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

In the Matter of:

THE COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION,

Complainant,

v.

OCWEN LOAN SERVICING, LLC,

Respondent

This Consent Order (Order) is entered into between the Commissioner of Financial Protection and Innovation (Commissioner), on the one hand, and Ocwen Loan Servicing, LLC (OLS) and PHH Mortgage Corporation (PHHMC), as successor by merger to OLS (together, OLS Parties) (and all collectively referred to as the Parties) as of the Effective Date set forth in paragraph 28 below.

RECITALS

A. OLS was a limited liability company formed and existing under the laws of the State of Delaware and was authorized to conduct business in the State of California. PHHMC is a New Jersey corporation with its principal place of business in Mount Laurel, New Jersey and is registered...
to do business in California. PHHMC is the successor by merger to OLS.

B. The Commissioner licensed OLS as a residential mortgage lender and loan servicer pursuant to the California Residential Mortgage Lending Act (CRMLA) (Fin. Code §§ 50000 et seq.). The Commissioner has also licensed PHHMC as a residential mortgage lender and loan servicer pursuant to the CRMLA.

C. The Department of Financial Protection and Innovation (Department), through the Commissioner, has jurisdiction over the licensing and regulation of entities engaged in the business of mortgage lending and/or servicing pursuant to the CRMLA.

D. Pursuant to Financial Code section 50302, the Commissioner is required to examine the records, documents, and affairs of each CRMLA licensee to ensure compliance with the law.

E. In or about October 2019, the Department commenced an examination of OLS under the CRMLA. As part of the examination, the Department found that OLS undercharged certain borrowers by not timely implementing changes in loan terms (in particular, interest rate adjustments) after the servicing of mortgage loans was transferred to OLS. OLS had already self-identified and undertaken measures to remediate the issue by notifying affected borrowers that undercharged amounts would be assessed as a non-interest-bearing lump sum payment due at loan maturity or pay off (Undercharge Letter).

F. Additionally, during the examination OLS reported to the Department that certain borrowers were overcharged as a result of OLS not timely implementing changes in loan terms (in particular, interest rate adjustments) after the servicing of mortgage loans was transferred to OLS. OLS had similarly self-identified this issue and undertaken measures to remediate it by issuing refund checks to borrowers with an overcharge.

G. Based on the overcharges and undercharges, the Department found that OLS violated the CRMLA in the following ways:

1. Violation of Financial Code section 50505(a) and the incorporated sections 1024.38(a) and (b)(1)(i) of Title 12 of the Code of Federal Regulations (CFR) (Regulation X under the federal Real Estate Settlement Procedure Act (RESPA)) by failing to maintain policies and procedures designed to ensure accurate and timely
disclosures to borrowers, resulting in borrowers receiving periodic account statements that did not accurately disclose interest rates, principal amounts and/or amounts due on mortgages as a result of undercharges and/or overcharges;

2. Violation of Financial Code section 50505(b) and the incorporated sections 1026.41(a)(2) and (d)(1) (7) of Title 12 of the CFR (Regulation Z under the federal Truth in Lending Act (TILA)) by failing to provide accurate periodic account statements to borrowers as a result of undercharges and/or overcharges;

3. Violation of Financial Code section 50204(i) and (j) by misrepresenting to affected borrowers that:

   a) Undercharges would be assessed back to their accounts as a non-interest-bearing amount payable at maturity date or payoff date but then including the undercharged amount in the monthly amount due section of period account statements;

   b) Undercharges would be assessed back to their accounts as a non-interest-bearing amount payable at maturity date or payoff date but then applying borrower overpayments to pay down the undercharged amount; and,

   c) Undercharges would be assessed back to their accounts as a non-interest-bearing amount payable at maturity date or payoff date but not disclosing to borrowers that the undercharge amount listed in undercharge letters had already been reduced from the true undercharge amount based on OLS’s practice of “netting” overcharges and undercharges that existed in borrower accounts;

4. Violation of Financial Code sections 50314(a) and 50124(a)(2), requiring servicers to maintain books and records, by failing to maintain notices of transfer as required by Regulation X, section 1024.33(a);

5. Violation of Financial Code sections 50314(a) and 50124(a)(2), requiring servicers to maintain books and records, by failing to maintain payment audit sheets for loans with reported overcharges;
6. Violation of Financial Code sections 50314(a) and 50124(a)(2), requiring servicers to maintain books and records, by failing to update its records to show that an Undercharge Letter was sent to borrowers; and,

7. That OLS, by engaging in these asserted violations, further violated Financial Code section 50124(a)(16) which requires licensees to act with “due care and competence” in servicing.

H. The Department further found that OLS failed to notify borrowers in writing when a payment index review was completed as required by OLS’s policy entitled “Adjustable Rate Mortgage, Maturity and Amortization Letter Procedure” which states that “If the loan details in our servicing system of record do not match the note or subsequent modifications, the [Adjustable Rate Mortgage] Team will complete a payment review on the account and notify the borrower in writing once the payment index review is completed.”

I. On March 14, 2022, the Department issued an Accusation and a Notice of Intention to Issue Order Revoking California Residential Mortgage Lending and/or Servicing License (together, Annual Report Pleadings) against OLS because OLS had not timely filed the annual Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced (Annual Report) due on or before March 1 of each year pursuant to Financial Code sections 50307 and 50401. OLS filed its Annual Report on March 15, 2022, and submitted a Notice of Defense on March 29, 2022.

J. The Parties now wish to mutually resolve such issues by entering into this Consent Order.

**TERMS AND CONDITIONS**

NOW, THEREFORE, the Parties are willing to resolve the matters cited herein as follows:

**MONETARY RELIEF**

1. **Civil Penalties**
   a) The OLS Parties shall pay Two Million Five Hundred Thousand Dollars ($2,500,000.00) to the Department for penalties, costs, and fees (Penalty).
b) The Penalty shall be paid by cashier's check, wire transfer or Automated Clearing House deposit transmitted to the attention of Accounting – Litigation, at the Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95834 or pursuant to the ACH and wire transfer instructions that have been separately provided within ten (10) days of the Effective Date.

c) The OLS Parties shall concurrently provide notice of payment to Frank Scollan, Enforcement Division at the Department by email at frank.scollan@dfpi.ca.gov.

2. Late Fee Waivers

a) The OLS Parties shall waive late fees previously assessed, but not collected, on any California loans that the OLS Parties are servicing as of the Effective Date which are in foreclosure, bankruptcy or are more than 60 days delinquent.

b) The OLS Parties represent that as of April 30, 2022, there were approximately 5,800 loans meeting such criteria, with an accumulated late fee balance of approximately $3,488,704. However, the late fee waiver obligation set forth above shall be re-calculated as of the Effective Date.

c) Within 90 days of the Effective Date, the OLS Parties shall provide a report to the Department identifying late fees waived including the following: loan number, amount of late fees waived, and loan status at the time of the late fee waiver (in foreclosure, in bankruptcy, and/or 60+ days delinquent).

INJUNCTIVE RELIEF

3. Refund Checks: The OLS Parties shall re-issue refund checks to all borrowers in the Overcharge Report who did not previously cash their overcharge refund check, together with a letter notifying each such borrower of the reason for the refund within 60 days of the Effective Date. Within six months of the Effective Date, the OLS Parties shall provide a report to the Department identifying the re-issued checks including: loan number, borrower name(s), borrower contact information, refund amount, and check status (cashed, not cashed but delivered, or not cashed with mail returned/not deliverable).
4. **Loan Term Implementation Verification**

a) The OLS Parties shall verify data points related to interest rate and other payment-related terms for California loans within 60 days from the date of boarding for each such loan provided that the prior servicer has provided the OLS Parties with documents necessary to complete such verification at boarding. Completion of the aforementioned verification process within the 60-day timeframe shall be subject to a 3.5% exception rate.

b) Commencing within sixty (60) days of the Effective Date, the OLS Parties shall provide the Department a monthly report with the following data points regarding the OLS Parties’ compliance with Paragraph 4(a):

   i) The number of loans that were in the verification process at month-begin
   
   ii) The number of loans that are in the verification process at month-end
   
   iii) The number of loans that entered the verification process during the month
   
   iv) The number of onboarded loans that exited verification process that month
   
   v) The number of those loans that exited as fully verified
   
   vi) The number of those loans that exited as verified-exhausted
   
   vii) The number of those loans that were over 60 days from boarding to exiting verification
   
   viii) The number of loans that are in the verification process at month-end that are over 60 days from boarding

c) The OLS Parties shall conduct an annual staffing analysis with respect to the loan verification function, in order to ensure appropriate staffing levels necessary to comply with the loan verification timeline.

d) The OLS Parties shall provide additional training for loan verification staff including compliance with the loan verification timeline.

e) The OLS Parties shall conduct monthly data integrity testing on one percent (1%) of California loans that completed the verification process during the prior month, up to a maximum of 50 loans, targeting data points related to interest rate and
other payment-related terms. When possible, at least 75% of the tested loans shall be adjustable-rate mortgages.
f) The OLS Parties shall provide monthly dashboard loan boarding reporting in Excel format to the Department showing loan volumes boarded by channel during the prior month and projections for loans to be boarded in the following month.
g) The obligations in this Paragraph 4 shall continue for a period of three years from the Effective Date.

ORDER TO DISCONTINUE VIOLATIONS

5. Pursuant to California Financial Code section 50321, the OLS Parties agree to not engage in violations of the applicable state and federal laws and regulations referenced in paragraph G above.

HOMEOWNER RELIEF

6. Targeted Loss Mitigation Solicitation
a) Within ninety (90) days of the Effective Date, the OLS Parties shall conduct a targeted loss mitigation solicitation by which the OLS Parties will solicit eligible California borrowers in writing to review the account for a loan modification;
b) For purposes of the relief set forth in this paragraph, an “eligible California borrower” is a borrower:
   (1) Whose mortgage loan is serviced by the OLS Parties;
   (2) Whose mortgage loan is at least 90 days delinquent;
   (3) Whose loan is not already liquidated or in REO status;
   (4) Who is not already in a performing modification or trial plan or on a forbearance plan;
   (5) Who is not currently being underwritten for a modification;
   (6) Who is not currently in the process of submitting documents for a requested modification (the “document chase” process);
   (7) Who has not been sent a Request for Mortgage Assistance or otherwise solicited within the prior thirty (30) days;
(8) Who is not in active litigation; and

(9) Whose account is not otherwise ineligible due to the loan investor's requirements, program requirements, customer no-contact directives, bankruptcy rules, or other applicable law.

c) The OLS Parties will solicit this population of eligible California borrowers for all loss mitigation options available to each borrower. The OLS Parties may contact such borrowers by mail, electronic mail, or online borrower account portal. The solicitation shall state that if requested by borrower the borrower’s account will be reviewed for loan modification and other loss mitigation or relief programs and include directions on how to respond to the solicitation to initiate such review;

d) Upon receipt of a complete loss mitigation application (as defined by 12 C.F.R. § 1024.41(b)(1)), the OLS Parties will evaluate loans of these California borrowers for all available loss mitigation programs. The OLS Parties shall exercise “reasonable diligence,” as defined by the Consumer Financial Protection Bureau’s (CFPB) official interpretation of 12 Code of Federal Regulations part 1024.41(b)(1), to obtain the documents necessary for a borrower’s complete application; and

e) The OLS Parties shall place all eligible loans on a 60-day foreclosure hold after sending the solicitation specified in paragraphs 5(a), (b) and (c) of this Order, except as required by a presiding court or applicable investor guidelines. A “foreclosure hold” means the OLS Parties shall not refer any such borrower’s account to foreclosure, move for foreclosure judgment or order of sale, or conduct or seek a foreclosure sale within 60 days of the solicitation and continuing while the borrower’s complete application for any loan modification program is pending.

f) Commencing in the first full calendar quarter after the solicitation is sent, the OLS Parties shall provide a report setting forth the number of eligible borrowers solicited for review and a quarterly report setting forth (i) the number of borrowers that requested review in response to solicitations in that quarter, (ii) the number of loans that were put on foreclosure hold in that quarter, and (iii) the number of loans
that were placed into a loan modification or other relief program in that quarter. The quarterly reporting requirement will sunset one year after the solicitation specified in paragraphs 5(a), (b) and (c) of this Order is sent.

7. **Outreach Event**

a) No later than December 31, 2023, the OLS Parties shall conduct a loss mitigation outreach event in California, by partnering with a non-profit homeowner assistance organization to host an in-person event (as permitted by applicable state and federal COVID-19-related safety and social distancing guidelines) where the OLS Parties shall provide information and qualified personnel to answer questions regarding available loss mitigation options, including for those borrowers exiting COVID-19 forbearance plans;

b) The OLS Parties shall take steps to ensure that adequate staffing is available to address the reasonably anticipated turnout at such event.

8. **Consumer Hotline**

a) The OLS Parties agree to build and maintain, for a period of three years, a “hotline” for California borrowers. The hotline will be an escalation line outside of the OLS Parties’ ordinary call center workflow and will route California borrowers to specialized agents familiar with the OLS Parties’ policies and procedures, and all relevant federal and California requirements. The hotline agents, however, will not be specifically assigned to handle loss mitigation, which will be addressed via the OLS Parties’ existing customer service model.

b) This hotline will be in place within 90 days of the Effective Date of this Order, with notice provided to the Department when the hotline has been activated. The three-year period will commence from the date the OLS Parties provide notice to the Department.

9. **Borrower Complaints:** Commencing with the first full quarter after the Effective Date and continuing for a period of three years thereafter, the OLS Parties shall:

a) Submit a quarterly report to the Department of all written complaints received
from California borrowers; and,

b) Provide a dedicated single point of contact within the Office of the Ombudsman, for use by the Department in escalating borrower complaints.

NOTICES

10. All communications regarding this Order shall be sent to:
   For the Department:
   Frank Scollan
   Senior Counsel
   Department of Financial Protection & Innovation
   320 West 4th Street, Suite 750
   Los Angeles, California 90013
   Frank.scollan@dfpi.ca.gov (for notice by email when not excluded herein)

   For the OLS PARTIES
   Jenna Evans
   Executive Vice President, Deputy General Counsel, and Chief Risk & Compliance Officer
   Ocwen Financial Corporation
   2000 Midlantic Drive, Suite 410
   Mount Laurel, NJ 08054
   jenna.evans@ocwen.com (for notice by email when not excluded herein)

MUTUAL RELEASE AND WAIVER

11. The Department, on the one hand, and the OLS Parties, on the other hand, mutually release and discharge the other from any and all claims, demands, causes of action, obligations and liabilities of every kind and nature whatsoever which each of the Parties had, or claims to have had, or now has, against the other (including but not limited to claims against individual executives, officers, directors, agents, appointees, representatives and/or employees of each Party), whether known or unknown, with regard to the implementation of loan terms as described herein through the Effective Date (Released Claims).

12. The Parties understand and agree that the Released Claims include not only claims presently known to them, but also include all unknown or unanticipated claims, rights, demands, actions, obligations, liabilities and causes of action of every kind and character. The Parties knowingly and voluntarily waive any and all rights or benefits that they may now have, or in the future may have, under the terms of section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, WHICH THE
CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER
FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN
BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER
SETTLEMENT WITH THE DEBTOR.

13. No entity or individual other than the OLS Parties and the Department may rely on
this release and there are no intended or unintended third-party beneficiaries.

NON-COMPLIANCE WITH ORDER AND OPPORTUNITY TO CURE

14. The OLS Parties agrees to comply with this Order and any amendment in writing
thereto. It is further understood this Order is binding on the Department and the OLS Parties, as well
as their successors in interest and assigns, but it specifically does not bind any federal or other state
agencies or any law enforcement authorities.

15. The OLS Parties must notify the Department of a dissolution, assignment, sale,
merger, or other action that would result in the emergence of a successor company; the creation or
dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this
Order; or the filing of any bankruptcy or insolvency proceeding by or against any of the OLS Parties.
The OLS Parties must provide this notice as soon as practicable, and at least 30 days before the
development, when possible.

16. If the Department determines the OLS Parties have failed to meet any of the
obligations set forth in paragraphs 1 through 9 above, the Department will notify the OLS Parties of
the alleged failure (Default Notice), provide an opportunity to meet and confer regarding the alleged
failure, and provide the OLS Parties 30 days following the meet and confer to cure the alleged failure
(Cure Period). If the OLS Parties fail or refuse to meet and confer within 30 days of the Default
Notice date, then the Cure Period shall be deemed to expire 30 days from the date of the Default
Notice.

17. The OLS Parties agree that following a failure to comply with paragraphs 1 through 9
of this Order, having received a Default Notice but having failed to cure during the Cure Period, the
Department may immediately suspend the OLS Parties from lending and servicing under a CRMLA
license until the terms of this Order are met.
18. While OLS does not admit the alleged violations set forth in the Order other than those facts deemed necessary to establish the jurisdiction of the Commissioner, the OLS Parties agree the facts and violations set forth in recital paragraphs E through I, above, in this Order may be taken as true without further proof only in any bankruptcy case or subsequent civil litigation the Department may pursue to enforce its rights to any payment or money judgment under the terms of this Order, including but not limited to, any nondischargeability complaint in any bankruptcy proceeding and that this Order shall have collateral estoppel effect in any bankruptcy case.

19. The Parties further acknowledge and agree nothing in this Order shall preclude the Commissioner, or her agents or employees, to the extent required by law, from assisting or cooperating in any investigation and/or action brought by any other federal, state, county, or city agency.

WAIVER OF HEARING AND APPEAL

20. The Commissioner states that she is fully prepared to file an administrative enforcement action based on the allegations contained in this Order. The OLS Parties acknowledge the right to an administrative hearing under the CRMLA and, in reliance on the notice and cure provisions stated above, (1) waive such hearing with respect to the allegations herein and (2) expressly waive any requirement for the filing of an accusation that may be afforded by the California Administrative Procedure Act, including Government Code section 11415.60, subdivision (b), the California Code of Civil Procedure, or any other provision of law in connection with this matter. By waiving such rights, the OLS Parties stipulate to this Order becoming final.

21. The OLS Parties waive any rights to seek judicial review or otherwise challenge or contest in any court or tribunal outside the Department the validity or effectiveness of this Order.

ANNUAL REPORT PLEADINGS

22. The Department will issue an order withdrawing the Annual Report Pleadings. OLS may proceed with surrender of its CRMLA license in accordance with the provisions of the CRMLA and the Department's regular process for surrender.

OTHER PROVISIONS

23. The section headings contained in this Order are for reference purposes only and shall
not affect the meaning or interpretation of this Order.

24. The waiver of any provision of this Order shall not operate to waive any other
provision set forth herein, and any waiver, amendment or change to the terms of this Order must be in
writing and signed by the Parties.

25. The Parties represent and warrant each party has received advice from its attorney(s)
and/or other representatives prior to entering into this Order, and that in executing this Order each
party relied solely on the statements set forth herein and the advice of its own counsel and/or
representative.

26. The OLS Parties enter this Order voluntarily and acknowledge that no promises or
assurances have been made by the Department or any officer or agent thereof about this Order.

27. The Order may be executed in one or more counterparts, each of which shall be an
original but all of which, together, shall be deemed to constitute a single document. An electronically
produced and/or transmitted signature shall be deemed the same as an original signature.

28. Each signatory represents and warrants that they possess the necessary capacity and
authority to execute this Order and bind the party for which they have executed the Order.

29. This Order shall not become effective until signed by all parties and delivered by the
Commissioner's counsel by email to counsel for the OLS Parties (Effective Date).

Dated: February 17, 2023

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

By: Mary Ann Smith
Deputy Commissioner of Enforcement

Ocwen Loan Servicing, LLC

By: Jenna Yans
Executive Vice President, Deputy General Counsel, and
Chief Risk & Compliance Officer for Ocwen Financial
Corporation, as parent of PHH Mortgage Corporation,
successor by merger to Ocwen Loan Servicing, LLC

PHH Mortgage Corporation

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CONSENT ORDER