 10, section 1950.314.1
15 and (ii) commingled its operating funds with trust monies in violation of Financial Code section
16 50202, subdivision (a)(3).

17 7. In 2017, Residential Bancorp maintained trust accounts at Union Bank. The relevant
18 trust accounts were: (i) Union Bank trust account ending in 9828 for appraisal fees, repair and
19 inspection fees, and other fees held net of wire at the time of loan closing as well as funds collected
20 from Residential Bancorp's merchant account (Appraisal Account); and (ii) Union Bank trust account
21 ending in 6326 for escrow funds collected at loan closing for mortgage insurance premiums,
22 impounds payable (taxes and interest), and escrow holdback (funds held net of wire of funding for
23 repairs to be done to properties) (Escrow Account). The trust funds are to be held until time for
24 disbursement to the Veterans Administration, Federal Housing Administration, tax authority,
25 insurance company, contractor, etc.

26 8. A review of the trust account reconciliations for October 31, 2017 disclosed that
27 Residential Bancorp had failed to properly reconcile the above described trust accounts for the period
28 ended October 31, 2017. The Appraisal Account had an overage totaling \$274,038.16 and the Escrow

1 Account held an overage of \$98,429.71.

2 9. Residential Bancorp's trust account overages indicate that the company's operating
3 funds had been commingled with trust funds. Financial Code section 50202, subdivision (a)(3)
4 prohibits the commingling of company funds with trust funds. Residential Bancorp corrected the
5 overages in the Appraisal and Escrow Accounts as of May 31, 2018, and it has adopted new policies
6 and procedures to ensure that it reconciles its trust accounts timely.

7 **III.**

8 **CRMLA Suspension and Penalty Statutes**

9 10. Financial Code section 50327 provides in pertinent part:

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

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

18 11. Financial Code section 50513 provides in pertinent part:

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

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

23 (b) The commissioner may impose a civil penalty on a mortgage loan
24 originator or any residential mortgage lender or servicer licensee
25 employing a mortgage loan originator, if the commissioner finds, on
26 the record after notice and opportunity for hearing, that the mortgage
27 loan originator or any residential mortgage lender or servicer licensee
28 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.

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

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

IV.

Conclusion

12. The Commissioner finds that, by reason of the foregoing, Residential Bancorp has violated Financial Code sections 50202, subdivision (a)(3) and 50314 and CCR section 1950.314.1, and based thereon, grounds exist to (i) suspend the residential mortgage lender and servicer licenses of Residential Bancorp and (ii) assess penalties against Residential Bancorp.

V.

Prayer

WHEREFORE, IT IS PRAYED that:

A. Under Financial Code section 50327, the residential mortgage lender’s license of Residential Bancorp be suspended for a period of up to 12 months;

B. Under Financial Code section 50513, subdivision (b), a penalty be levied against Residential Bancorp for failure to properly reconcile its trust accounts on a monthly basis, in violation of Financial Code section 50314 and CCR section 1950.314.1, according to proof, but in an amount of at least \$25,000.00; and

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1 C. Under Financial Code section 50513, subdivision (b), a penalty be levied against
2 Residential Bancorp for commingling company funds with trust funds in its Appraisal and Escrow
3 Accounts in violation of Financial Code section 50202, subdivision (a)(3), according to proof, but in
4 an amount of at least \$25,000.00.

5 Dated: August 24, 2020
6 Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Business Oversight

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8 By _____
9 Blaine A. Noblett
10 Senior Counsel
11 Enforcement Division
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