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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. 413-1123  
13 )  
14 THE COMMISSIONER OF BUSINESS )  
OVERSIGHT, ) ACCUSATION IN SUPPORT OF ORDER  
15 ) SUSPENDING RESIDENTIAL MORTGAGE  
Complainant, ) LENDER LICENSE AND IMPOSING  
16 ) PENALTIES PURSUANT TO CALIFORNIA  
v. ) FINANCIAL CODE SECTIONS 50327 AND  
17 ) 50513  
18 NETWORK FUNDING, LP, )  
Respondent. )  
19 )  
20 )

21 The Complainant, the California Commissioner of Business Oversight (“Commissioner”), is  
22 informed and believes, and based upon such information and belief, alleges and charges as follows:

23 **I**  
24 **Introduction**

25 1. Network Funding, LP (“Network”) is a residential mortgage lender licensed by the  
26 Commissioner, pursuant to the California Residential Mortgage Lending Act (Cal. Fin. Code § 50000  
27 et seq.) (“CRMLA”).

28 ///



1 Code of Regulations, title 10, section 1950.314.1.

2 9. The 2013 regulatory examination also disclosed that in 6 out of 19 loans, or  
3 approximately 32% of the loan files reviewed, Network was charging its borrowers per diem interest  
4 in excess of one day prior to the date that the loan proceeds were disbursed from escrow, in violation  
5 of California Financial Code section 50204, subdivisions (k) and (o), and California Civil Code  
6 section 2948.5.

7 10. The Commissioner instructed Network to conduct a self-audit of all California loans  
8 originated from March 17, 2011 through the end of 2014 to determine the number and amount of  
9 interest overcharges to borrowers. Network was also instructed to have a third party auditor conduct  
10 a quality control review of Network's self-audit, provide an audit report, and to refund to borrowers  
11 the amount of overcharges plus interest at the rate of 10% per annum. As instructed, Network  
12 conducted a self-audit review, had a third party auditor conduct a quality control review of the self-  
13 audit, provided the Commissioner with the audit report, and refunded the overcharged loans plus  
14 interest to borrowers.

15 11. The self-audit revealed that in 16 out of 106 loans, or approximately 15% of the loan  
16 files reviewed, Network was charging its borrowers per diem interest in excess of one day prior to the  
17 date that the loan proceeds were disbursed from escrow, in violation of California Financial Code  
18 section 50204, subdivisions (k) and (o), and California Civil Code section 2948.5.

19 12. The range of per diem interest overcharges was between \$18.95 to \$196.64. The range  
20 of days of per diem interest overcharges was between 2 and 4 days.

21 13. Network failed to maintain its books and records in a manner that would enable the  
22 Commissioner to determine whether the licensee was in compliance with the CRMLA and the rules  
23 and regulations promulgated therein, in violation of California Financial Code section 50314, and  
24 California Code of Regulations, title 10, section 1950.314.2. For instance, Network's balance sheet  
25 showed a balance of \$10,843.45 for its UBS account, as of February 2013. However, the adjusted  
26 bank balance per the January 2013 bank statement was zero, and the account was closed.

27 14. Network failed to provide the Fair Lending Notice to four borrowers upon submission  
28 of a written application; failed to timely provide the Fair Lending Notice to one borrower; and the

1 Fair Lending Notice in two borrowers' files failed to direct the borrowers to the Department where  
2 complaints may be filed and where questions may be asked, in violation of California Health &  
3 Safety Code section 35830, and California Code of Regulations, title 21, section 7114.

4 **III**  
5 **Suspension**

6 15. Based on the above described violations, the Commissioner may suspend Network's  
7 CRMLA License under California Financial Code section 50327, which provides in pertinent part:

8 (a) The commissioner may, after notice and a reasonable opportunity to  
9 be heard, suspend or revoke any license, if the commissioner finds that:  
10 (1) the licensee has violated any provision of this division  
11 [commencing with Fin. Code § 50000] or rule or order of the  
12 commissioner thereunder; or (2) any fact or condition exists that, if it  
13 had existed at the time of the original application for license,  
14 reasonably would have warranted the commissioner in refusing to issue  
15 the license originally.

16 (Cal. Fin. Code § 50327.)

17 **IV**  
18 **Penalties**

19 16. Penalties should be imposed on Network for the violations discussed above, under  
20 California Financial Code section 50513, which provides in pertinent part:

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

22 . . .

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

26 . . .

27 (b) The commissioner may impose a civil penalty on a mortgage loan  
28 originator or any residential mortgage lender or servicer licensee  
employing a mortgage loan originator, if the commissioner finds, on the  
record after notice and opportunity for hearing, that the mortgage loan  
originator or any residential mortgage lender or servicer licensee  
employing a mortgage loan originator has violated or failed to comply  
with any requirement of this division [commencing with Fin. Code §  
50000] or any regulation prescribed by the commissioner under this  
division or order issued under authority of this division.

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

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

(Cal. Fin. Code § 50513.)

**V**  
**Conclusion**

The Commissioner finds that, by reason of the foregoing, Network Funding, LP has violated California Financial Code sections 50002, 50202, 50314, and 50204, subdivisions (k) and (o), California Civil Code section 2948.5, California Code of Regulations sections 1950.314.1, 1950.314.2, 1950.314.6, and 7114, and California Health & Safety Code section 35830. Therefore, grounds exist to suspend the residential mortgage lender license of Network Funding, LP, pursuant to California Financial Code section 50327; and levy penalties against Network Funding, LP, pursuant to California Financial Code section 50513.

WHEREFORE, IT IS PRAYED that:

(1) Pursuant to California Financial Code section 50327, the residential mortgage lender license of Network Funding, LP be suspended for a period of up to 12 months; and

(2) Pursuant to the California Financial Code section 50513, subdivision (b), penalties be levied against Network Funding, LP for at least twenty-nine violations of California Financial Code sections 50002, 50202, 50314, and 50204, California Code of Regulations sections 1950.314.1, 1950.314.2, 1950.314.6, and 7114, and California Health & Safety Code section 35830, for servicing residential mortgage loans without a servicing license, comingling of trust funds, failure to properly maintain books and records, overcharging per diem interest, trust account shortage, and failure to properly provide Fair Lending Notices to borrowers, according to proof, but in an amount of at least \$2,500.00 per violation for a total amount of penalties of at least \$72,500.00.

Dated: May 11, 2016  
San Diego, California

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
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