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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA - SACRAMENTO DIVISION

QUICKEN LOANS INC., a Michigan corporation, *Plaintiff,* *v.* DEMETRIOS A. BOUTRIS, in his official capacity as Commissioner of the California Department of Corporations, *Defendant.*	Case No. S-03-256 GEB JFM (Related to case S-03-157 GEB JFM) **STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF QUICKEN LOANS INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT AND PERMANENT INJUNCTION** [Notice of Motion and Motion for Partial Summary Judgment and Permanent Injunction and Memorandum of Points and Authorities submitted under separate cover]; [Declaration of Patrick McInnis submitted under separate cover] Date Filed: February 11, 2003 Trial Date: t/b/d Hearing Date: April 7, 2003 Hearing Time: 9 a.m. Hon. Garland E. Burrell (Courtroom 10)

UNDISPUTED FACT	SUPPORTING EVIDENCE
1. Quicken Loans is a Michigan corporation that engages in residential mortgage lending in California, the other 49 states of the United States, and the District of Columbia. Quicken Loans makes a variety of loans secured by residential mortgages, including home purchase money, refinancing, and home equity residential mortgage loans. During 2001 and 2002, Quicken Loans made approximately $500 Million and $745 Million, respectively, in loans secured by mortgages on California property.	Declaration of Patrick McInnis ¶ 3 ("McInnis Decl.")
2. Quicken Loans is licensed and authorized to make residential mortgage loans in California under the California Residential Mortgage Lending Act.	Id. at ¶ 9
3. Quicken Loans' sole business is making residential mortgage loans. Quicken Loans originated in excess of $7 billion in loans in 2002, all of which were made payable to Quicken Loans as the creditor.	Id. at ¶ 14

UNDISPUTED FACT	SUPPORTING EVIDENCE
4. Quicken Loans made no loans of any kind before March 31, 1980.	Id. at ¶ 15
5. Quicken Loans regularly makes alternative mortgage transactions. In fact, Quicken Loans has made in excess of 1800 alternative mortgage transactions from 1999 through the present.	Id. at ¶ 18
6. The escrow company frequently is able to record the deed of trust on the same day that it has disbursed the loan funds to the borrower. Occasionally, however, there is a delay of days weeks, or even months.	Id. at ¶ 5
7. Sometimes, the escrow company fails to deliver the deed of trust to the County Recorder's office on the day that the borrower received the money. Other times, the escrow company timely delivers the deed of trust for recordation, but the County Recorder is slow to record the deed.	Id.

UNDISPUTED FACT	SUPPORTING EVIDENCE
8. Quicken Loans has no way to predict either whether there will be a delay in recording the deed of trust, or, if there is a delay, the length of that delay.	Id. at ¶ 7
9. Because Quicken Loans has no way to predict the delay, Quicken Loans is unable to compensate for interest charges it would lose under the per diem restriction by charging higher rates of interest on loans that correspond to the lost interest.	Id.
10. Quicken Loans historically has instructed the escrow company to assess a borrower interest commencing the date the escrow company disburses the loan funds directly to the borrower or to a third party on the borrower's behalf, regardless of delays in recording deeds of trust.	Id. ¶ 6
11. On March 11, 2002, the Commissioner delivered a letter to Quicken Loans detailing the Commissioner's most recent examination of Quicken Loans' operations. In that letter the Commissioner asserted that	Id. at ¶ 10 & Exh. A

UNDISPUTED FACT	SUPPORTING EVIDENCE
Quicken Loans had violated and was continuing to violate the "per diem" restriction found in California Civil Code § 2948.5 that was in effect until January 1, 2001, and the "per diem" restriction found in California Financial Code § 50204(o).	
12. The Commissioner, in correspondence dated January 28, 2003, further ordered Quicken Loans to: (1) review all loans it made in California from a period beginning October 14, 1999; (2) refund interest payments collected in violation of the "per diem" restrictions (and pay the borrowers 10% interest on the refunded interest); and (3) submit a detailed report of all such loans, which report was to include the loan number, borrower's name, loan amount, interest rate, date recorded, interest start date, amount of interest collected/credited on HUD-1, first payment due date, correct amount of interest, amount overcharged, amount refunded and date refunded. In the January 28, 2003 correspondence, the Commissioner also ordered Quicken	Id. at ¶ 11 & Exh. B.

UNDISPUTED FACT	SUPPORTING EVIDENCE
Loans to comply with Section 50204(o).	
13. The Commissioner has threatened unspecified enforcement action if Quicken Loans should refuse to comply with the Commissioner's demands.	Id.
14. Quicken Loans estimates that to effect the review and complete the report the Commissioner has ordered would require Quicken Loans to review approximately 5,500 files at a cost to Quicken Loans of approximately $400,000.	Id. at ¶ 12
15. While Quicken Loans is not certain of the exact amount of refunds it would be required to make pursuant to the Commissioner's demand, Quicken Loans estimates refunds would total hundreds of thousands of dollars at a minimum, and potentially millions of dollars.	Id. at ¶ 13

Dated: March 10, 2003

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