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

13 In the Matter of:	)	CRMLA LICENSE NO.: 413-0901
	)	
14 THE COMMISSIONER OF FINANCIAL	)	STATEMENT OF FACTS IN SUPPORT OF
15 PROTECTION AND INNOVATION,	)	ORDER TO DISCONTINUE VIOLATIONS
	)	UNDER FINANCIAL CODE SECTION 50321
16 Complainant,	)	AND NOTICE OF INTENT TO MAKE ORDER
	)	FINAL
17 v.	)	
	)	
18 AMERIFIRST FINANCIAL, INC.,	)	
	)	
19 Respondent.	)	
	)	
	)	
	)	

22 The Complainant, Clothilde V. Hewlett, the Commissioner of Financial Protection and  
23 Innovation (Commissioner), is informed and believes and based upon such information and belief,  
24 alleges and charges as follows.  
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**I.****Introduction**

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3 1. AmeriFirst Financial, Inc. (AmeriFirst) is a residential mortgage lender and servicer  
4 licensed under the California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et  
5 seq.). AmeriFirst has its principal place of business located at 1550 E. McKellips Road, Unit 117  
6 Mesa, Arizona. AmeriFirst operates branch locations in California under its CMRLA license and  
7 employs mortgage loan originators in its CRMLA business.

**II.****Per Diem Interest Overcharges**

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10 2. On September 1, 2020, the Commissioner, by and through examination staff,  
11 commenced a regulatory examination of the books and records of AmeriFirst under the CRMLA (the  
12 2020 regulatory examination).

13 3. The 2020 regulatory examination disclosed that in two out of 38 originated loan files,  
14 AmeriFirst overcharged borrowers per diem interest in excess of one day prior to the disbursement of  
15 loan proceeds in violation of Financial Code section 50204, subdivision (o). California Per Diem  
16 Interest Disclosure forms were found in the two loan files with per diem interest overcharges. But the  
17 disclosures were not prepared in accordance with Civil Code section 2948.5, subdivision (b), or were  
18 not applicable, and therefore were not considered when calculating the per diem interest charges. The  
19 per diem interest overcharges varied between approximately \$17.57 and \$103.13, and AmeriFirst  
20 overcharged borrowers from at least one to two days' interest.

**AmeriFirst's 2020 Self-Audit Report**

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22 4. Due to the number of per diem interest overcharges found during the 2020 regulatory  
23 examination, the Commissioner directed AmeriFirst to conduct a self-audit review of all loans the  
24 company had originated since the date of the prior examination, March 19, 2017, through to October  
25 14, 2020.

26 5. On November 3, 2020, AmeriFirst provided the Commissioner with its self-audit  
27 report, which included a review of 3,776 loans it had originated between January 2017 through  
28 August 2020. Out of the 3,776 loan files AmeriFirst reviewed the company found 257 loans with per

1 diem interest overcharges, or an average of about 6.8 percent. The company issued refunds to the  
2 affected borrowers in all 257 loan files.

3 6. On November 16, in order to verify the accuracy of AmeriFirst's November 3 self-  
4 audit report, the Commissioner randomly selected for further review 30 loan files AmeriFirst had  
5 originated during the self-audit period (approximately March 2017 to October 2020).

6 7. AmeriFirst provided the Commissioner with the requested loan files on November 26.

7 8. The Commissioner's review identified three loan files in which borrowers were  
8 overcharged per diem interest. The per diem interest overcharges varied between approximately  
9 \$49.88 and \$97.11, and AmeriFirst overcharged borrowers from at least one to four days' interest.

10 9. None of the three loan files identified were reported by the company as having had per  
11 diem interest overcharges according to AmeriFirst's November 3 self-audit report. Said another way,  
12 the company's self-audit report failed to identify per diem interest overcharges in the three loan files.

13 10. In light of the deficiencies identified in AmeriFirst's November 3 self-audit report and  
14 the fact that the report was unreliable, the Commissioner selected an additional 24 loan files to review  
15 and the company provided the requested loan files to the Commissioner on December 30, 2020.

16 11. The Commissioner's review of the additional 24 loan files disclosed that AmeriFirst's  
17 self-audit report had failed to identify per diem interest overcharges in 14 loan files.

18 12. In the 14 loan files that the Commissioner identified, per diem interest overcharges  
19 varied between approximately \$9.90 and \$242.78, and AmeriFirst overcharged borrowers from at  
20 least one to four days' interest.

### 21 **2014 Regulatory Examination and Enforcement Action**

22 13. The Commissioner conducted a regulatory examination of AmeriFirst's business  
23 beginning on May 19, 2014 (the 2014 regulatory exam).

24 14. The 2014 regulatory exam disclosed four per diem interest overcharge violations in  
25 four out of 21 originated loan files that staff had reviewed.

26 15. On or about March 12, 2015, the Commissioner initiated an administrative  
27 enforcement action against AmeriFirst based, in part, on the per diem interest violations. The  
28 enforcement action sought to suspend AmeriFirst's lender's license and impose civil monetary

1 penalties. AmeriFirst was further ordered to discontinue violations of the CRMLA and refund  
2 excessive per diem interest charges.

3 16. On April 21, 2015, the Commissioner settled the administrative action filed against  
4 AmeriFirst. Under the parties' settlement, AmeriFirst agreed to refund the borrowers' per diem  
5 interest overcharges and it further agreed to pay the Commissioner a penalty of \$8,000.00.

6 **2017 Regulatory Examination**

7 17. The company's 2017 regulatory examination began on March 19, 2017. The  
8 Commissioner's staff reviewed 18 loans AmeriFirst had originated during the period April to July  
9 2017. The Commissioner's 2017 review did not identify any per diem interest violations.

10 **III.**

11 **Conclusion**

12 18. By reason of the foregoing, AmeriFirst has violated Financial Code section 50204,  
13 subdivision (o).

14 19. Financial Code section 50321 provides in pertinent part:

15 If, after investigation, the commissioner has reasonable grounds to  
16 believe that any licensee has violated its articles of incorporation or any  
17 law or rule binding upon it, the commissioner shall, by written order  
18 addressed to the licensee, direct the discontinuance of the violation.  
19 The order shall be effective immediately, but shall not become final  
20 except in accordance with the provisions of Section 50323.

21 20. Financial Code section 50323 provides:

22 (a) No order issued pursuant to Section 50321 or 50322 may become  
23 final except after notice to the affected licensee of the commissioner's  
24 intention to make the order final and of the reasons for the finding. The  
25 commissioner shall also notify the licensee that upon receiving a  
26 request the matter will be set for hearing to commence within 15  
27 business days after receipt. The licensee may consent to have the  
28 hearing commence at a later date. If no hearing is requested within 30  
days after the mailing or service of the required notice, and none is  
ordered by the commissioner, the order may become final without  
hearing and the licensee shall immediately discontinue the practices  
named in the order. If a hearing is requested or ordered, it shall be held  
in accordance with the provisions of the Administrative Procedure Act  
(Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
Title 2 of the Government Code), and the commissioner shall have all

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of the powers granted under that act. If, upon the hearing, it appears to the commissioner that the licensee is conducting business in an unsafe and injurious manner or is violating its articles of incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If the enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.

WHEREFORE, good cause showing, the Commissioner has issued an Order to Discontinue Violations Under Financial Code section 50321 and notifies AmeriFirst Financial, Inc. of the Commissioner's intention to make the order final.

Dated: March 21, 2022

Los Angeles, California

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation

By \_\_\_\_\_  
Blaine A. Noblett  
Senior Counsel  
Enforcement Division