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

11 In the Matter of: ) CRMLA LICENSE NO.: 413-1005  
12 THE COMMISSIONER OF FINANCIAL ) CONSENT ORDER  
13 PROTECTION AND INNOVATION, )  
14 Complainant, )  
15 v. )  
16 CHOICE LENDING CORP., )  
17 Respondent. )  
18 )  
19 )

20 This Consent Order is entered into between the Commissioner of Financial Protection and  
21 Innovation (Commissioner) and Respondent Choice Lending Corp. (Choice Lending) and is made  
22 with respect to the following facts:  
23

24 **I.**

25 **RECITALS**

26 A. The Commissioner has jurisdiction over the licensing and regulation of entities  
27 engaged in the business of a residential mortgage lender and servicer under the California  
28 Residential Mortgage Lending Act, commencing at Fin. Code, § 50000 et seq. (CRMLA).

1 B. Choice Lending is a residential mortgage lender licensed by the Commissioner  
2 pursuant to the CRMLA with license number 413-1005.

3 C. Choice Lending's principal place of business is located 12640 Hesperia Road, Suite  
4 D, Victorville, California 92395. Choice Lending employs mortgage loan originators.

5 D. On or around August 13, 2018, the Commissioner commenced a regulatory  
6 examination of the books and records of Choice Lending pursuant to Section 50302 of the CRMLA  
7 covering the period from April 1, 2017 through March 31, 2018 (2018 Regulatory Exam).

8 E. The 2018 Regulatory Exam disclosed that in three out of 30 loan files reviewed,  
9 Choice Lending charged borrowers per diem interest in excess of one day prior to the date that the  
10 loan proceeds were disbursed from escrow, in violation of Financial Code section 50204,  
11 subdivision (o) and Civil Code section 2948.5. Pursuant to Financial Code section 50504,  
12 subdivision (b), Choice Lending issued refunds to the three borrowers in the amount of the  
13 overcharge plus interest at the rate of 10% per annum from the date of the overcharge. Prior  
14 regulatory examinations commencing on August 4, 2014 and January 14, 2011 disclosed similar  
15 findings.

16 F. On or around October 12, 2018, the Commissioner directed Choice Lending to  
17 conduct a self-audit of all loans originated in California since August 4, 2014 to determine the  
18 number and amount of per diem interest overcharges, including but not limited to: the borrower loan  
19 number, name, loan amount, interest rate, date funds were disbursed by the settlement agent, interest  
20 start date, interest end date, amount of interest collected, correct amount of interest, interest  
21 overcharged, 10% interest, amount of refund check, date refunded, and first payment due date (self-  
22 audit report).

23 G. In or around December 2018 Choice Lending submitted a self-audit report that  
24 disclosed 79 loan files in which Choice Lending overcharged borrowers per diem interest, in  
25 violation of Financial Code section 50204, subdivision (o) and Civil Code section 2948.5. Pursuant  
26 to Financial Code section 50504, subdivision (b), on or around November 19, 2018, Choice Lending  
27 issued refunds to the 79 borrowers identified in the self-audit report in the amount of the overcharge  
28 plus interest at the rate of 10% per annum from the date of the overcharge.

1 H. However, on or around March 12, 2021 Choice Lending submitted revisions to the  
2 self-audit report indicating that in fact there were 24 loan files showing violations of Financial Code  
3 section 50204, subdivision (o) and Civil Code section 2948.5. On or around March 24, 2021,  
4 Choice Lending submitted proof of refunds made to the 24 borrowers.

5 I. On or around April 20, 2021 Choice Lending submitted a declaration under penalty of  
6 perjury from an officer with personal knowledge of Choice Lending’s policies and procedures that  
7 sets forth all policies and procedures that have been implemented as of the date of this Consent  
8 Order to ensure compliance with Financial Code section 50204, subdivision (o) and Civil Code  
9 section 2948.5 (Declaration). The Commissioner has reviewed the Declaration and deemed the  
10 policies and procedures contained therein as satisfactory.

11 J. The Commissioner finds that entering into this Consent Order is in the public interest  
12 and consistent with the purposes fairly intended by the policies and provisions of the CRMLA.

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

15 **II.**

16 **TERMS AND CONDITIONS**

17 1. Purpose. This Consent Order resolves the issues before the Commissioner set forth in  
18 Paragraphs A through J above in a manner that avoids the expense of a hearing and other possible  
19 court proceedings, protects consumers, is in the public interest, and is consistent with the purposes,  
20 policies, and provisions of the CRMLA.

21 2. Order to Discontinue Violations. Choice Lending hereby agrees that in accordance  
22 with Financial Code sections 50321 and 50323, it will immediately discontinue violating Financial  
23 Code section 50204, subdivision (o) and Civil Code section 2948.5.

24 3. Penalty. Choice Lending shall pay a penalty in the amount of \$48,000.00 for the  
25 violations set forth in Paragraph E through H above by no later than 30 days after the Effective Date  
26 of this Consent Order as defined in Paragraph 27 below. The penalty shall be made payable in the  
27 form of a cashier’s check or Automated Clearing House deposit to the Department of Financial  
28 Protection and Innovation and transmitted to the attention of Accounting – Litigation, at the

1 Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California  
2 95814-2306. Notice of the payment must be concurrently sent to Sophia C. Kim via e-mail at:  
3 Sophia.Kim@dfpi.ca.gov.

4 4. Waiver of Hearing Rights. Choice Lending acknowledges that the Commissioner is  
5 ready, willing, and able to proceed with the filing of an administrative enforcement action on the  
6 charges contained in this Consent Order. Choice Lending hereby waives the right to any hearings,  
7 and to any reconsiderations, appeal, or other right to review which may be afforded pursuant to the  
8 CRMLA, the California Administrative Procedure Act, the California Code of Civil Procedure, or  
9 any other provision of law. Choice Lending further expressly waives any requirement for the filing  
10 of an Accusation pursuant to Government Code section 11415.60, subdivision (b). By waiving such  
11 rights, Choice Lending effectively consents to this Consent Order and Order to Discontinue  
12 Violations becoming final.

13 5. Failure to Comply with Consent Order. Choice Lending agrees that if it fails to  
14 comply with the terms of this Consent Order, the Commissioner may, in addition to all other  
15 available remedies he may invoke under the CRMLA, deny any application and/or summarily  
16 suspend or revoke any license granted by the Commissioner to Choice Lending until Choice Lending  
17 is in compliance. Choice Lending waives any notice and hearing rights to contest such denial or  
18 summary suspension or revocation which may be afforded under the CRMLA, the California  
19 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law  
20 in connection therewith.

21 6. Information Willfully Withheld or Misrepresented. This Consent Order may be  
22 revoked and the Commissioner may pursue any and all remedies available under law against Choice  
23 Lending if the Commissioner discovers that Choice Lending knowingly or willfully withheld or  
24 misrepresented information used for and relied upon in this Consent Order.

25 7. Future Actions by Commissioner. If Choice Lending fails to comply with any terms  
26 of the Consent Order, the Commissioner may institute proceedings for any and all violations  
27 otherwise resolved under this Consent Order. The Commissioner reserves the right to bring any  
28 future actions against Choice Lending, or any of their partners, owners, officers, shareholders,

1 directors, employees or successors for any and all unknown violations of the CRMLA and Financial  
2 Code.

3 8. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner’s  
4 ability to assist any other government agency (city, county, state, or federal) with any prosecution,  
5 administrative, civil or criminal brought by that agency against Choice Lending or any other person  
6 based upon any of the activities alleged in this matter or otherwise.

7 9. Headings. The headings to the paragraphs of this Consent Order are inserted for  
8 convenience only and will not be deemed a part hereof or affect the construction or interpretation of  
9 the provisions hereof.

10 10. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
11 interest.

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

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

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1           13.    Independent Legal Advice. Each of the parties represents, warrants, and agrees that it  
2 has received independent advice from its attorney(s) and/or representatives with respect to the  
3 advisability of executing this Consent Order.

4           14.    Waiver, Amendments, and Modifications. No waiver, amendment, or modification of  
5 this Consent Order will be valid or binding unless it is in writing and signed by each of the parties.  
6 The waiver of any provision of this Consent Order will not be deemed a waiver of any other  
7 provision. No waiver by either party of any breach of, or of compliance with, any condition or  
8 provision of this Consent Order by the other party will be considered a waiver of any other condition  
9 or provision or of the same condition or provision at another time.

10          15.    Full Integration. This Consent Order is the final written expression and the complete  
11 and exclusive statement of all the agreements, conditions, promises, representations, and covenants  
12 between the parties with respect to the subject matter hereof, and supersedes all prior or  
13 contemporaneous agreements, negotiations, representations, understandings, and discussions  
14 between and among the parties, their respective representatives, and any other person or entity, with  
15 respect to the subject matter covered hereby.

16          16.    Governing Law. This Consent Order shall be construed and enforced in accordance  
17 with and governed by California law.

18          17.    Counterparts. This Consent Order may be executed in one or more separate  
19 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall  
20 together constitute a single document.

21          18.    Effect Upon Future Proceedings. If Choice Lending applies for any license, permit or  
22 qualification under the Commissioner’s current or future jurisdiction, or are the subject of any future  
23 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be  
24 admitted for the purpose of such application(s) or enforcement proceeding(s).

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1           19.    Voluntary Agreement. Choice Lending enters into this Consent Order voluntarily and  
2 without coercion and acknowledge that no promises, threats or assurances have been made by the  
3 Commissioner or any officer, or agent thereof, about this Consent Order. The parties each represent  
4 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and  
5 without any duress or undue influence of any kind from any source.

6           20.    Notice. Any notice required under this Consent Order shall be provided to each party  
7 at the following addresses:

8           To Choice Lending:  
9                    Aaron Christoffersen, 12640 Hesperia Road, Suite D, Victorville, California 92395,  
10                   aaron@clg1.net.

11           To the Commissioner:  
12                   Sophia C. Kim, Senior Counsel, Enforcement Division, Department of Financial  
13                   Protection and Innovation, 320 West 4<sup>th</sup> Street, Suite 750, Los Angeles, California  
14                   90013; Sophia.Kim@dfpi.ca.gov.

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

17           26.    Public Record. Choice Lending hereby acknowledges that this Consent Order is and  
18 will be a matter of public record.

19           27.    Effective Date. This Consent Order shall become final and effective when signed by  
20 all parties and delivered by the Commissioner’s counsel via e-mail to Choice Lending at  
21 aaron@clg1.net.

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

Dated: 4/22/21

MANUEL P. ALVAREZ  
Commissioner of Financial Protection and Innovation

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

Dated: 4/22/21

CHOICE LENDING CORP.

By \_\_\_\_\_  
AARON CHRISTOFFERSEN  
President of Choice Lending Corp.