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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. QUICKEN LOANS INC., Respondent.	Case No.: 413-0088 ACCUSATION

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

I

1. Respondent Quicken Loans Inc. ("Quicken") is a residential mortgage lender and loan servicer licensed by the California Corporations Commissioner ("Commissioner") pursuant to the California Residential Mortgage Lending Act (California Financial Code § 50000 et seq.) ("CRMLA"). Quicken has its main office located at 20555 Victor Parkway, Livonia, Michigan 48152. Quicken currently has reported only the Livonia, Michigan location under its CRMLA license.

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2. On or about August 1, 2001, the Commissioner commenced a regulatory examination of the books and records of Quicken ("2001 regulatory examination") for the period beginning on December 1, 2000 to May 31, 2001. The regulatory examination disclosed that in eight out of twelve, or approximately sixty-six percent (66%) of the loans reviewed Quicken charged the borrower per diem interest in excess of one day prior to the recording of the mortgage or deed of trust in violation of California Financial Code § 50204 (o). The per diem interest overcharges averaged $2186.08 per loan. The range of per diem interest overcharges was between $34.15 and $17,454.52. The range of days that interest was overcharged was between one and two hundred and nineteen.

3. On or about March 11, 2002, the Commissioner based upon the findings of the 2001 regulatory examination directed Quicken to review all loans that originated since the last exam, October 14, 1999, and to determine the amount and number of per diem interest overcharges collected from its borrowers. The Commissioner instructed Quicken to provide a complete report listing the loans reviewed and refunds made, and to include any action Quicken has taken to correct the discrepancies found and provide evidence that any necessary refunds and adjustments have been made.

4. In April 2002, in response to the findings of the 2001 regulatory examination, the Commissioner granted Quicken's request for a sixty-day (60) extension to compile information relating to loans with potential per diem overcharges. Quicken informed the Commissioner that it needed the extension since all its loans are serviced released, immediately upon funding and that recording information is not readily available to them. Quicken represented that it anticipated working with multiple closing agents and investors to obtain the information.

5. On or about June 11, 2002, Quicken notified the Commissioner for the first time since it had become a CRMLA licensee, that California Financial Code § 50204 (o) was preempted by the Depository Institutions Deregulation and Monetary Control Act of 1980 ("DIDMCA") for first lien Quicken loans issued under its CRMLA license.

6. In January of 2003, the Commissioner informed Quicken that the California Financial Code § 50204 (o) does apply to the loans and repeated his demand that all Quicken loans be

reviewed and per diem interest overcharges refunded. Quicken was given an additional fourteen (14) days to provide the Commissioner with its proposed date of completion of its review and submission of its report.

7. On or about February 11, 2003, Quicken filed a civil lawsuit seeking injunctive and declaratory relief against the Commissioner alleging, among other things, that the CRMLA was preempted as to Quicken pursuant to DIDMCA, Alternative Mortgage Transaction Parity Act of 1982 ("Parity Act"), Supremacy Clause of the United States Constitution, the Takings Clause of the United States Constitution and 42 U.S.C. § 1983 and thus, the Commissioner had no authority to regulate, supervise, examine or enforce the CRMLA against Quicken.

8. The claim by Quicken that the CRMLA is preempted with respect to Quicken, if made by Quicken when originally seeking a license from the Commissioner under the CRMLA, would have precluded Quicken from complying with the license application requirements of Financial Code section 50124, and would have constituted grounds for the Commissioner to deny the license application under California Financial Code section 50125. Thus, a fact or condition now exists that, if it had existed at the time of the original application, reasonably would have warranted the Commissioner in refusing to issue the license.

II

California Financial Code section 50124 provides in pertinent part as follows:

> (a) A license application must be accompanied by an exhibit containing statements that the applicant agrees to do the following:
>
> (3) To file with the commissioner any report required under law or by rule or order of the commissioner.
>
> (7) To comply with the provisions of this division, and with any order or rule of the commissioner.
>
> (8) To submit to periodic examination by the commissioner as required by this division.
>
> . . .

California Financial Code section 50204 provides in pertinent part as follows:

> A licensee may not do any of the following:
>
> . . .

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(o) Require a borrower to pay interest on the mortgage loan for a period in excess of one day prior to recording of the mortgage or deed of trust. . . ..

California Financial Code section 50307(b) provides as follows:

(b) A licensee shall make any other special reports to the commissioner that the commissioner may, from time to time, require.

III

California 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 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.

IV

The Commissioner finds that, by reason of the foregoing, Quicken has violated California Financial Code sections 50204, subdivision (o) and 50307(b), and a fact or condition now exists, that if it had existed at the time of original licensure, reasonably would have warranted the Commissioner in refusing to issue the license, and based thereon, grounds exist to revoke the residential mortgage lender license of Quicken.

WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Quicken be revoked.

Dated: March 7, 2003
Los Angeles, California

DEMETRIOS A. BOUTRIS
California Corporations Commissioner

By _____
KIMBERLY L. GAUTHIER
Corporations Counsel

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