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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA
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11 In the Matter of the Accusation of) FILE NO.: 413 1040
12)
13 THE CALIFORNIA COMMISSIONER OF)
BUSINESS OVERSIGHT,) STATEMENT OF FACTS IN SUPPORT OF
14) ORDER TO DISCONTINUE VIOLATIONS
Complainant,) PURSUANT TO FINANCIAL CODE
15 v.) SECTION 50321 AND NOTICE OF INTENT
16) TO MAKE ORDER FINAL
LOANDEPOT.COM LLC)
17)
Respondent.)
18)
19)
20)

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

23 loanDepot.com LLC (“loanDepot”) is a residential mortgage lender licensed by the
24 Commissioner under the California Residential Mortgage Lending Act (“CRMLA”). Its principal
25 place of business is located at 26642 Towne Centre Drive, Foothill Ranch, California. At all relevant
26 times herein, loanDepot operates numerous branch offices in the State of California.

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1 On or about July 15, 2013, the Commissioner commenced a regulatory examination of
2 loanDepot. The examination revealed numerous violations of the CRMLA, including the following:

3 1. loanDepot did not directly deposit escrow funds into its proper trust accounts
4 as required by Financial Code section 50202. Consequently, it failed to maintain current its books
5 and records with reference to the trust accounts thereby creating a trust shortage in violation of CCR
6 section 1950.314.1. This violation was noted in the prior regulatory examination conducted on July
7 25, 2011.

8 2. loanDepot failed to reconcile its trust liability ledgers to the general ledger
9 control account at least once each week and to the bank statement balance at least once each month as
10 required by CCR section 1950.314.1 thereby creating a trust shortage and/or overage. This violation
11 was noted in the prior regulatory examination conducted on July 25, 2011.

12 3. At least nine loan files contained blanks that were left to be filled in after
13 execution of the document in violation of Financial Code section 50204, subdivision (e).

14 4. At least four borrowers were overcharged their per diem interest in violation of
15 Financial Code section 50204, subdivisions (i), (k), and (o). Although loanDepot provided refunds to
16 these noted borrowers, the refunds were not provided timely. The refunds were made to the
17 borrowers after the Commissioner informed the company of an upcoming examination.

18 5. loanDepot failed to conduct a ten year criminal background check of its
19 prospective employees as required by Financial Code section 50317. The requirement under section
20 50317 would screen prospective employees who have been convicted of certain crimes to be
21 ineligible for employment with a licensed mortgage lender and/or servicer. The examination
22 disclosed that loanDepot only conducted a seven year criminal background check.

23 6. loanDepot failed to post a prominent link on its website to inform borrowers
24 about the alternative foreclosure prevention options available to them and the instructions to explore
25 these options. Moreover, there was no link on its website that provided the borrowers with a list of
26 financial documents needed to discuss foreclosure prevention options with the mortgage servicer as
27 required by Civil Code section 2923.55, subdivision (f)(5).
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1 7. loanDepot disbursed funds out of at least two loan files that had insufficient
2 credit thereby creating a debit balance in each file in violation of CCR 1950.341.6. The debit
3 balances were not corrected until two days after the disbursement had been made.

4 8. loanDepot's radio advertisements did not reference that it was licensed by the
5 Department of Business Oversight under the CRMLA as required by CCR section 1950.204.3.

6 9. loanDepot's advertising files made reference to the thousands of veterans that
7 the company has helped in taking advantage of a special Veterans Administration ("VA") programs
8 to lower veterans' interest rate, but a review of the VA loans funded by loanDepot showed that not all
9 loans processed from veteran borrowers were funded under the VA programs but rather a
10 conventional 30 year fixed or FHA loan. The advertised statements appear to be misleading to
11 veteran borrowers in violation of Section 5 of the Federal Trade Commission Act that prohibits
12 "unfair or deceptive acts or practices in or affecting commerce."

13 On or about March 7, 2014, the report of regulatory examination was sent to loanDepot noting
14 the violations found during the July 15, 2013 examination. The report stated that the violations were
15 being brought to the company's attention for correction. The report also stated that loanDepot's
16 failure to maintain current its books and records with reference to the trust accounts was noted in the
17 prior regulatory examination conducted on July 25, 2011.

18 On or about April 4, 2014, the Commissioner received a written response from loanDepot
19 noting the corrections made in reply to the regulatory report.

20 On or about May 15, 2014, the Commissioner responded to loanDepot's April 4, 2014 letter.
21 The Commissioner informed the company that the bank statements it provided "did not agree with
22 the corresponding liability control accounts and the subsidiary ledger for the MIP Trust, Impound
23 Trust and VA Funding accounts. Furthermore, there are debit amounts shown" in the company's
24 "liability ledgers signifying debit balances as of February 28, 2014" in the Impound, MIP Trust, and
25 VA Funding trust accounts. loanDepot was instructed to transfer \$245,654.81 to Wells Fargo Bank
26 Account ending in 4235, \$189,310.91 to Well Fargo bank account ending in 4425 and \$111,758.64 to
27 Wells Fargo Bank account ending in 4243.

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1 On or about May 22, 2014, the Commissioner received loanDepot's response to the letter of
2 May 15, 2014. In its cover letter, loanDepot stated that it "enclosed a spreadsheet detailing the
3 reconciliation and March bank statements which show transfers to the accounts in question on March
4 1." In addition, loanDepot stated that "[t]here is a one day delay between the funding date and the
5 transfer date. I believe this was communicated during the onsite examination and is the reason for
6 the differences noted by the Department on the February 28 balances."

7 On or about January 20, 2015, another letter was sent to loanDepot wherein loanDepot was
8 notified that the amounts transferred to the trust accounts were over and above the shortage amounts
9 thereby creating overages in the trust accounts. loanDepot was advised that the overages noted in the
10 trust accounts are considered commingling and indicate the company continues to perform improper
11 reconciliations of its trust accounts in violation of CCR section 1950.314.1.

12 The findings of the July 15, 2013 regulatory examination and the response provided by
13 loanDepot disclose that the company has failed to implement procedures to ensure that it is properly
14 reconciling its books and records with reference to the trust accounts so as to avoid any trust
15 shortages and/or overages.

16 Financial Code section 50321 provides:

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

21 Financial Code section 50323 provides:

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

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(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 of the powers 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 the 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 loanDepot.com LLC of her intention to make the order final.

Dated: January 30, 2015

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARLOU de LUNA
Senior Corporations Counsel
Enforcement Division