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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

11	In the Matter of the Accusation of THE)	File Nos.: 413-0749 and 603-I908
12	COMMISSIONER OF BUSINESS)	
13	OVERSIGHT,)	STATEMENT OF FACTS IN SUPPORT OF
14	Complainant,)	ORDER TO DISCONTINUE VIOLATIONS
15	vs.)	PURSUANT TO CALIFORNIA FINANCIAL
16	REAL ESTATE MORTGAGE NETWORK)	CODE SECTION 50321 AND NOTICE OF
17	doing business as FINANCEMYHOME.COM,)	INTENT TO MAKE ORDER FINAL
18	HOMEBRIDGE, and MENLO PARK)	
19	FUNDING,)	
	Respondent.)	

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

- 22 1. Real Estate Mortgage Network, Inc. doing business as Financemyhome.com,
23 Homebridge, and Menlo Park Funding (“REMN”) is a residential mortgage lender and loan servicer
24 licensed by the Commissioner of Business Oversight ("Commissioner" or "Complainant") pursuant
25 to the California Residential Mortgage Lending Act ("CRMLA") (California Financial Code Section
26 50000 et seq.). REMN has its principal place of business located at 499 Thornall Street, 2nd Floor,
27 Edison, New Jersey 08837. REMN currently has 15 branch office locations under its CRMLA
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1 license located in California, and other states. REMN employs mortgage loan originators in its
2 CRMLA business.

3 2. On or about March 19, 2012, the Commissioner commenced a regulatory
4 examination of the books and records of REMN (“2012 regulatory examination”). The 2012
5 regulatory examination disclosed that REMN had debit balances (shortages) in its trust account
6 totaling \$3,371,666.12 as of January 31, 2012. REMN maintains only one trust account for all
7 escrow impounds and all borrowers no matter the state residence of the borrowers. The types of
8 impounds maintained in the trust account are taxes, hazard insurance, mortgage insurance premiums,
9 and repairs. California Code of Regulations, title 10, section 1950.314.6 prohibits debit balances in
10 any loan or servicing account maintained by CRMLA licensees.

11 3. On or about June 13, 2012, REMN provided the Department of Business Oversight
12 (“Department”) with financial statements, bank account statements and liability ledgers for the
13 period ended May 31, 2012. These documents revealed that the trust account shortage had grown to
14 \$6,074,476.66 as of May 31, 2012.

15 4. On or about June 21, 2012, written demand was made to REMN to correct the trust
16 account shortage no later than June 22, 2012. REMN determined that its trust account shortage was
17 \$4,500,000.00 as of June 21, 2012 and immediately deposited funds into the trust account to correct
18 the shortage.

19 5. Thereafter, the Department requested documents for the period ended June 30, 2012
20 in order to determine if the trust account shortage had been corrected. The documentation was
21 provided on or about July 16, 2012 and disclosed that REMN had corrected the trust account
22 shortage, and now had an overage of \$216,901.61 in its trust account.

23 6. The 2012 regulatory examination further disclosed that in five (5) of the thirty-three
24 (33) funded loans reviewed, or approximately fifteen percent (15%), REMN was charging the
25 borrower per diem interest in excess of one day prior to the disbursement of loan proceeds in
26 violation of California Financial Code section 50204(o). A California Additional Per Diem Interest
27 Charge Disclosure was found in two (2) of the five (5) loans with per diem interest overcharges.
28 However, the disclosures were not prepared in accordance with California Civil Code section

1 2948.5(b), and therefore were not considered in calculating per diem interest charges. The per diem
2 interest overcharges averaged \$66.20 per loan. The range of per diem interest overcharges was
3 between \$19.96 and \$166.15. The range of days that interest was overcharged was between one (1)
4 and five (5).

5 7. On or about November 30, 2012, the Commissioner, based upon the findings of the
6 2012 regulatory examination, directed REMN to conduct a self-audit regarding per diem interest
7 charges for all loans originated from July 15, 2009 through March 19, 2012, make appropriate
8 refunds, and submit a report as to the findings of the self-audit (“self-audit report”). REMN claimed
9 to have completed the self-audit and corresponding refunds on or about March 7, 2013. The self-
10 audit report filed with the Commissioner disclosed sixty-four (64) per diem interest overcharges.

11 8. In testing the thoroughness of the self-audit, the Commissioner noticed that four (4)
12 of the five (5) per diem interest overcharges brought to the attention of REMN during the regulatory
13 examination were not captured in the self-audit as requiring refunds. Accordingly, a follow up letter
14 was sent to REMN requesting that REMN make refunds in those instances and submit an
15 explanation as to why these transactions were not identified for refunds. The explanation received
16 from REMN was contradicted by the self-audit report. Therefore, the Commissioner has determined
17 that the self-audit is unreliable and has made written demand on REMN to conduct a new self-audit,
18 by and through an independent certified public accountant.

19 9. On or about July 1, 2013, the Department received the new self-audit performed by
20 REMN’s certified public accountant. The CPA conducted self-audit found a total of 106 per diem
21 overcharges for the period of July 15, 2009 through March 19, 2012. The Department is currently
22 attempting to obtain further documentation to test the accuracy of the CPA conducted self-audit.

23 10. The Commissioner found that REMN was overcharging per diem interest during the
24 last regulatory examination that commenced in May 2009. Based upon the findings of the 2009
25 regulatory examination, the Commissioner instructed REMN to conduct a self-audit to find all the
26 per diem interest overcharges and make refunds and to also implement such procedures as necessary
27 to ensure that per diem interest was not overcharged in the future.
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1 11. The 2012 regulatory examination additionally found that REMN had failed to
2 maintain information that would evidence the “disbursement date” of loan proceeds in eight (8) of
3 the loan files reviewed in violation of Financial Code section 50314. Evidence of a “disbursement
4 date” is necessary to determine whether per diem interest is being properly calculated.

5 12. By reason of the foregoing, REMN has violated California Financial Code sections
6 50204(o) and 50314 and California Code of Regulations, title 10, section 1950.314.6

7 13. California Financial Code section 50321 provides in pertinent part:

8 If, after investigation, the commissioner has reasonable grounds
9 to believe that any licensee has violated its articles of incorporation or
10 any law or rule binding upon it, the commissioner shall, by written order
11 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.

12 14. California Financial Code section 50323 provides:

13 (a) No order issued pursuant to Section 50321 or 50322 may become
14 final except after notice to the affected licensee of the commissioner's
15 intention to make the order final and of the reasons for the finding. The
16 commissioner shall also notify the licensee that upon receiving a
17 request the matter will be set for hearing to commence within 15 business
18 days after receipt. The licensee may consent to have the hearing
19 commenced at a later date. If no hearing is requested within 30 days
20 after the mailing or service of the required notice, and none is ordered
21 by the commissioner, the order may become final without hearing and
22 the licensee shall immediately discontinue the practices named in the
23 order. If a hearing is requested or ordered, it shall be held in accordance
24 with the provisions of the administrative Procedure Act (Chapter 5
25 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
the Government Code), and the commissioner shall have all 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.

26 (b) The licensee has 10 days after an order is made final to commence an
27 action to restrain enforcement of the order. If enforcement of the order is not
28 enjoined within 10 days by the court in which the action is brought,
the licensee shall comply with the order.

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WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to Financial Code Section 50321 and notifying REMN of his intention to make the order final.

Dated: July 9, 2013
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight



By _____
Judy L. Hartley
Senior Corporations Counsel
Enforcement Division