1	MARY ANN SMITH Deputy Commissioner		
2 3	SEAN M. ROONEY   Assistant Chief Counsel   JUDY L. HARTLEY (State Bar No. 110628)		
4	Senior Counsel Department of Business Oversight 320 West 4 <sup>th</sup> 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:	)	
12	THE COMMISSIONER OF BUSINESS	CRMLA LICENSE NO.: 413-0571	
13	OVERSIGHT,	) ) ACCUSATION	
14	Complainant,	)	
15	V.	) )	
16	UNITED MORTGAGE CORP. authorized to do	) )	
17	business in California as UMC MORTGAGE COMPANY,	) )	
18	COMPANT,	) )	
19	Respondent.	)	
20	The Complainant is informed and believe	s, and based upon such information and belief,	
21	alleges and charges Respondent as follows:		
22	Introduction  1. United Mortgage Corp. authorized to do business in California as UMC Mortgage Company (UMC) is licensed by the Commissioner of Business Oversight (Commissioner) as a residential mortgage lender and servicer pursuant to the California Residential Mortgage Lending Act ("CRMLA") (Fin. Code § 50000 et seq.). UMC has its principal place of business located at 2		
23			
24			
25			
26			
27			
28	Melville Park Road, Suite 100, Melville, New Yo	ork 11747. UMC currently has 7 branch office	
	ACCUSATION		

6 7 8

9

10 11 12

13

14 15 16

17 18 19

20 21

23

24

22

25 26 27

28

locations under its CRMLA license located in California and elsewhere. UMC employs mortgage loan originators in its CRMLA business.

#### II.

## **Trust Accounting Violations**

- 2. On or about February 22, 2018, the Commissioner commenced a regulatory examination of the books and records of UMC under the CRMLA (2018 regulatory examination). The 2018 regulatory examination disclosed that UMC (i) was failing to properly reconcile certain of its trust accounts in violation of Financial Code section 50314 and California Code of Regulations, title 10, section 1950.314.1; (ii) had caused a debit balance (shortage) to exist in a borrower impound account in violation of California Code of Regulations, title 10, section 1950.314.6; and (iii) had a shortage in three of its trust accounts violation of California Code of Regulations, title 10, section 1950.314.6.
- 3. In 2018, UMC maintained the relevant trust accounts at JP Morgan Chase Bank. The trust account ending in 6860 was the trust account for California taxes and insurance (CA Escrow) trust funds. However, UMC was also depositing California borrower tax and insurance funds into the trust account ending in 6246 (CA Escrow 2). The trust account ending in 3993 was the trust account for mortgage insurance premium (MIP) trust funds, but UMC was also depositing VA Funding Fees into trust account ending in 3993. The trust funds held in the JP Morgan Chase Trust Accounts are to be held until time for disbursement to the tax authority and/or insurance company.
- 4. UMC maintains only one liability subsidiary ledger for CA Escrow and CA Escrow 2 trust monies (General Ledger - GL # 2560) even though UMC deposits the trust funds into two separate bank accounts and maintains two separate asset ledgers (GL #0991 for CA Escrow and GL #1007 for CA Escrow 2) for these trust funds.
- 5. UMC maintains only one asset general ledger for MIP and VA trust funds (GL # 1005) even though it maintains two separate liability subsidiary ledgers for MIP and VA trust funds (GL #2570 and GL #2580). As stated above, UMC deposits both MIP and VA trust funds into the trust account ending in 3993.

6. A review of the trus	t account reconciliations for February 28, 2018 disclosed that			
UMC had failed to properly reconc	ile the JP Morgan Chase Trust Accounts for the period ended			
February 28, 2018 as the MIP trust	account had a shortage of \$70,733.00 and the CA Escrow and			
CA Escrow 2 trust accounts had a d	combined shortage of \$194,095.26. Trust account shortages			
indicate that there are insufficient f	unds available to pay all the escrow impound liabilities.			
California Code of Regulations, title 10, section 1950.314.6 prohibits debit balances in any loan or				
servicing account maintained by C	RMLA licensees.			

7. Additionally, a review of the borrower level subsidiary ledgers with the trial balance disclosed a debit balance of \$475.49 in a borrower account for the CA Escrow and CA Escrow 2 trust funds; GL #2560. Pursuant to California Code of Regulations, Title 10, section 1950.314.1, trust account ledgers are to be reconciled weekly with the liability controlling account (trial balance).

#### III.

# **Improper Disclosures**

- 8. The 2018 regulatory examination further disclosed that in all 18 funded loans reviewed, UMC was providing a California Financing Law Statement of Loan to borrowers incorrectly stating that the loans had been made under the California Financing Law (CFL) in violation of Financial Code section 50314. The loans reviewed were made under the CRMLA. Moreover, UMC does not hold a license under the CFL.
- 9. The Commissioner had found that UMC was distributing incorrect loan disclosures during the last regulatory examination under the CRMLA that commenced in July 7, 2014. Based upon the findings of the 2014 regulatory examination, the Commissioner instructed UMC to implement such procedures as necessary to ensure that incorrect disclosures were not being provided to borrowers.

## IV.

## **CRMLA Suspension/Penalty Statutes**

- 10. Financial Code section 50327 provides in pertinent part:
  - (a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license, if the commissioner finds that:
  - (1) the licensee has violated any provision of this division or rule or order

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

25

26

27

28

1

2

3

of the commissioner thereunder; or (2) any fact or condition exists that, if it had existed at the time of the original application for license, reasonably would have warranted the commissioner in refusing to issue the license originally.

- 11. Financial Code section 50513 provides in pertinent part:
  - (a) The commissioner may do one or more of the following:
  - (4) Impose fines on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).
  - (b) The commissioner may impose a civil penalty on a mortgage loan 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 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.

## V.

#### **Conclusion**

12. The Commissioner finds that, by reason of the foregoing, United Mortgage Corp. authorized to do business in California as UMC Mortgage Company has violated Financial Code section 50314 and California Code of Regulations, title 10, sections 1950.314.1 and 1950.314.6, and based thereon, grounds exist to (i) suspend the residential mortgage lender and servicer license of United Mortgage Corp. authorized to do business in California as UMC Mortgage Company, and (ii) assess penalties against United Mortgage Corp. authorized to do business in California as UMC Mortgage Company pursuant to Financial Code section 50513, subdivision (b).

	6
111811	7
5	8
2	9
	10
3	11
	12
	13
	14
Ź	15
T T	16
	17
3	18
3	19
3	20
	21
	22
	23
	24
	25
	26
	27
	28

2

3

4

5

VI.

#### **Prayer**

#### WHEREFORE, IT IS PRAYED that:

- Pursuant to Financial Code section 50327, the residential mortgage lender and servicer licenses of United Mortgage Corp. authorized to do business in California as UMC Mortgage Company be suspended for a period of up to 12 months;
- 2. Pursuant to Financial Code section 50513, subdivision (b), a penalty be levied against United Mortgage Corp. authorized to do business in California as UMC Mortgage Company for failure to properly reconcile its trust accounts on a monthly basis, in violation of Financial Code section 50314 and California Code of Regulations, title 10, section 1950.314.1 according to proof, but in an amount of at least \$15,000.00; and
- 3. Pursuant to the Financial Code section 50513, subdivision (b), a penalty be levied against United Mortgage Corp. authorized to do business in California as UMC Mortgage Company for causing a shortage to exist in two of its trust accounts in violation of California Code of Regulations, title 10, section 1950.314.6 according to proof, but in an amount of at least \$50,000.00.

Dated: October 29, 2018

Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

Judy L. Hartley
Senior Counsel
Enforcement Division