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8 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of:)
) CRMLA LICENSE NO.: 41DBO-54774
12 THE COMMISSIONER OF FINANCIAL)
13 PROTECTION AND INNOVATION,) ACCUSATION
)
14 Complainant,)
)
15 v.)
)
16 MORTGAGE UNLIMITED, L.L.C.,)
17)
18 Respondent.)

19 The Commissioner of Financial Protection and Innovation (Commissioner) is informed and
20 believes, and based upon such information and belief, alleges and charges Respondent Mortgage
21 Unlimited, L.L.C. (Mortgage Unlimited) as follows:

22 I.

23 **Introduction**

24 1. Mortgage Unlimited is licensed by the Commissioner as a residential mortgage lender
25 pursuant to the California Residential Mortgage Lending Act ("CRMLA") (Fin. Code § 50000 et
26 seq.). Mortgage Unlimited has its principal place of business located at 222 Outwater Lane, Suite
27 B4, Garfield, New Jersey 07026. Mortgage Unlimited has no branch office locations. Mortgage
28 Unlimited employs mortgage loan originators in its CRMLA business.

ACCUSATION

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II.

Failure to Provide Books and Records

2. On or about February 10, 2020, the Commissioner, by and through staff, commenced a regulatory examination of the books and records of Mortgage Unlimited (regulatory examination). The regulatory examination has not yet been concluded because Mortgage Unlimited has failed to provide all the documentation requested as further described below.

3. In furtherance of the regulatory examination, on or about November 10, 2020, the Department of Financial Protection and Innovation (Department) sent a Demand Letter to Mortgage Unlimited (November 10, 2020 Demand Letter), which was sent to the email of Mortgage Unlimited provided by Mortgage Unlimited to the Department for purposes of communications. The response to the November 10, 2020 Demand Letter was due November 16, 2020. The November 10, 2020 Demand Letter required Mortgage Unlimited to provide the following documentation to the Department, which documentation had previously been requested on September 16, 2020:

- (a) Policies and procedures implemented with regards to prompt processing of corresponding cash deposits;
- (b) Policies and procedures implemented with regards to monthly interim Mortgage Insurance Premiums (MIP);
- (c) Bank reconciliation for all trust accounts as of September 30, 2020, to include all related bank statements;
- (d) Weekly reconciliation between subsidiary ledger and control liability accounts for all trust accounts as of September 30, 2020;
- (e) Monthly reconciliation between subsidiary ledger and control liability accounts and trust bank accounts as of September 30, 2020;
- (f) Related subsidiary and liability ledgers as of September 30, 2020;
- (g) Balance sheet as of September 30, 2020; and
- (h) Working trial balance as of September 30, 2020.

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1 4. On or about November 10, 2020, Mortgage Unlimited responded commenting that it
 2 “sent this through our OneDrive system but it seems it was not received.” A review of the November
 3 10, 2020 response disclosed that it was incomplete.

4 5. On or about November 13, 2020, the Department notified Mortgage Unlimited in
 5 writing that the November 10, 2020 response failed to include all the documentation requested by
 6 the Department in the November 10, 2020 Demand Letter and requested the documentation be
 7 submitted no later than November 17, 2020. Mortgage Unlimited was also requested to confirm the
 8 following corresponding cash to liability accounts based on the account names:

9 **BANK ACCOUNT**

9 **LIABILITY**

10 Axos Bank Trust Account (account # 7744)

10 Borrowers Escrow - CA

11 PNC Bank-Special III (account # 2046)

11 MIP – Upfront

12 PNC-Special Acct II (account # unknown)

12 MIP – Monthly - CA

13 6. On or about November 24, 2020, when Mortgage Unlimited failed to respond, the
 14 Department made further written demand to Mortgage Unlimited for the documentation. On or
 15 about November 24, 2020, Mortgage Unlimited responded; but the response was nothing more than
 16 the incomplete response submitted by Mortgage Unlimited on or about November 10, 2020.

17 7. On or about December 2, 2020, the Department posted a license item to Mortgage
 18 Unlimited in the Nationwide Mortgage Licensing System (NMLS) notifying Mortgage Unlimited
 19 that its response was still deficient, and as a result of its failure to fully respond, it was subject to
 20 forfeiture of \$100.00 per day, up to \$1,000.00, and that failure to respond in full within 10 days from
 21 the day designated for the response constituted grounds for the suspension or revocation of its
 22 license.

23 8. On or about December 2, 2020, Mortgage Unlimited provided a response that
 24 included only two bank statements. One of the two bank statement was for a trust account that
 25 Mortgage Unlimited had not previously disclosed to the Department; a trust account ending in -
 26 4374.

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1 9. On or about December 28, 2020, Mortgage Unlimited emailed the Department to ask
2 if anything else was needed. The Department did not respond at this point as Mortgage Unlimited
3 was well aware it had not fully responded to the Department’s demand for documentation necessary
4 to complete the regulatory examination.

5 10. As of the date hereof, Mortgage Unlimited has failed to submit the following
6 documents:

7 (a) Policies and procedures implemented with regards to prompt processing of
8 corresponding cash deposits;

9 (b) Policies and procedures implemented with regards to monthly interim Mortgage
10 Insurance Premiums (MIP);

11 (c) Weekly reconciliation between subsidiary ledger and control liability; monthly
12 reconciliation between subsidiary ledger and control liability accounts and trust bank account; and
13 subsidiary/borrower-level ledgers for Escrow liability of corresponding trust account ending in
14 -7744, as of September 30, 2020;

15 (d) Weekly reconciliation between subsidiary ledger and control liability; monthly
16 reconciliation between subsidiary ledger and control liability accounts and trust bank account; and
17 subsidiary/borrower-level ledgers for MIP liability of corresponding trust account ending in -2046,
18 as of September 30, 2020;

19 (e) Bank reconciliation for trust account; bank statement; weekly reconciliation
20 between subsidiary ledger and control liability; monthly reconciliation between subsidiary ledger
21 and control liability accounts and trust bank account; and subsidiary/borrower-level ledgers for
22 Monthly MIP (Interim) liability of corresponding trust account ending in -4627, as of September 30,
23 2020;

24 (f) Bank reconciliation for trust account; bank statement; weekly reconciliation
25 between subsidiary ledger and control liability; monthly reconciliation between subsidiary ledger
26 and control liability accounts and trust bank account; and subsidiary/borrower-level ledgers for
27 Monthly MI – CA, as of September 30, 2020; and
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1 (g) Confirmation of the following corresponding cash to liability accounts based on
 2 the account names:

<u>BANK ACCOUNT</u>	<u>LIABILITY</u>
Axos Bank Trust Account (account # 7744)	Borrowers Escrow - CA
PNC Bank-Special III (account # 2046)	MIP – Upfront
PNC-Special Acct II (account # unknown)	MIP – Monthly - CA

7 **III.**

8 **Relevant Statutes**

9 11. Financial Code section 50302(a) provides in relevant part:

10 (a) As often as the commissioner deems necessary and appropriate, but
 11 at least once every 48 months, the commissioner shall examine the affairs
 12 of each residential mortgage lender and servicer for compliance with this division.
 13 The commissioner and his or her appointees may examine the books, records,
 14 and documents of the licensee, and may examine the licensee’s officers, directors,
 15 employees, or agents under oath regarding the licensee’s operations. . . .

16 12. Financial Code section 50314 provides in relevant part:

17 (a) Every person subject to this division shall keep documents and records
 18 that will properly enable the commissioner to determine whether the residential
 19 mortgage lending or residential mortgage loan servicing functions performed by
 20 that person comply with the provisions of this division and with all rules and orders
 21 made by the commissioner under this division. . . .

22 (b) The business documents and records of every residential mortgage lender or
 23 residential mortgage loan servicer, whether required to be licensed under this division
 24 or not, are subject to inspection and examination by the commissioner at any time
 25 without prior notice. . . .

26 Any person subject to this division shall, upon request, and within the time specified,
 27 allow inspection and copying of any documents and records by the commissioner or
 28 his or her representative.

IV.

CRMLA Suspension/Penalty Statutes

13. Financial Code section 50327 provides in pertinent part:

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

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

14. Financial Code section 50513 provides in pertinent part:

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

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

(b) The commissioner may impose a civil penalty on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage 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.

(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

15 The Commissioner finds that, by reason of the foregoing, Mortgage Unlimited, L.L.C., has violated, and remains in violation of Financial Code sections 50302 and 50314, and based thereon, grounds exist to (i) suspend the residential mortgage lender license of Mortgage Unlimited, L.L.C. pursuant to Financial Code section 50327, and (ii) assess penalties against Mortgage Unlimited, L.L.C. pursuant to Financial Code section 50513, subdivision (b).

V.

Prayer

WHEREFORE, IT IS PRAYED that:

1. Pursuant to Financial Code section 50327, the residential mortgage lender license of Mortgage Unlimited, L.L.C. be suspended for a period of up to 12 months; and

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2. Pursuant to Financial Code section 50513, subdivision (b), penalties be levied against Mortgage Unlimited, L.L.C. for failure to provide books and records necessary to perform the required regulatory examination according to proof, but in an amount of at least \$50,000.00.

Dated: March 5, 2021
Los Angeles, CA

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation



By _____
Judy L. Hartley
Senior Counsel
Enforcement Division