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10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) CRMLA LICENSE NO. 413-0924
13)
14 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) STATEMENT OF FACTS IN SUPPORT OF
15) ORDER TO DISCONTINUE VIOLATIONS
Complainant,)
16)
17 v.)
18 METROPOLITAN HOME MORTGAGE,)
INC., doing business as GW)
19 MORTGAGE, INTELLILOAN,)
STREAMLINE DIVISION and)
20 WHOLESALE HOME LENDERS,)
21)
Respondent.)

23 The Complainant, the Commissioner of Business Oversight, is informed and believes, and
24 based upon such information and belief, alleges and charges as follows:

25 1. Respondent Metropolitan Home Mortgage, Inc., doing business as GW Mortgage,
26 Intelliloan, Streamline Division, and Wholesale Home Lenders ("MHM") is a residential mortgage
27 lender licensed by the Commissioner of Business Oversight ("Commissioner"), pursuant to the
28 California Residential Mortgage Lending Act (Cal. Fin. Code § 50000 et seq.) ("CRMLA").

1 2. MHM has its principal place of business located at 4 Park Plaza, Suite
2 800, Irvine, CA 92614.

3 3. The Commissioner commenced a regulatory examination of MHM's books and
4 records, on or about July 7, 2014.

5 4. The 2014 regulatory examination disclosed that in 9 out of 42 loans, or approximately
6 21% of the loan files reviewed, MHM was charging its borrowers per diem interest in excess of one
7 day prior to the date that the loan proceeds were disbursed from escrow, in violation of California
8 Financial Code section 50204, subdivisions (k) and (o), and California Civil Code section 2948.5.

9 5. The range of per diem interest overcharges was between \$23.17 and \$289.83. The
10 range of days of per diem interest overcharges was between 1 and 4 days.

11 6. Prior regulatory examinations conducted in 2009 and 2011 had revealed similar
12 violations.

13 7. The Commissioner had conducted a regulatory examination in March 2009, which had
14 revealed that in 10 out of 30 loans, or approximately 33% of the loan files reviewed, MHM was
15 charging the borrowers per diem interest in excess of one day prior to the date that the loan proceeds
16 were disbursed from escrow, in violation of Section 50204, subdivisions (k) and (o), and California
17 Civil Code section 2948.5.

18 8. Based upon the findings of the 2009 examination and on or about August 24, 2009,
19 the Commissioner instructed MHM to perform a per diem interest self-audit review of all loans that
20 were originated since 2008, and to refund the amount of excess per diem interest charged to the
21 borrowers.

22 9. A regulatory examination conducted in October 2011 revealed that in 4 out of 30
23 loans, or approximately 13% of the loan files reviewed, MHM was charging the borrowers per diem
24 interest in excess of one day prior to the date that the loan proceeds were disbursed from escrow, in
25 violation of Section 50204, subdivisions (k) and (o), and California Civil Code section 2948.5.

26 10. Based upon the 2011 examination findings and on or about April 3, 2012, the
27 Commissioner instructed MHM to refund the excess per diem interest charged to the borrowers.

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1 11. By reason of the foregoing, MHM has repeatedly violated Section 50204, subdivisions
2 (k) and (o), and California Civil Code section 2948.5.

3 12. Section 50321 provides in pertinent part:

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

10 (Cal. Fin. Code § 50321.)

11 13. Section 50323 provides:

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

(Cal. Fin. Code § 50323.)

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