

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.: 415-0081
12 THE COMMISSIONER OF BUSINESS)
13 OVERSIGHT,) STIPULATION
)
14 Complainant,)
)
15 v.)
)
16 PACIFIC UNION FINANCIAL, LLC,)
17)
18 Respondent.)
)

19
20 This Stipulation (Stipulation) is entered into by and between the Commissioner of Business
21 Oversight (Commissioner) and Pacific Union Financial, LLC (Pacific Union) (collectively the
22 Parties), and is made with respect to the following facts:

23 **I.**

24 **Recitals**

25 A. Pacific Union is a limited liability company in good standing, duly formed and
26 existing pursuant to the laws of the State of California and authorized to conduct business in the
27 State of California.

28 B. Pacific Union is a residential mortgage lender and loan servicer licensed by the

1 Commissioner pursuant to the California Residential Mortgage Lending Act (CRMLA) (Financial
2 Code §50000 et seq.). Pacific Union has its principal place of business located at 1601 LBJ
3 Freeway, Suite 500, Farmers Branch, Texas 75234. Pacific Union currently has 5 branch office
4 locations under its CRMLA license located in California, and other states. Pacific Union employs
5 mortgage loan originators in its CRMLA business

6 C. The Department of Business Oversight (Department), through the Commissioner, has
7 jurisdiction over the licensing and regulation of persons and entities engaged in the business of
8 lending and/or servicing pursuant to the CRMLA, including mortgage loan originators.

9 D. Evan Michael Stone (Stone) is the chief executive officer of Pacific Union, and as
10 such, is authorized to enter into this Stipulation on behalf of Pacific.

11 E. As a result of a regulatory examination of Pacific Union commenced in 2017, the
12 Commissioner found that Pacific Union was not paying 2% interest annually on borrower escrow
13 impound funds as provided for under Financial Code section 50202, subdivision (d) and/or Civil
14 Code section 2954.8. Pacific Union disagrees that it is required to pay interest on borrower escrow
15 accounts under the provisions of Financial Code section 50202, subdivision (d) and/or Civil Code
16 section 2954.8.

17 F. The Commissioner finds that entering into this Stipulation is in the public interest
18 and is consistent with the purposes fairly intended by the policy and provisions of the CRMLA.

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

21 **II.**

22 **Terms and Conditions**

23 1. **Purpose.** This Stipulation is entered into for the purpose of judicial economy and to
24 avoid the expense and uncertainty of a hearing or other litigation.

25 2. **Finality of Stipulation.** Pacific Union agrees to comply with this Stipulation and
26 agrees that this Stipulation is hereby deemed final.

27 3. **Waiver of Hearing Rights.** Pacific Union acknowledges that the Commissioner is
28 ready, willing, and able to proceed with the filing of an administrative enforcement action on the

1 charges contained in this Stipulation. Pacific Union hereby waives the right to any hearings, and to
2 any reconsideration, appeal, or other right to review which may be afforded pursuant to the CRMLA,
3 the California Administrative Procedure Act, the California Code of Civil Procedure, or any other
4 provision of law. Pacific Union further expressly waives any requirement for the filing of an
5 Accusation pursuant to Government Code section 11415.60, subdivision (b). By waiving such
6 rights, Pacific Union effectively consents to this Stipulation becoming final.

7 4. Compensation Population Calculation. Pacific Union shall audit its files and identify
8 all residential mortgage loans (loans) it serviced between September 10, 2014 and December 31,
9 2017 and determine which loans with escrow impound accounts were not paid the 2% interest along
10 with the amount of the unpaid interest (Compensation Population). Pacific Union represents that it
11 has already completed this audit and has identified 38,818 loans that constitute the Compensation
12 Population and a total compensation amount of \$1,261,608.43.

13 5. Compensation Payments. Pacific Union agrees to make compensation payments to
14 borrowers affected by the non-payment of interest on escrow impound accounts described in
15 paragraph E above totaling \$1,261,608.43. Pacific Union shall not be required to make any
16 compensation in an amount of \$1.00 or less on non-outstanding loans. Borrower compensation shall
17 be made on a quarterly basis and completed no later than December 31, 2019 and shall be applied as
18 follows:

19 a. For non-delinquent outstanding loans, Pacific Union shall credit the
20 compensation to the borrowers' escrow impound account, or if the borrower no longer has an escrow
21 impound account, reduce the principal balance by the compensation amount

22 b. For delinquent outstanding loans, Pacific Union shall credit the compensation
23 amount to the borrowers' escrow impound account, or if the borrower no longer has an escrow
24 impound account, reduce any delinquency by the compensation amount.

25 c. For non-outstanding loans, Pacific Union shall pay the borrower(s) directly by
26 issuance of a check.

27 6. An outstanding loan is any loan that Pacific Union services at the time of
28 compensation. A non-outstanding loan is any loan that has been paid in full or the servicing

1 transferred at the time of compensation.

2 7. Quarterly Reports. Pacific Union shall submit quarterly reports to the Commissioner
3 setting forth information regarding all compensation paid during that quarter. The quarterly reports
4 shall be in Microsoft Excel spreadsheet format and shall include at a minimum for all compensation
5 paid during the quarter, the borrower loan number, name, address, loan amount, loan date, interest
6 rate, compensation amount, date of compensation, manner of compensation, and compensation
7 check number (if applicable). The first quarterly report shall be due May 31, 2019 for the quarter
8 commencing on January 1, 2019. The remaining quarterly reports shall be due: (i) August 31, 2019
9 for the quarter April 1 through June 30, 2019; (ii) November 30, 2018 for the quarter July 1 through
10 September 30, 2019; and (iii) February 28, 2020 for the quarter October 1 through December 31,
11 2019.

12 8. Compensation by Check. For all compensation provided by check, Pacific Union
13 shall send the compensation checks by first class mail to the last known postal mail address of the
14 borrower listed in the records of Pacific Union with a request for address correction on each
15 envelope. Pacific Union shall re-send all compensation checks returned by the United States Post
16 Office with a forwarding or corrected address.

17 9. Outstanding Compensation Checks. Pacific Union shall escheat all compensation
18 checks returned as undeliverable by the United States Post Office to the State Controller’s Office
19 within the time-period provided by the Unclaimed Property Act (Code Civ. Proc., § 1500 et seq.).

20 10. Future Escrow Impound Interest. Pacific Union agrees that it will commence
21 payment of escrow impound interest in accordance with Financial Code section 50202, subdivision
22 (d) and/or Civil Code section 2954.8 commencing January 1, 2018.

23 11. Suspension of Licenses for Failure to Comply. Pacific Union agrees that, if it fails to
24 comply with any of the terms of this Stipulation within 5 days after written notice of demand, the
25 CRMLA license of Pacific Union shall be summarily suspended until Pacific Union complies.
26 Pacific Union hereby waives any notice and hearing rights that may be afforded pursuant to the
27 CRMLA, the California Administrative Procedure Act, the California Code of Civil Procedure, or
28 any other provision of law.

1 12. Consideration. Except as set forth in Paragraph 11 of this Stipulation, in
2 consideration of Pacific Union’s agreement to payment of compensation and future escrow impound
3 interest, the Commissioner hereby agrees that she shall not suspend, revoke or commence other
4 adverse administrative proceedings against the CRMLA as a result of this matter.

5 13. Binding. This Stipulation is binding on all heirs, assigns, and/or successors in
6 interest.

7 14. Third Party Actions. This Stipulation does not create any private rights or remedies
8 against Pacific Union, create any liability for Pacific Union, create any contractual third-party
9 beneficiaries, or limit defenses of Pacific Union for any person or entity not a party to this
10 Stipulation.

11 15. Full and Final Settlement. The parties hereby acknowledge and agree that this
12 Stipulation is intended to constitute a full, final, and complete resolution of the findings of the 2017
13 regulatory examination described in paragraph E. above, and that no further proceedings or actions
14 will be brought by the Commissioner in connection with this matter under the CRMLA, or any other
15 provision of law, excepting therefrom any proceeding to enforce compliance with the terms of this
16 Stipulation.

17 16. Commissioner’s Duties. The parties acknowledge and agree that nothing contained in
18 this Stipulation shall operate to limit the Commissioner’s ability to assist any other agency (city,
19 county, state or federal) with any prosecution, administrative, civil or criminal, brought by any such
20 agency against Pacific Union or any other person based upon any of the activities alleged in these
21 matters or otherwise.

22 17. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
23 has received independent advice from its attorney(s) and/or representatives with respect to the
24 advisability of executing this Stipulation.

25 18. Reliance. Each of the parties represents, warrants, and agrees that in executing this
26 Stipulation it has relied solely on the statements set forth herein and the advice of its own counsel
27 and/or representative. Each of the parties further represents, warrants, and agrees that in executing
28 this Stipulation it has placed no reliance on any statement, representation, or promise of any other

1 party, or any other person or entity not expressly set forth herein, or upon the failure of any party or
2 any other person or entity to make any statement, representation or disclosure of anything
3 whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in
4 any way fraudulently induced to execute this Stipulation; and (2) to preclude the introduction of
5 parol evidence to vary, interpret, supplement, or contradict the terms of this Stipulation.

6 19. Full Integration. This Stipulation is the final written expression and the complete and
7 exclusive statement of all the agreements, conditions, promises, representations, and covenants
8 between the parties with respect to the subject matter hereof, and supersedes all prior or
9 contemporaneous agreements, negotiations, representations, understandings, and discussions
10 between and among the parties, their respective representatives, and any other person or entity, with
11 respect to the subject matter covered hereby.

12 20. No Presumption from Drafting. In that the parties have had the opportunity to draft,
13 review and edit the language of this Stipulation, no presumption for or against any party arising out
14 of drafting all or any part of this Stipulation will be applied in any action relating to, connected to, or
15 involving this Stipulation. Accordingly, the parties waive the benefit of Civil Code section 1654 and
16 any successor or amended statute, providing that in cases of uncertainty, language of a contract
17 should be interpreted most strongly against the party who caused the uncertainty to exist.

18 21. Waiver, Amendments, and Modification. The waiver of any provision of this
19 Stipulation shall not operate to waive any other provision set forth herein. No waiver, amendment,
20 or modification of this Stipulation shall be valid or binding to any extent unless it is in writing and
21 signed by all of the parties affected by it.

22 22. Headings. The headings to the paragraphs of this Stipulation are inserted for
23 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
24 the provisions hereof.

25 23. Governing Law. This Stipulation will be governed by and construed in accordance
26 with and governed by California law.

27 24. Voluntary Agreement. Pacific Union enters into this Stipulation voluntarily and
28 without any coercion and acknowledges that no promise, threats, or assurances about this Stipulation

1 have been made by the Commissioner or any of her officers or agents.

2 25. Counterparts. This Stipulation may be executed in one or more separate counterparts,
3 each of which when so executed, shall be deemed an original. Such counterparts shall together
4 constitute a single document.

5 26. Signatures. A signature delivered by facsimile or electronic mail will be deemed an
6 original signature.

7 27. Settlement Authority. Each signatory hereto covenants that he/she possesses all
8 necessary capacity and authority to sign and enter into this Stipulation.

9 28. Effective Date. This Stipulation shall not become effective until signed by all parties
10 and delivered by counsel for the Commissioner via email to counsel for Pacific Union.

11 29. Notice. Any notice required under this Stipulation shall be addressed as follows:

12 To Pacific Union: Karen S. Crawford, Esq.
13 Chief Legal Officer
14 Pacific Union Financial, LLC
15 1601 LBJ Freeway, Suite 500
16 Farmers Branch, Texas 75234
17 karen.crawford@loanpacific.com

18 To the Commissioner: Judy L. Hartley, Esq.
19 Senior Counsel
20 Department of Business Oversight
21 320 W. 4th Street, Suite 750
22 Los Angeles, California 90013-2344
23 judy.hartley@dbo.ca.gov

24 30. Public Record. Pacific Union acknowledges that this Stipulation is a public record.

25 Dated: 11/5/18 JAN LYNN OWEN
26 Commissioner of Business Oversight

27 By _____
28 MARY ANN SMITH
Deputy Commissioner

Dated: 11/1/18 PACIFIC UNION FINANCIAL, LLC

By _____
EVAN MICHAEL STONE, Chief Executive Officer

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

APPROVED AS TO FORM:

By _____
KAREN S. CRAWFORD, Chief Legal Officer
for PACIFIC UNION FINANCIAL, LLC

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
JUDY L. HARTLEY
Senior Counsel