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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of:) CRMLA LICENSE No.: 415-0081
THE COMMISSIONER OF BUSINESS)
12 OVERSIGHT,) CFLL LICENSE Nos.: 605-3971; 603-H992;
13) 603-I486; and 603-K754
Complainant,)
14) ACCUSATION
v.)
15)
16 PACIFIC UNION FINANCIAL, LLC,)
Respondent.)
17)
18)
19)

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

22 I

23 **Introduction**

24 1. Pacific Union Financial, LLC (“Pacific Union”) is a residential mortgage lender and
25 loan servicer licensed by the Commissioner of Business Oversight ("Commissioner" or
26 "Complainant") pursuant to the California Residential Mortgage Lending Act ("CRMLA")
27 (Financial Code §50000 et seq.). Pacific Union has its principal place of business located at 8900
28 Freeport Parkway, Suite 150, Irving, Texas 75063. Pacific Union currently has 14 branch office

ACCUSATION

1 locations under its CRMLA license located in California, and other states. Pacific Union employs
2 mortgage loan originators in its CRMLA business.

3 2. Pacific Union is also licensed by the Commissioner as a finance lender and broker
4 pursuant to the California Finance Lenders Law ("CFL") (Financial Code § 22000 et seq.). Pacific
5 Union has its principal place of business under the CFL also located at 8900 Freeport Parkway,
6 Suite 150, Irving, Texas 75063. Pacific Union has 3 branch office locations under its CFL license
7 located in California and Texas. Pacific Union has been approved to do business under its CFL
8 licenses under the names ClearVision Funding and Liberty Mortgage Bankers.

9 II

10 CRMLA Violations

11 3. On or about July 22, 2013, the Commissioner, by and through staff, commenced a
12 regulatory examination of the books and records of Pacific Union under the CRMLA ("2013
13 regulatory examination"). The 2013 regulatory examination disclosed that in 7 of the 24 funded
14 loans reviewed, or approximately 29%, Pacific Union was charging the borrower per diem interest in
15 excess of one day prior to the disbursement of loan proceeds in violation of Financial Code section
16 50204(o). A California Additional Per Diem Interest Charge Disclosure was found in 5 of the 7
17 loans with per diem interest overcharges. However, the disclosures were either not prepared in
18 accordance with California Civil Code section 2948.5(b), and therefore were not considered in
19 calculating per diem interest charges or the borrower specifically requested that disbursement occur
20 on a day immediately following a business day. The per diem interest overcharges averaged \$85.48
21 per loan. The range of per diem interest overcharges was between \$34.86 and \$297.65. The range
22 of days that interest was overcharged was between 2 and 6.

23 4. On or about September 10, 2014, the Commissioner, based upon the findings of the
24 2013 regulatory examination and pursuant to Financial Code section 50307, subdivision (b), directed
25 Pacific Union to conduct a self-audit regarding per diem interest charges for all loans originated
26 from November 10, 2011 to the present, make appropriate refunds, and submit a report as to the
27 findings of the self-audit ("self-audit report"). The self-audit report was to include at a minimum the
28 loan number; borrower's name; loan amount; interest rate; date funds were disbursed by the

1 settlement agent; the date per diem interest commenced; per diem interest overcharged; and the date
2 refunded. The self-audit report was to be submitted to the Commissioner on or before September 30,
3 2014.

4 5. On or about October 10, 2014, Pacific Union requested an extension to February 1,
5 2015 to complete the review. On or about October 30, 2014, Pacific Union informed the
6 Department of Business Oversight (“Department”) that it had hired a third party vendor to review
7 approximately 10,000 of the 16,099 loans originated during the self-audit period.

8 6. Pacific Union updated the Department in writing as to its progress in performing the
9 self-audit on or about December 5, 2014, January 2, 2015, January 22, 2015, February 6, 2015,
10 February 26, 2015, March 16, 2015, April 10, 2015, and May 7, 2015. The last progress report from
11 Pacific Union dated May 7, 2015 noted that it had reviewed 14,509 of the 16,099 loans. The
12 progress report further noted that 1,590 of the reviewed loans were missing disbursement dates and
13 that refunds were found to be owed in 3,166 of the loans reviewed.

14 7. None of the progress reports submitted by Pacific Union contained a self-audit report
15 as required by the Commissioner. Pacific Union has not communicated with the Department since
16 May 7, 2015 and has yet to comply with the Commissioner’s demand for the self-audit report in
17 violation of Financial Code section 50307, subdivision (b).

18 III

19 **Finance Lender/Broker Licenses**

20 The violations of the CRMLA described above, if committed by Pacific Union on or before
21 having originally sought a license from the Commissioner under the CFLL, would have constituted
22 grounds for the Commissioner to deny the license application of Pacific Union under Financial Code
23 section 22109. Pursuant to Financial Code section 22714, the Commissioner may suspend any
24 license if “a fact or condition exists that, if it had existed at the time of the original application for
25 the license, reasonably would have warranted the commissioner in refusing to issue the license
26 originally.” Pursuant to Financial Code section 22109, the Commissioner may refuse to issue a
27 license if the “applicant . . . has violated any provision of this division or the rules thereunder or any
28 similar regulatory scheme of the State of California . . .”

1 Thus, a fact or condition now exists that, if it had existed at the time of the original
2 application of Pacific Union for a license under the CFLL, reasonably would have warranted the
3 Commissioner in refusing to issue the license.

4 **IV**

5 **CRMLA Suspension/Penalty Statutes**

6 Financial Code section 50327 provides in pertinent part:

7 (a) The commissioner may, after notice and a reasonable opportunity to
8 be heard, suspend or revoke any license, if the commissioner finds that:

9 (1) the licensee has violated any provision of this division or rule or order
10 of the commissioner thereunder; or (2) any fact or condition exists that, if
11 it had existed at the time of the original application for license, reasonably
12 would have warranted the commissioner in refusing to issue the license originally.

13 Financial Code section 50513 provides in pertinent part:

14 (a) The commissioner may do one or more of the following:

15 (4) Impose fines on a mortgage loan originator or any residential mortgage
16 lender or servicer licensee employing a mortgage loan originator pursuant
17 to subdivisions (b), (c), and (d).

18 (b) The commissioner may impose a civil penalty on a mortgage loan originator
19 or any residential mortgage lender or servicer licensee employing a mortgage
20 loan originator, if the commissioner finds, on the record after notice and
21 opportunity for hearing, that the mortgage loan originator or any residential
22 mortgage lender or servicer licensee employing a mortgage loan originator
23 has violated or failed to comply with any requirement of this division or any
24 regulation prescribed by the commissioner under this division or order issued
25 under authority of this division.

26 (c) The maximum amount of penalty for each act or omission described in
27 subdivision (b) shall be twenty-five thousand dollars (\$25,000).

28 (d) Each violation or failure to comply with any directive or
order of the commissioner is a separate and distinct violation or
failure.

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V

Conclusion

The Commissioner finds that, by reason of the foregoing, Pacific Union has violated Financial Code sections 50204, subdivision (o), and 50307, subdivision (b) of the CRMLA, and a fact or condition now exists, that if it had existed at the time of original licensure under the CFLL, reasonably would have warranted the Commissioner in refusing to issue the CFLL license, and based thereon, grounds exist to (i) suspend the residential mortgage lender and loan servicer licenses and the finance lender and broker licenses of Pacific Union, and (ii) assess penalties against Pacific Union pursuant to Financial Code section 50513, subdivision (b).

VI

Prayer

WHEREFORE, IT IS PRAYED that:

1. Pursuant to Financial Code section 50327, the residential mortgage lender and loan servicer licenses of Pacific Union be suspended for a period of up to 12 months;
2. Pursuant to Financial Code section 22714, the finance lender and broker licenses of Pacific Union be suspended for a period of up to 12 months;
3. Pursuant to the Financial Code section 50513, subdivision (b), penalties be levied against Pacific Union for at least 3,166 violations of Financial Code sections 50504(o), overcharging per diem interest, according to proof, but in an amount of at least \$1,000.00 per violation; and
4. Pursuant to the Financial Code section 50513, subdivision (b), a penalty be levied against Pacific Union for failing to file the self-audit report in violation Financial Code section 50307, subdivision (b) according to proof, but in an amount of at least \$25,000.00.

Dated: May 18, 2015
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Counsel
Enforcement Division