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9 Attorneys for Complainant

10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:	)	OAH CASE NO.: 2020090143
	)	
13 THE COMMISSIONER OF BUSINESS	)	CRMLA LICENSE NO.: 413-1217
14 OVERSIGHT,	)	
	)	SETTLEMENT AGREEMENT
15 Complainant,	)	
	)	Hearing Dates: October 22-23, 2020
16 v.	)	Hearing Time: 9:00 a.m.
	)	Location: OAH Los Angeles
17 RESIDENTIAL BANCORP,	)	320 W. 4th Street
	)	Sixth floor, Suite 630
18 Respondent.	)	Los Angeles, CA 90013-2344
	)	ALJ: Unassigned
	)	

21 This Settlement Agreement (the Settlement Agreement) is entered between the  
22 Commissioner of Financial Protection and Innovation (Commissioner) (on September  
23 30, 2020, the Department of Business Oversight was renamed the Department of  
24 Financial Protection and Innovation under Government Code section 12895, subdivision  
25 (d)) and Respondent, Residential Bancorp, and is made with respect to the following  
26 facts.

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1 I.

2 **Recitals**

3 A. The Commissioner has jurisdiction over the licensing and regulation of  
4 persons engaged in the business of making, servicing, or brokering residential mortgage  
5 loans under the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, §  
6 50000 et seq.).

7 B. Residential Bancorp is a corporation in good standing, duly formed and  
8 existing under the laws of the state of Ohio and is authorized to conduct business in the  
9 state of California.

10 C. Residential Bancorp is a residential mortgage lender and servicer licensed  
11 by the Commissioner under the CRMLA.

12 D. Residential Bancorp has its principal place of business in California  
13 located at 2263 Golden Springs Drive, Suite 200, Diamond Bar, California.

14 E. Corey Wood is Residential Bancorp’s chief executive officer and, as such,  
15 is authorized to enter into the Settlement Agreement on behalf of the company.

16 F. On August 25, 2020, the Commissioner personally served Residential  
17 Bancorp’s registered agent with a Notice of Intention and Accusation (collectively,  
18 Accusation) dated August 24. Under the Accusation the Commissioner found Residential  
19 Bancorp had committed the following violations of the CRMLA (the Violations) during  
20 the December 11, 2017 regulatory examination of the business:

21 i. failed to properly reconcile certain of its trust accounts due to  
22 overages in two of its trust accounts in violation of Financial Code section 50314 and  
23 California Code of Regulations, title 10, section 1950.314.1; and

24 ii. commingled its operating funds with trust monies in violation of  
25 Financial Code section 50202, subdivision (a)(3).

26 G. On September 2, under Government Code section 11506, Residential  
27 Bancorp timely filed its Notice of Defense with the Commissioner for the purpose of  
28 requesting an administrative hearing on the Violations set forth in the Accusation. The

1 administrative hearing is currently set to begin trial before the Office of Administrative  
2 Hearings, Los Angeles (OAH) on October 22-23, 2020, OAH case number 2020090143.

3 H. On September 8, the Commissioner commenced his quadrennial  
4 regulatory examination of Residential Bancorp. The Commissioner determined  
5 Residential Bancorp had committed additional violations of the CRMLA (the 2020  
6 examination findings) as follows:

7 i. failed to properly reconcile certain of its trust accounts due to  
8 shortages in one of its trust accounts in violation of Financial Code section 50314 and  
9 California Code of Regulations, title 10, section 1950.314.1;

10 ii. caused debit balances to exist in borrower impound accounts in  
11 violation of California Code of Regulations, title 10, section 1950.314.6; and

12 iii. charged one borrower per diem interest in excess of one day prior  
13 to the disbursement of loan proceeds in violation of Civil Code section 2948.5 and  
14 Financial Code section 50204, subdivision (o). The Commissioner had previously cited  
15 Residential Bancorp for a per diem interest violation during the 2017 regulatory  
16 examination.

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

19 **II.**

20 **Terms**

21 1. Purpose. The Settlement Agreement resolves the Violations and any and  
22 all 2020 examination findings before the Commissioner in a manner that avoids the  
23 expense of a hearing and other possible court proceedings, protects consumers, is in the  
24 public interest, and is consistent with the purposes and provisions of the CRMLA.

25 2. Acknowledgment. Residential Bancorp acknowledges that the  
26 Commissioner issued and served it with the Accusation, as set forth above. The  
27 Commissioner acknowledges Residential Bancorp's cooperation in the resolution of this  
28 matter.

1           3.       Order to Discontinue Violations. Under Financial Code section 50321,  
2 Residential Bancorp is hereby ordered to discontinue:

3               a.       violating Financial Code section 50314 and California Code of  
4 Regulations, title 10, section 1950.314.1 by failing to properly reconcile its trust  
5 accounts;

6               b.       violating Financial Code section 50202, subdivision (a) by  
7 commingling operating funds with trust funds;

8               c.       violating California Code of Regulations, title 10, section  
9 1950.314.6 by causing debit balances to exist in borrower impound accounts; and

10              d.       violating Civil Code section 2948.5 and Financial Code section  
11 50204, subdivision (o) by charging borrowers interest on loans for a period in excess of  
12 one day prior to the disbursement of loan proceeds

13           4.       Administrative Penalties. Residential Bancorp shall pay to the  
14 Commissioner an administrative penalty of \$37,500.00 (the Penalty). The Penalty is due  
15 within five business days of the effective date of the Settlement Agreement, and should  
16 be made payable to the Commissioner in the form of a cashier's check or Automated  
17 Clearing House deposit and transmitted to the attention of Accounting – Enforcement  
18 Division, Department of Financial Protection and Innovation (hereinafter, Department),  
19 2101 Arena Boulevard, Sacramento, California 95834. Notice of such payment shall be  
20 sent to Blaine A. Noblett, Senior Counsel, at blaine.noblett@dfpi.ca.gov.

21           5.       Trust Account Reconciliations. Residential Bancorp shall have its  
22 independent certified public accounting firm (approved by the Commissioner) (CPA)  
23 review its monthly trust account reconciliations for accuracy and compliance with the  
24 California Code of Regulations, title 10, section 1950.310.1 through the remainder of  
25 2020 commencing with the October 31, 2020 reconciliations. The CPA shall submit its  
26 report along with the underlying reconciliations and all supporting documentation, such as  
27 bank accounts, trial balances and subsidiary ledgers to the Department no later than the  
28 25th of the month after the close of the previous month. Accordingly, the October 31,

1 2020 report is due on or before November 25, 2020; the November 30, 2020 report is due  
2 on or before December 25, 2020; and the December 31, 2020 report is due on or before  
3 January 25, 2021. The monthly trust account reconciliations shall also include a brief  
4 narrative explaining how Residential Bancorp prepared the monthly reconciliations.

5 6. Revised Trust Accounting Policies and Procedures. Residential Bancorp  
6 shall submit updated trust accounting policies and procedures to the Department no later  
7 than 60 days from the Effective Date. The Department shall review such updated policies  
8 and procedures within 45 days and notify Residential Bancorp of any required changes or  
9 corrections to such policies and procedures.

10 7. Waiver of Hearing Rights. Residential Bancorp agrees that this Settlement  
11 Agreement shall have the effect of withdrawing its request for an administrative hearing  
12 on the matters set forth herein. Residential Bancorp acknowledges its right to an  
13 administrative hearing under the CRMLA in connection with the Accusation and 2020  
14 examination findings and hereby waives such right to a hearing and to any  
15 reconsideration, appeal, or other rights which may be afforded it under the CRMLA, the  
16 Administrative Procedure Act (the APA) (Gov. Code, § 11340 et seq.), the Code of Civil  
17 Procedure (the CCP) (Code Civ. Proc., § 1 et seq.), or any provision of law in connection  
18 with this matter. In connection with the 2020 examination findings, Residential Bancorp  
19 further expressly waives any requirement for the filing of an accusation pursuant to  
20 Government Code section 11415.60, subdivision (b).

21 8. Full and Final Settlement. The parties hereby acknowledge and agree that  
22 the Settlement Agreement is intended to constitute a full, final, and complete resolution  
23 of Residential Bancorp's Violations of the CRMLA as identified herein. No further  
24 proceedings or actions will be brought by the Commissioner in connection with the  
25 Accusation under the CRMLA, or any other provision of law, excepting any proceeding  
26 to enforce compliance with the terms of the Settlement Agreement.

27 9. Failure to Comply with the Settlement Agreement. Residential Bancorp  
28 agrees that, if it fails to comply with any provision of the Settlement Agreement, other

1 than through inadvertent and isolated errors that are promptly corrected by Residential  
2 Bancorp within 15 business days of discovery, with notice of such correction provided to  
3 the Commissioner within seven business days of correction, Residential Bancorp may be  
4 summarily suspended from engaging in business under its CRMLA license until it  
5 provides evidence to the Commissioner that the terms are met. Residential Bancorp  
6 further acknowledges that its failure to comply with Paragraphs 4, 5, and 6 of the  
7 Settlement Agreement shall constitute a failure to comply with the Settlement Agreement  
8 and be subject to this paragraph. In connection with the summary suspension of the  
9 company's CRMLA license, Residential Bancorp further expressly waives any  
10 requirement for the filing of an accusation pursuant to Government Code section  
11 11415.60, subdivision (b).

12 10. Information Willfully Withheld. The Settlement Agreement may be  
13 revoked, and the Commissioner may pursue any and all remedies under the CRMLA  
14 against Residential Bancorp if the Commissioner discovers Residential Bancorp  
15 knowingly or willfully withheld information use for and relied upon in the Settlement  
16 Agreement.

17 11. Assisting Other Agencies. The parties further acknowledge and agree that  
18 nothing in the Settlement Agreement shall limit the Commissioner's ability to assist any  
19 other agency (city, county, state, or federal) with any prosecution, administrative, civil,  
20 or criminal, brought by any such agency against Residential Bancorp or any other entity  
21 or person based upon any of the activities alleged in this matter or otherwise.

22 12. Binding. The Settlement Agreement is binding on all heirs, assigns, or  
23 successors in interest.

24 13. Independent Legal Advice. Each of the parties represents, warrants, and  
25 agrees that he, she, or it has received independent advice from its attorney(s) or  
26 representative(s) with respect to the advisability of executing the Settlement Agreement.

27 14. Counterparts. The parties agree that the Settlement Agreement may be  
28 executed in one or more separate counterparts, each of which shall be deemed an original

1 when so executed. Such counterparts shall together constitute and be one and the same  
2 instrument.

3 15. Waiver, Modification, and Qualified Integration. The waiver of any  
4 provision of the Settlement Agreement shall not operate to waive any other provision set  
5 forth herein. No waiver, amendment, or modification of the Settlement Agreement shall  
6 be valid or binding to any extent unless it is in writing and signed by all the parties  
7 affected by it.

8 16. Headings and Governing Law. The headings to the paragraphs of the  
9 Settlement Agreement are inserted for convenience only and will not be deemed a part  
10 hereof or affect the construction or interpretation of the provisions hereof. The  
11 Settlement Agreement shall be construed and enforced in accordance with and governed  
12 by California law.

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

24 18. Presumption from Drafting. In that the parties have had the opportunity to  
25 draft, review, and edit the language of the Settlement Agreement, no presumption for or  
26 against any party arising out of drafting all or any part of the Settlement Agreement will  
27 be applied in any action relating to, connected to, or involving the Settlement  
28 Agreement. Accordingly, the parties waive the benefit of Civil Code section 1654 and

1 any successor or amended statute, providing that in cases of uncertainty, language of a  
2 contract should be interpreted most strongly against the party that caused the uncertainty  
3 to exist.

4 19. Voluntary Agreement. Residential Bancorp enters into the Settlement  
5 Agreement voluntarily and without coercion and acknowledges that no promises, threats,  
6 or assurances have been made by the Commissioner, or any officer or agent thereof,  
7 about the Settlement Agreement.

8 20. Effective Date. The Settlement Agreement shall become final and  
9 effective when signed by all parties and delivered by the Commissioner’s agent via e-  
10 mail to Residential Bancorp at andrew.baeza@bancorp.com.

11 21. Notice. Any notices required under the Settlement Agreement shall be  
12 provided to each party at the following addresses:

13 If to Respondent to: Andrew P. Baeza  
14 Corporate Counsel  
15 Residential Bancorp  
16 22632 Golden Springs Drive, Suite 200  
Diamond Bar, California 91765

17 If to the Commissioner to: Blaine A. Noblett  
18 Senior Counsel  
19 Department of Financial Protection and Innovation  
320 W. 4th Street, Suite 750  
Los Angeles, California 90013-2344

20 22. Authority to Execute. Each signatory hereto covenants that he/she  
21 possesses all necessary capacity and authority to sign and enter into the Settlement  
22 Agreement.

23 [Signature page to follow]  
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IN WITNESS WHEREOF, the parties hereto have approved and executed the Settlement Agreement on the dates set forth opposite their respective signatures.

MANUEL P. ALVAREZ  
Commissioner of Financial Protection and Innovation

Dated: October 8, 2020

By \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division

RESIDENTIAL BANCORP, Respondent

Dated: October 8, 2020

By \_\_\_\_\_  
COREY WOOD, CEO, on behalf of  
RESIDENTIAL BANCORP

APPROVED AS TO FORM:

By \_\_\_\_\_  
ANDREW P. BAEZA, ESQ., attorney for  
RESIDENTIAL BANCORP