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

11 In the Matter of:)	CRMLA LICENSE No.: 415-0081
12 THE COMMISSIONER OF BUSINESS)	
13 OVERSIGHT,)	STATEMENT OF FACTS IN SUPPORT OF
14 Complainant,)	ORDER TO DISCONTINUE VIOLATIONS
15 vs.)	PURSUANT TO FINANCIAL CODE
16 PACIFIC UNION FINANCIAL, LLC,)	SECTION 50321 AND NOTICE OF INTENT
17 Respondent.)	TO MAKE ORDER FINAL
18)	
19)	

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

22 1. Pacific Union Financial, LLC (“Pacific Union”) is a residential mortgage lender and
23 loan servicer licensed by the Commissioner of Business Oversight ("Commissioner" or
24 "Complainant") pursuant to the California Residential Mortgage Lending Act ("CRMLA")
25 (Financial Code §50000 et seq.). Pacific Union has its principal place of business located at 8900
26 Freeport Parkway, Suite 150, Irving, Texas 75063. Point Mortgage currently has 4 branch office
27 locations under its CRMLA license located in California. Pacific Union currently has 14 branch
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1 office locations under its CRMLA license located in California, and other states. Pacific Union
2 employs mortgage loan originators in its CRMLA business.

3 **Violations of the CRMLA**

4 2. On or about July 22, 2013, the Commissioner, by and through staff, commenced a
5 regulatory examination of the books and records of Pacific Union under the CRMLA (“2013
6 regulatory examination”). The 2013 regulatory examination disclosed that in 7 of the 24 funded
7 loans reviewed, or approximately 29%, Pacific Union was charging the borrower per diem interest in
8 excess of one day prior to the disbursement of loan proceeds in violation of Financial Code section
9 50204(o). A California Additional Per Diem Interest Charge Disclosure was found in 5 of the 7
10 loans with per diem interest overcharges. However, the disclosures were either not prepared in
11 accordance with California Civil Code section 2948.5(b), and therefore were not considered in
12 calculating per diem interest charges or the borrower specifically requested that disbursement occur
13 on a day immediately following a business day. The per diem interest overcharges averaged \$85.48
14 per loan. The range of per diem interest overcharges was between \$34.86 and \$297.65. The range
15 of days that interest was overcharged was between 2 and 6.

16 3. On or about September 10, 2014, the Commissioner, based upon the findings of the
17 2013 regulatory examination and pursuant to Financial Code section 50307, subdivision (b), directed
18 Pacific Union to conduct a self-audit regarding per diem interest charges for all loans originated
19 from November 10, 2011 to the present, make appropriate refunds, and submit a report as to the
20 findings of the self-audit (“self-audit report”). The self-audit report was to include at a minimum the
21 loan number; borrower’s name; loan amount; interest rate; date funds were disbursed by the
22 settlement agent; the date per diem interest commenced; per diem interest overcharged; and the date
23 refunded. The self-audit report was to be submitted to the Commissioner on or before September 30,
24 2014.

25 4. On or about October 10, 2014, Pacific Union requested an extension to February 1,
26 2015 to complete the review. On or about October 30, 2014, Pacific Union informed the
27 Department of Business Oversight (“Department”) that it had hired a third party vendor to review
28 approximately 10,000 of the 16,099 loans originated during the self-audit period.

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

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

11 7. By reason of the foregoing, Pacific Union has violated Financial Code sections
12 50204, subdivision (o) and 50307, subdivision (b).

13 8. Financial Code section 50321 provides in pertinent part:

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

20 9. Financial Code section 50323 provides:

21 (a) No order issued pursuant to Section 50321 or 50322 may become
22 final except after notice to the affected licensee of the commissioner's
23 intention to make the order final and of the reasons for the finding. The
24 commissioner shall also notify the licensee that upon receiving a
25 request the matter will be set for hearing to commence within 15 business
26 days after receipt. The licensee may consent to have the hearing
27 commenced at a later date. If no hearing is requested within 30 days
28 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 the powers

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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 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 is issuing an Order to Discontinue Violations Pursuant to Financial Code Section 50321 and notifying Pacific Union of her intention to make the order final.

Dated: May 18, 2015
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Counsel
Enforcement Division