

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 JUDY L. HARTLEY (State Bar No. 110628)
Senior Counsel
4 Department of Business Oversight
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
Telephone: (213) 576-7604
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

10
11 In the Matter of:) CRMLA LICENSE No.: 413-0495
)
12 THE COMMISSIONER OF BUSINESS) CFLL LICENSE Nos.: 603-G129; 603-G385;
13 OVERSIGHT,) 603-G386; 603-G387; 603-H918; 603-H970;
) 603-H987; 603-I119; and 60DBO-33006
14 Complainant,)
)
15 vs.)
) SETTLEMENT AGREEMENT
16 STEARNS LENDING, INC. now known as)
17 STEARNS LENDING, LLC,)
)
18)
19 Respondent.)
)
20)

21
22 This Agreement is entered into between Respondent Stearns Lending, Inc. now known as
23 Stearns Lending, LLC (“Stearns”) and Complainant the Commissioner of Business Oversight
24 (“Commissioner”), and is made with respect to the following facts:

25 **RECITALS**

26 A. Stearns is a corporation in good standing, duly formed and existing pursuant to the
27 laws of the State of California.
28

1 B. Stearns holds a residential mortgage lender and loan servicer license issued by the
2 Commissioner pursuant to the California Residential Mortgage Lending Act ("CRMLA") (Financial
3 Code §50000 et seq.). Stearns has its principal place of business located at
4 4 Hutton Centre Drive, 10th Floor, Santa Ana, California 92707. Stearns currently has 83 branch
5 office locations under its CRMLA license located in California, and other states. Stearns employs
6 mortgage loan originators in its CRMLA business. Stearns has been approved to do business under
7 its CRMLA licenses under the names CU Partners, First Security Home Loans, Stearns Financial
8 Institutions Group and Stearns Home Loans.

9 C. Stearns is also licensed by the Commissioner as a finance lender and broker pursuant
10 to the California Finance Lenders Law ("CFL") (Financial Code § 22000 et seq.). Stearns currently
11 has 7 branch office locations under its CFL license located in California and elsewhere. Stearns
12 has been approved to do business under its CFL licenses under the name Stearns Home Loans.

13 D. The Department of Business Oversight ("Department"), through the Commissioner,
14 has jurisdiction over the licensing and regulation of persons and entities engaged in the business of
15 lending and/or servicing pursuant to the CRMLA, and lending and/or brokering under the CFL,
16 including mortgage loan originators.

17 E. On January 8, 2016, Stearns was personally served by the Commissioner with a
18 Notice of Intention to Issue Orders Suspending Residential Mortgage Lender/Servicer Licenses and
19 Finance Lender/Broker Licenses; Levy Penalties; and Deny Application for a Finance
20 Lender/Broker Branch License; Accusation/Statement of Issues, and accompanying documents dated
21 January 4, 2016. Stearns has filed a Notice of Defense with the Commissioner regarding the
22 Accusation/Statement of Issues.

23 F. On January 8, 2016, Stearns was also personally served by the Commissioner with an
24 Order to Discontinue Violations Pursuant to Financial Code Section 50321 and Statement of Facts In
25 Support of Order to Discontinue Violations Pursuant to Financial Code Section 50321 and Notice of
26 Intent to Make Order Final dated January 4, 2016 ("Order"). Stearns has filed a request for a hearing
27 with the Commissioner regarding the Order.
28

1 G. Stearns has advised the Commissioner that, rather than contesting the
2 Commissioner’s accusations through administrative proceedings, Stearns desires to resolve this
3 matter informally and cooperatively by way of settlement.

4 H. The Commissioner hereby acknowledges that Stearns has submitted information
5 demonstrating that it has adopted policies and procedures addressing the issues described in the
6 Accusation/Statement of Issues and Order.

7 I. It is the intention and desire of the parties to resolve this matter without the necessity
8 of a hearing and/or other litigation.

9 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
10 forth herein, the parties agree as follows:

11 **TERMS AND CONDITIONS**

12 1. This Agreement is entered into for the purpose of judicial economy and expediency,
13 and to avoid the expense of a hearing, and possible further court proceedings.

14 2. Stearns acknowledges its right to an administrative hearing under the CRMLA and/or
15 the CFLL in connection with the Accusation/Statement of Issues and/or Order and hereby waives
16 that right to a hearing, and to any reconsideration, appeal, or other rights which may be afforded
17 pursuant to the CRMLA, the CFLL, the California Administrative Procedure Act, the California
18 Code of Civil Procedure, or any other provision of law in connection with these matters.

19 3. Stearns hereby agrees that the Order described in paragraph F above is hereby
20 deemed a final order.

21 4. Stearns further agrees to pay to the Commissioner the sum of \$47,000.00 in penalties
22 upon execution of this Settlement Agreement.

23 5. In consideration of the information provided to the Commissioner by Stearns as
24 described in paragraph H above and Stearns’ agreement to the finality of the Order and payment of
25 penalties as provided for in paragraphs 3 and 4 above, the Commissioner hereby agrees not to
26 suspend the residential mortgage lender and loan servicer licenses or finance lender and/or broker
27 licenses of Stearns. Accordingly, this Agreement, which resolves the Accusation and Order, does
28 not affect the licensing status of Stearns set forth in paragraphs B and C above and the licenses of

1 Stearns are in good standing.

2 6. As a pending application for a branch office to be located in Las Vegas, Nevada no
3 longer exists, the parties agree that this issue is moot.

4 7. This Settlement Agreement may be revoked and the Commissioner may pursue any
5 and all remedies available under law against Stearns, if the Commissioner later finds out that Stearns
6 knowingly or willfully withheld information used and relied upon in this Settlement Agreement.

7 8. This Settlement Agreement is binding on all heirs, assigns and/or successors in
8 interest.

9 9. This Settlement Agreement does not create any private rights or remedies against
10 Stearns, create any liability for Stearns or limit defenses of Stearns for any person or entity not a
11 party to this Settlement Agreement.

12 10. The parties hereby acknowledge and agree that this Settlement Agreement is intended
13 to constitute a full, final and complete resolution of the Accusation/Statement of Issues and Order
14 and that no further proceedings or actions will be brought by the Commissioner in connection with
15 these matters either under the CRMLA, CFLL, or any other provision of law, to include any failure
16 to provide fair lending notices on California loan applications submitted and/or loans originated
17 through December 31, 2015, excepting therefrom any proceeding or action if such proceeding or
18 action is based upon facts not presently known to the Commissioner and which were actively
19 concealed from the Commissioner by Stearns.

20 11. The parties acknowledge and agree that nothing contained in this Settlement
21 Agreement shall operate to limit the Commissioner's ability to assist any other agency, (city, county,
22 state or federal) with any prosecution, administrative, civil or criminal, brought by any such agency
23 against Stearns or any other person based upon any of the activities alleged in these matters or
24 otherwise.

25 12. Each of the parties represents, warrants, and agrees that it has received independent
26 advice from its attorney(s) and/or representatives with respect to the advisability of executing this
27 Settlement Agreement.
28

1 13. Each of the parties represents, warrants, and agrees that in executing this Settlement
2 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel
3 and/or representative. Each of the parties further represents, warrants, and agrees that in executing
4 this Settlement Agreement it has placed no reliance on any statement, representation, or promise of
5 any other party, or any other person or entity not expressly set forth herein, or upon the failure of any
6 party or any other person or entity to make any statement, representation or disclosure of anything
7 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in
8 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the
9 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
10 Settlement Agreement.

11 14. This Settlement Agreement is the final written expression and the complete and
12 exclusive statement of all the agreements, conditions, promises, representations, and covenants
13 between the parties with respect to the subject matter hereof, and supersedes all prior or
14 contemporaneous agreements, negotiations, representations, understandings, and discussions
15 between and among the parties, their respective representatives, and any other person or entity, with
16 respect to the subject matter covered hereby.

17 15. In that the parties have had the opportunity to draft, review and edit the language of
18 this Settlement Agreement, no presumption for or against any party arising out of drafting all or any
19 part of this Settlement Agreement will be applied in any action relating to, connected, to, or
20 involving this Settlement Agreement. Accordingly, the parties waive the benefit of California Civil
21 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
22 language of a contract should be interpreted most strongly against the party who caused the
23 uncertainty to exist.

24 16. The waiver of any provision of this Settlement Agreement shall not operate to waive
25 any other provision set forth herein, and any waiver, amendment and/or change to the terms of this
26 Settlement Agreement must be in writing signed by the parties.

27 17. This Settlement Agreement shall not become effective until signed and delivered by
28 all parties.

1 18. This Settlement Agreement may be executed in one or more counterparts, each of
2 which shall be an original but all of which, together, shall be deemed to constitute a single
3 document. This Settlement Agreement may be executed by facsimile signature, and any such
4 facsimile signature by any party hereto shall be deemed to be an original signature and shall be
5 binding on such party to the same extent as if such facsimile signature were an original signature.

6 19. Each signatory hereto covenants that he/she possesses all necessary capacity and
7 authority to sign and enter into this Settlement Agreement.

8 Dated: 9/21/16 JAN LYNN OWEN
9 Commissioner of Business Oversight

10
11 By _____
12 MARY ANN SMITH
13 Deputy Commissioner

14 Dated: 9/20/16 STEARNS LENDING, INC. nka STEARNS
15 LENDING, LLC

16
17 By _____
18 KATHERINE T. LE, President

19 APPROVED AS TO FORM:
20 MORRISON FOERSTER LLP

21
22 By _____
23 NANCY R. THOMAS, ESQ. attorneys for
24 STEARNS LENDING, INC. nka STEARNS
25 LENDING, LLC
26 Commissioner of Business Oversight

27 By _____
28 JUDY L. HARTLEY, ESQ.
Senior Counsel