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

12
13 In the Matter of:) CRMLA License No.: 41DBO-73160
)
14 THE COMMISSIONER OF FINANCIAL) NMLS ID No.: 810371
PROTECTION AND INNOVATION,)
15) ACCUSATION IN SUPPORT OF
16 Complainant,) REVOCATION OF CALIFORNIA
) RESIDENTIAL MORTGAGE LENDER
17 v.) LICENSE
)
18 FAMILY FIRST FUNDING LLC,)
)
19 Respondent.)
20)
21)

22 The Complainant is informed and believes, and based upon such information and belief, alleges
23 and charges Respondent as follows:

24 **I.**

25 **Introduction**

26 1. At all relevant times, Family First Funding LLC (Family First) is a residential
27 mortgage lender licensed by the Commissioner pursuant to the California Residential Mortgage
28 Lending Act (California Financial Code § 50000 et seq.) (CRMLA). On or around April 30, 2018,

1 the Commissioner issued CRMLA license number 41DBO-73160 to Family First. The company’s
2 principal place of business is located at 44 Washington Street, Suite 200, Toms River, New Jersey
3 08753. Family First does not operate any active branch office locations in California.

4 2. Pursuant to Financial Code section 50002.5(d) and section 50003(z), Family First
5 maintains the unique Nationwide Multistate Licensing System and Registry identification number
6 (NMLS ID No.) 810371. Family First operated the website www.fam1fund.com and used the email
7 address nmls@fam1fund.com to correspond with the Commissioner.

8 3. At all relevant times, Gabriel Franklin Gillen (Gillen) is the Chief Executive Officer
9 and president of Family First. Gillen is registered under NMLS ID No. 151012. Gillen used the
10 email address ggillen@fam1fund.com to correspond with the Commissioner.

11 4. At all relevant times, Michael Perry (Perry) is the chief of staff and a loan officer for
12 Family First. Perry is registered under NMLS ID No. 210769. Perry used the email address
13 mperry@fam1fund.com to correspond with the Commissioner.

14 5. At all relevant times, Kathy Lovece (Lovece) is the director of compliance for
15 Family First. Lovece used the email address klovec@fam1fund.com to correspond with the
16 Commissioner.

17 6. On or around June 1, 2023, Family First filed on NMLS a request to surrender its
18 CRMLA license number 41DBO-73160 and NMLS ID No. 810371 (Application 1370269). On or
19 around June 20, 2023, the Commissioner filed a license item on NMLS titled “Jurisdiction-Specific
20 Documents Surrender Request” that notified Family First that it failed to complete the surrender
21 requirements under Financial Code section 50123 and California Code of Regulations (Cal. Code of
22 Reg.), title 10, section 1950.123. The Commissioner informed Family First that its license is not
23 considered surrendered until approved by the Commissioner pursuant to Financial Code section
24 50123(b).

25 7. On July 24, 2023, the Commissioner emailed the license surrender checklist to
26 Lovece and Gillen which required a closing audit performed by the company’s independent
27 certified public accountant. The following day, Lovece sent an email to the Commissioner
28 requesting additional options to avoid the full closing audit complaining that it would be “very

1 expensive and take time to complete.” Lovece included Gillen and Perry on her July 25, 2024
2 email to the Commissioner.

3 8. On July 25, 2023, the Commissioner sent an email to Perry that emphasized
4 Financial Code section 50123 and Cal. Code Reg., title 10, section 1950.123 are mandatory
5 requirements. Family First has failed to complete the license surrender requirements. To date, the
6 Commissioner has not approved Family First’s request to surrender its CRMLA license.

7 **II.**

8 **2023 Regulatory Examination**

9 9. Paragraphs 1-8 are hereby realleged and incorporated herein by reference as if set
10 forth in its entirety.

11 10. On or around February 17, 2023, the Department of Financial Protection and
12 Innovation (Department) sent its Regulatory Examination Information Request to Family First by
13 email in accordance with Financial Code section 50302.

14 11. On or around July 24, 2023, the Department performed a remote regulatory
15 examination (2023 Examination) on Family First’s business activities during the period July 1, 2020
16 to January 31, 2023. The 2023 Examination showed Family First: (1) failed to maintain books and
17 records in violation of Financial Code section 50314, Cal. Code of Reg., title 10, section 1950.314.4,
18 and Financial Code section 50124(a)(2); (2) overcharged borrowers title insurance premiums,
19 appraisal fees, and credit report fees in violation of Financial Code section 50204(c)(i)(k) and Cal.
20 Code of Reg., title 10, section 1950.314(j)(6); (3) failed to send borrowers the notice of adverse
21 action in violation of Financial Code section 50505 and Equal Credit Opportunity Act under
22 Regulation B [12 Code of Federal Regulations (CFR)§ 1002.9(a)(1)]; (4) failed to provide Truth in
23 Lending Act (TILA) and Real Estate Procedures Act (RESPA) disclosures to borrowers in violation
24 of Financial Code section 50505; (5) did not enter into written loan brokerage agreements with
25 borrowers in violation of Financial Code section 50701; and (6) did not provide borrowers Fair
26 Lending Notices in violation of Financial Code section 50204(i), Health and Safety Code section
27 35830, and Cal. Code of Reg., title 10, section 7114.

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1 12. On or around August 18, 2023, the Department emailed its Report of Examination
2 (August 18, 2023 ROE) to Family First and described the violations found during the 2023
3 Examination. The August 18, 2023 ROE required Family First to file a report with the Department
4 by September 7, 2023 that addressed its violations and identify its corrective actions.

5 13. On or around September 12, 2023, the Department emailed Gillen and informed him
6 that the Department did not receive Family First’s report for its 2023 Examination. Later that day,
7 Gillen requested an extension of time to file Family First’s report on September 22, 2023. On the
8 same day, the Department granted Gillen’s request for an extension of September 22, 2023.

9 14. On or around September 25, 2023, Family First filed its report in response to the
10 Department’s August 18, 2023 ROE. The Department reviewed Family First’s report dated
11 September 25, 2023 and found the company’s response to be unsatisfactory. Family First provided
12 incomplete responses and/or ignored the Department’s requests for corrective action.

13 15. On or around October 9, 2023, the Department issued a Follow-Up Letter to Family
14 First requesting additional responses and documents to address the outstanding violations cited in the
15 August 18, 2023 ROE. The Department emailed the October 9, 2023 Follow-up Letter to Gillen.

16 16. On or around October 24, 2023, Family First provided a supplemental report to
17 address the Department’s August 18, 2023 ROE. In its response, Family First stated “[t]he company
18 is no longer actively doing business and the access to our systems are limited. We have attempted to
19 surrender our CA license on several occasions. All original responses are still valid.”

20 17. On or around November 3, 2023, the Department issued a closing examination report
21 notifying Family First that its responses to the 2023 Examination were deficient and incomplete. By
22 failing to locate applicable documents and supplement its responses, Family First failed to keep
23 documents and records that would properly enable to the Commissioner to determine whether it
24 complied with the CRMLA in violation of Financial Code section 50314 and section 50124(a)(2),
25 and Cal. Code Reg., title 10, section 1950.31.14.4.

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III.

Applicable Statutes

18. Paragraphs 1-17 are hereby realleged and incorporated herein by reference as if set forth in its entirety.

19. Financial Code section 50124 provides in pertinent part:

(a) A residential mortgage lender or service shall do all of the following:

...

(2) Keep and maintain for 36 months from the date of final entry the business records and other information required by law or rules of the commissioner regarding any mortgage loan made or serviced in the course of the conduct of its business.

20. Financial Code section 50314 provides in pertinent part:

(a) Every person subject to this division shall keep documents and records that will properly enable the commissioner to determine whether the residential mortgage lending or residential mortgage loan servicing functions performed by that person comply with the provisions of this division and with all rules and orders made by the commissioner under this divisions. Upon request of the commissioner, residential mortgage lenders and residential mortgage loan servicers shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

(b)(1) The business documents and records of every residential mortgage lender or residential mortgage loan servicer, whether required to be licensed under this division or not, are subject to inspection and examination by the commissioner at any time without prior notice. The provisions of this subdivision shall not apply to persons specified in subdivision (g) of Section 50003.

(2) Any person subject to this division shall, upon request and within the time specified in the request, allow inspection and copying of any documents and records by the commissioner or the commissioner’s authorized representative.

...

(d) Investigation and examination reports prepared by the commissioner’s duty designated representatives are not public reports. Those reports may be disclosed to the officers or directors of a licensee that is the subject of the report for the purpose of corrective action by

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the officers or directors. That type of disclosure shall not operate as a waiver of the exemption specified in Section 7929.000 of the Government Code.

21. Cal. Code Reg., title 10, section 1950.314.4 provides in pertinent part:

(a) Each licensee shall maintain a loan log which shall be kept current according to the record maintenance procedures of the licensee and shall be produced for examination by the Commissioner. Any report which the licensee generates may be substituted for the loan log. At a minimum, the loan log or its substitute shall contain the following with respect to each loan application received during the previous 36 months:

- (1) Application Date;
- (2) Borrower Name;
- (3) Property Address;
- (4) Loan Amount;
- (5) Terms, Loan Program;
- (6) Loan Officer; and
- (7) If closed, disposition of the loan and servicing.

(b) Each licensee shall maintain for each mortgage loan application the following data, if utilized by the licensee in connection with the mortgage loan application for 36 months from the date of final entry:

- (1) Loan Application;
- (2) Loan Commitment;
- (3) Truth-in-Lending Disclosure Statement;
- (4) Loan Closing Statement;
- (5) Copy of Note and Deed of Trust;
- (6) Adverse action or Rejection of Application Letter;
- (7) Appraisal Report;
- (8) Credit Report.

(c) The following books and records are to be retained by the residential mortgage lender ...

- (1) Ledger Cards or electronic ledger entries which have a balance remaining.
- (2) For all loans with a remaining balance:
 - (A) All documents signed by the customer, including but not limited to the initial loan application, disclosure documents, and closing documents.
 - (B) The appraisal and credit report as well as other third party documents relating to the loan; and
 - (C) All other documents in or related to the loan file.

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- (d) The following books and records shall be retained by the residential mortgage lender ...
 - (1) General ledger and expense ledger.
 - (2) Journals, including the general journal and cash journal or other records of cash receipts and disbursements.
 - (3) Monthly financial reports.
 - (4) Borrower’s ledger cards which were reduced to a zero balance.
 - (5) For loans which have been closed:
 - (A) The original loan application;
 - (B) Copies of all documents signed by the customer, including but not limited to the disclosure documents and closing documents;
 - (C) The appraisal and credit report as well as all other third party documents relating to the loan;
 - (D) The escrow instructions and the closing statement issued by an independent escrow holder on a residential mortgage loan in which proceeds of that loan were disbursed to that escrow holder.
 - (E) All other documents in or related to the loan file.

22. 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 any rule or order of the commissioner thereunder.

IV.

Prayer

The Commissioner finds that, by reason of the foregoing, Family First Funding LLC has violated Financial Code section 50124(a)(2), section 50314, and Cal. Code of Reg., title 10, section 1950.314.4. For the foregoing reasons, grounds exist to revoke Family First Funding LLC’s California residential mortgage lender license.

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WHEREFORE, IT IS PRAYED that pursuant to Financial Code section 50327, the California residential mortgage lender license of Family First Funding LLC be revoked.

Dated: March 27, 2024
San Diego, CA

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation

By _____

Vanessa T. Lu
Senior Counsel
Enforcement Division