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FILED

AUG 31 2020

DEPT. OF REAL ESTATE

By *Zmi Ju*

7 **BEFORE THE DEPARTMENT OF REAL ESTATE**
8 **STATE OF CALIFORNIA**

9 * * *

10
11 In the Matter of the Accusation against) No. H-41766 LA
12)
13 CHANGEMYRATE.COM, A MORTGAGE)
14 CORPORATION; and) **ACCUSATION**
15)
16 LOWELL WARNER ANDERSON)
17 as designated officer of Changemyrate.com,)
18 A Mortgage Corporation)
19 Respondents.)

19 The Complainant, Chika Sunquist, a Supervising Special Investigator of the State
20 of California, for cause of Accusation against CHANGEMYRATE.COM, A MORTGAGE
21 CORPORATION and LOWELL WARNER ANDERSON makes this Accusation in her official
22 capacity and, alleges as follows:

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26 **ACCUSATION: CHANGEMYRATE.COM, A MORTGAGE CORPORATION & LOWELL WARNER ANDERSON**

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1.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

DEPARTMENT OF REAL ESTATE LICENSE HISTORY

3.

CHANGEMYRATE.COM

A. Respondent CHANGEMYRATE.COM, A MORTGAGE CORPORATION ("CMR") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as a real estate corporation ("REC"), Department of Real Estate ("DRE" Department") license ID 01523445.

B. CMR was originally licensed by the DRE on or about June 5, 2008.

C. CMR's mailing and main office address of record are the same: 4320 Atlantic Ave., Suite 216, Long Beach, CA 90807.

D. According to DRE records to date CMR's designated officer ("D.O.") of record is LOWELL WARNER ANDERSON (until his license affiliation expiration on July 26, 2021); CMR maintains four (4) current DBAs: ChangeMyRate.com Properties (active as of May 6, 2015); Discover Mortgage Loans (active as of 3/5/18); DiscoverMortgageLoans.com (active as of 3/5/18); and Number1AgentsUSA.com (active as of May 6, 2015).; and CMR employs six (6) real estate salespersons ("RES").

E. CMR has a mortgage loan originator ("MLO") endorsement through its DRE license, Nationwide Multistate Licensing System ("NMLS") ID 1326269, issued October 2, 2015.

F. CMR's DRE license will expire on July 26, 2021.

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1 4.

2 LOWELL WARNER ANDERSON

3 A. Respondent LOWELL WARNER ANDERSON (“ANDERSON”) is presently
4 licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Code) as
5 a real estate broker (“REB”), DRE license ID 00523493.

6 B. ANDERSON was originally licensed by the DRE as a RES on or about
7 September 13, 1983, and as a REB on or about December 12, 1987.

8 C. ANDERSON’s DRE mailing address of record is: 3015 Delta Ave., Long
9 Beach, CA 90810. ANDERSON’s DRE main office address of record is similar to that of CMR:
10 4320 Atlantic Avenue, Long Beach, CA 90807.

11 D. According to DRE records to date ANDERSON is CMR’s D.O. of record until
12 his license affiliation expiration on July 26, 2021; ANDERSON maintains no current DBAs; and
13 employs three (3) RES.

14 E. ANDERSON has a MLO endorsement through his DRE license, NMLS ID
15 1087674.

16 F. ANDERSON’s DRE license will expire on February 7, 2022.

17 APPLICABLE SECTIONS OF THE REAL ESTATE LAW

18 Trust Fund Handling

19 Code Section 10145 and Regulations 2831, 2831.1, 2831.2, and 2832

20 5.

21 Pursuant to Code Section 10145 *Handling of Trust Funds* (selected portions):

22 “(a)(1): A real estate broker who accepts funds belonging to others in connection
23 with a transaction subject to this part shall deposit all those funds that are not immediately placed
24 into a neutral escrow depository or into the hands of the broker’s principal, into a trust fund

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1 account maintained by the broker in a bank or recognized depository in this state. All funds
2 deposited by the broker in a trust account shall be maintained there until disbursed by the broker
3 in accordance with instructions from the person entitled to the funds.

4 (2) Withdrawals may be made from a trust fund account of an individual broker
5 only upon the signature of that broker, or in the case of a corporate broker, only upon the
6 signature of an officer through whom the corporation is licensed pursuant to Section 10158 or
7 10211, or one, or more, of the following persons if specifically authorized in writing by the
8 individual broker or officer:

9 (A) A real estate salesperson licensed to the broker.

10 (B) Another broker acting pursuant to a written agreement with the
11 individual broker that conforms to the requirements of this part and any
12 regulations promulgated pursuant to this part.

13 (C) An unlicensed employee of the individual broker, if the broker has
14 fidelity bond coverage equal to at least the maximum amount of the trust
15 funds to which the unlicensed employee has access at any time. For
16 purposes of this section, bonds providing coverage may be written with a
17 deductible of up to 5 percent of the coverage amount. For bonds with a
18 deductible, the employing broker shall have evidence of financial
19 responsibility that is sufficient to protect members of the public against a
20 loss subject to the deductible amount.

21 Evidence of financial responsibility shall include one or more of the
22 following:

23 (i) Separate fidelity bond coverage adequate to cover the amount
24 of the fidelity bond deductible.

1 (ii) A cash deposit held in a separate account, apart from other
2 funds of the broker, the broker's employees, or the broker's
3 principals, in a bank or recognized depository in this state adequate
4 to cover the amount of the fidelity bond deductible and held
5 exclusively and solely for the purpose of paying the fidelity bond
6 deductible amount.

7 (iii) Any other evidence of financial responsibility approved by the
8 commissioner.

9 (3) An arrangement under which a person enumerated in subparagraph (A),(B),
10 or (C) of paragraph (2) is authorized to make withdrawals from a trust fund account of a broker
11 shall not relieve an individual broker, nor the broker-officer of a corporate broker licensee, from
12 responsibility or liability as provided by law in handling trust funds in the broker's custody.

13 ...

14 (4)(b) A real estate broker acting as a principal pursuant to Section 10131.1
15 shall place all funds received from others for the purchase of real property sales contracts or
16 promissory notes secured directly or collaterally by liens on real property in a neutral escrow
17 depository unless delivery of the contract or notes is made simultaneously with the receipt of the
18 purchase funds.

19 ...

20 (4)(g) The broker shall maintain a separate record of the receipt and disposition
21 of all funds described in subdivisions (a) and (b), including any interest earned on the funds..."

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Pursuant to Regulation 2831 *Trust Fund Records To Be Maintained:*

“(a) Every broker shall keep a record of all trust funds received, including uncashed checks held pursuant to instructions of his or her principal. This record, including records maintained under an automated data processing system, shall set forth in chronological sequence the following information in columnar form:

Date trust funds received.

From whom trust funds received.

Amount received.

With respect to funds deposited in an account, date of said deposit.

With respect to trust funds previously deposited to an account, check number and date of related disbursement.

With respect to trust funds not deposited in an account, identity of other depository and date funds were forwarded.

Daily balance of said account.

(b) For each bank account which contains trust funds, a record of all trust funds received and disbursed shall be maintained in accordance with subdivision (a) or (c).

(c) Maintenance of journals of account cash receipts and disbursements, or similar records, or automated data processing systems, including computer systems and electronic storage and manipulation of information and documents, in accordance with generally accepted accounting principles, shall constitute compliance with subdivision (a) provided that such journals, records, or systems contain the elements required by subdivision (a) and that such elements are maintained in a format that will readily enable tracing and reconciliation in accordance with Section 2831.2.

1 (d) Nothing in this section shall be construed to permit a violation of Section
2 10145 of the Code.

3 (e) A broker is not required to keep records pursuant to this section of checks
4 which are written by a principal, given to the broker and made payable to third parties for the
5 provision of services, including but not limited to escrow, credit and appraisal services, when
6 the total amount of such checks for any transaction from that principal does not exceed \$1,000.
7 Upon request of the Department or the maker of such checks, a broker shall account for the
8 receipt and distribution of such checks. A broker shall retain for three years copies of receipts
9 issued or obtained in connection with the receipt and distribution of such checks.”

10 7.

11 Pursuant to Regulation 2831.1 *Separate Record for Each Beneficiary or*
12 *Transaction:*

13 “(a) A broker shall keep a separate record for each beneficiary or transaction,
14 accounting for all funds which have been deposited to the broker’s trust bank account and
15 interest, if any, earned on the funds on deposit. The record shall include information sufficient to
16 identify the transaction and the parties to the transaction. Each record shall set forth in
17 chronological sequence the following information in columnar form:

18 (1) Date of deposit.

19 (2) Amount of deposit.

20 (3) Date of each related disbursement.

21 (4) Check number of each related disbursement.

22 (5) Amount of each related disbursement.

23 (6) If applicable, dates and amounts of interest earned and credited to the
24 account.

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1 (7) Balance after posting transactions on any date.

2 (b) Maintenance of trust ledgers of separate beneficiaries or transactions, or
3 similar records, or automated data processing systems, including computer systems and
4 electronic storage and manipulation of information and documents, in accordance with generally
5 accepted accounting principles will constitute compliance with subdivision (a), provided that
6 such ledgers, records, or systems contain the elements required by subdivision (a) and that such
7 elements are maintained in a format that will readily enable tracing and reconciliation in
8 accordance with Section 2831.2.”

9 8.

10 Pursuant to Regulation 2831.2 *Trust Account Reconciliation*:

11 “The balance of all separate beneficiary or transaction records maintained
12 pursuant to the provisions of Section 2831.1 must be reconciled with the record of all trust funds
13 received and disbursed required by Section 2831, at least once a month, except in those months
14 when the bank account did not have any activities. A record of the reconciliation must be
15 maintained, and it must identify the bank account name and number, the date of the
16 reconciliation, the account number or name of the principals or beneficiaries or transactions, and
17 the trust fund liabilities of the broker to each of the principals, beneficiaries or transactions.”

18 9.

19 Pursuant to Regulation 2832 *Trust Fund Handling*:

20 “(a) Compliance with Section 10145 of the Code requires that the broker place
21 funds accepted on behalf of another into the hands of the owner of the funds, into a neutral
22 escrow depository or into a trust fund account in the name of the broker, or in a fictitious name if
23 the broker is the holder of a license bearing such fictitious name, as trustee at a bank or other
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1 financial institution not later than three business days following receipt of the funds by the broker
2 or by the broker's salesperson.

3 (b) Except as expressly provided by subdivision (d) of Section 10145 of the Code
4 or by a regulation in this article, the account into which the trust funds are deposited shall not be
5 an interest bearing account for which prior written notice can by law or regulation be required by
6 the financial institution as a condition to the withdrawal of funds.

7 (c) A check received from the offeror may be held uncashed by the broker until
8 acceptance of the offer if

9 (1) the check by its terms is not negotiable by the broker or if the offeror
10 has given written instructions that the check shall not be deposited nor cashed until acceptance of
11 the offer and

12 (2) the offeree is informed that the check is being so held before or at the
13 time the offer is presented for acceptance.

14 (d) In these circumstances if the offeror's check was held by the broker in
15 accordance with subdivision (c) until acceptance of the offer, the check shall be placed into a
16 neutral escrow depository or the trust fund account, or into the hands of the offeree if offeror and
17 offeree expressly so provide in writing, not later than three business days following acceptance of
18 the offer unless the broker receives written authorization from the offerree to continue to hold the
19 check.

20 (e) Notwithstanding the provisions of subdivisions (a) and (d), a real estate broker
21 who is not licensed under the Escrow Law (Section 17000, et seq., of the Financial Code) when
22 acting in the capacity of an escrow holder in a real estate purchase and sale, exchange or loan
23 transaction in which the broker is performing acts for which a real estate license is required shall
24 place all funds accepted on behalf of another into the hands of the owner of the funds, into a
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1 neutral escrow depository or into a trust fund account in the name of the broker, or in a fictitious
2 name if the broker is the holder of a license bearing such fictitious name, as trustee at a bank or
3 other financial institution not later than the next business day following receipt of the funds by
4 the broker or by the broker's salesperson."

5 10.

6 **Retention of Records**

7 **Code Section 10148**

8 Pursuant to Code Section 10148 *Retention of Records – Chargeable Audits – Cost*
9 *Recovery – Penalties for Unlawful Destruction of Records:*

10 "(a) A licensed real estate broker shall retain for three years copies of all listings,
11 deposit receipts, cancelled checks, trust records, and other documents executed by him or her or
12 obtained by him or her in connection with any transactions for which a real estate broker license
13 is required. The retention period shall run from the date of the closing of the transaction or from
14 the date of the listing if the transaction is not consummated. After notice, the books, accounts,
15 and records shall be made available for examination, inspection, and copying by the
16 commissioner or his or her designated representative during regular business hours; and shall,
17 upon the appearance of sufficient cause, be subject to audit without further notice, except that the
18 audit shall not be harassing in nature. This subdivision shall not be construed to require a
19 licensed real estate broker to retain electronic messages of an ephemeral nature, as described in
20 subdivision (d) of Section 1624 of the Civil Code.

21 (b) The commissioner shall charge a real estate broker for the cost of any audit, if
22 the commissioner has found, in a final desist and refrain order issued under Section 10086 or in a
23 final decision following a disciplinary hearing held in accordance with Chapter 5 (commencing
24 with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that the broker

1 has violated Section 10145 or a regulation or rule of the commissioner interpreting Section
2 10145.

3 (c) The bureau may suspend or revoke the license of any real estate broker, real
4 estate salesperson , or corporation licensed as a real estate broker, if the real estate broker, real
5 estate salesperson, or any director, officer, employee, or agent of the corporation licensed as a
6 real estate broker knowingly destroys, alters, conceals, mutilates, or falsifies any of the books,
7 papers, writings, documents, or tangible objects that are required to be maintained by this section
8 or that have been sought in connection with an investigation, audit, or examination of a real
9 estate licensee by the commissioner.”

10 11.

11 **Broker Supervision**

12 **Code Section 10159.2 and Regulation 2725**

13 Pursuant to Code Section 10159.2 *Responsibility of Corporate Officer in Charge:*

14 “(a) The officer designated by a corporate broker licensee pursuant to Section
15 10211 shall be responsible for the supervision and control of the activities conducted on behalf
16 of the corporation by its officers and employees as necessary to secure full compliance with the
17 provisions of this division, including the supervision of salespersons licensed to the corporation
18 in the performance of acts for which a real estate license is required.

19 (b) A corporate broker licensee that has procured additional licenses in accordance
20 with Section 10158 through officers other than the officer designated pursuant to Section 10211
21 may, by appropriate resolution of its board of directors, assign supervisory responsibility over
22 salespersons licensed to the corporation to its broker-officers.

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1 (c) A certified copy of any resolution of the board of directors assigning
2 supervisory responsibility over real estate salespersons licensed to the corporation shall be filed
3 with the Real Estate Commissioner within five days after the adoption or modification thereof.”

4 12.

5 Pursuant to Regulation 2725 *Broker Supervision*:

6 “A broker shall exercise reasonable supervision over the activities of his or her
7 salespersons. Reasonable supervision includes, as appropriate, the establishment of policies,
8 rules, procedures and systems to review, oversee, inspect and manage:

9 (a) Transactions requiring a real estate license.

10 (b) Documents which may have a material effect upon the rights or obligations of
11 a party to the transaction.

12 (c) Filing, storage and maintenance of such documents.

13 (d) The handling of trust funds.

14 (e) Advertising of any service for which a license is required.

15 (f) Familiarizing salespersons with the requirements of federal and state laws
16 relating to the prohibition of discrimination.

17 (g) Regular and consistent reports of licensed activities of salespersons.

18 The form and extent of such policies, rules, procedures and systems shall take into
19 consideration the number of salespersons employed and the number and location of branch
20 offices.

21 A broker shall establish a system for monitoring compliance with such policies,
22 rules, procedures and systems. A broker may use the services of brokers and salespersons to
23 assist in administering the provisions of this section so long as the broker does not relinquish
24 overall responsibility for supervision of the acts of salespersons licensed to the broker.”

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13.

False or Fictitious Business Name

Code Section 10159.5 and Regulation 2731

Pursuant to Code Section 10159.5(a)(1) *Fictitious Name*:

“Every person applying for a license under this chapter who desires to have the license issued under a fictitious business name shall file with his or her application a certified copy of his or her fictitious business name statement filed with the county clerk pursuant to Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.”

14.

Pursuant to Regulation 2731(a) *Use of False or Fictitious Name*:

“A licensee shall not use a fictitious name in the conduct of any activity for which a license is required under the Real Estate Law unless the licensee is the holder of a license bearing the fictitious business name.”

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Grounds for Revocation or Suspension

Code Section 10176 (selected portions)

Pursuant to Code Section 10176 *Grounds for Revocation or Suspension*:

“The commissioner may, upon his or her own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this state, and he or she may temporarily suspend or permanently revoke a real estate licensee at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following:

(a) Making any substantial misrepresentation.

....

(e) Commingling with his or her own money or property the money or other property of others which is received and held by him or her.

...

(h) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing...”

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Further Grounds for Disciplinary Action

Code Section 10177

Pursuant to Code Section 10177 *Further Grounds for Disciplinary Action*"

"The commissioner may suspend or revoke the license of a real estate licensee, delay the renewal of a license of a real estate licensee, or deny the issuance of a license to an applicant, who has done any of the following:

...

(d) Willfully disregarded or violated the Real Estate Law (Part 1 (commencing with Section 10000)) or Chapter 1 (commencing with Section 11000) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2."

...

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license..."

(h) As a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons, or, as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required."

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Grounds for Denial, Suspension or Revocation

Code Section 10166.051 (selected portions)

Pursuant to Code Section 10166.051 *Grounds for Denial, Suspension or Revocation*:

“In addition to any penalties authorized by regulations adopted pursuant to Section 10166.15, the commissioner may do one or more of the following, after appropriate notice and opportunity for hearing:

(a) Deny, suspend, revoke, restrict, or decline to renew a mortgage loan originator license endorsement for a violation of this article, or any rules or regulations adopted hereunder.

(b) Deny, suspend, revoke, condition, or decline to renew a mortgage loan originator license endorsement, if an applicant or endorsement holder fails at any time to meet the requirements of Section 10166.05 or 10166.09, or withholds information or makes a material misstatement in an application for a license endorsement or license endorsement renewal.”

**Application of Sections 10232.2, 10232.25, 10233 and 10236.6 and
Regulations 2849.01, 2846.8, 2846.5, and 2846.7**

Code Section 10232

Pursuant to Code Section 10232 *Application of Sections 10232.2, 10232.25,
10233 and 10236.6:*

“(a) Except as otherwise expressly provided, Sections 10232.2 , 10232.25 ,
10233, and 10236.6 are applicable to every real estate broker who intends or reasonably expects
in a successive 12 months to do any of the following:

(1) Negotiate a combination of 10 or more of the following transactions
pursuant to subdivision (d) or (e) of Section 10131 or Section 10131.1 in
an aggregate amount of more than one million dollars (\$1,000,000):

(A) Loans secured directly or collaterally by liens on real property
or on business opportunities as agent for another or others.

(B) Sales or exchanges of real property sales contracts or
promissory notes secured directly or collaterally by liens on real
property or on business opportunities as agent for another or others.

(C) Sales or exchanges of real property sales contracts or
promissory notes secured directly or collaterally by liens on real
property as the owner of those notes or contracts.

1 (2) Make collections of payments in an aggregate amount of two hundred
2 fifty thousand dollars (\$250,000) or more on behalf of owners of
3 promissory notes secured directly or collaterally by liens on real property,
4 owners of real property sales contracts, or both.

5 (3) Make collections of payments in an aggregate amount of two hundred
6 fifty thousand dollars (\$250,000) or more on behalf of obligors of
7 promissory notes secured directly or collaterally by liens on real property,
8 lenders of real property sales contracts, or both.
9

10 Persons under common management, direction, or control in conducting the activities
11 enumerated above shall be considered as one person for the purpose of applying the above
12 criteria.

13 (b) The negotiation of a combination of two or more new loans and sales or
14 exchanges of existing promissory notes and real property sales contracts of an aggregate amount
15 of more than two hundred fifty thousand dollars (\$250,000) in any three successive months or a
16 combination of five or more new loans and sales or exchanges of existing promissory notes and
17 real property sales contracts of an aggregate amount of more than five hundred thousand dollars
18 (\$500,000) in any successive six months shall create a rebuttable presumption that the broker
19 intends to negotiate new loans and sales and exchanges of an aggregate amount that will meet the
20 criteria of subdivision (a).
21

22 (c) In determining the applicability of Sections 10232.2 , 10232.25 , 10233 , and
23 10236.6 , loans or sales negotiated by a broker, or for which a broker collects payments or
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1 provides other servicing for the owner of the note or contract, shall not be counted in determining
2 whether the broker meets the criteria of subdivisions (a) and (b) if any of the following apply:

3
4 (1) The lender or purchaser is any of the following:

5 (A) The Federal National Mortgage Association, the Government
6 National Mortgage Association, the Federal Home Loan Mortgage
7 Corporation, the Federal Housing Administration, and the United
8 States Department of Veterans Affairs.

9 (B) A bank or subsidiary thereof, bank holding company or
10 subsidiary thereof, trust company, savings bank or savings and loan
11 association or subsidiary thereof, savings bank or savings
12 association holding company or subsidiary thereof, credit union,
13 industrial bank or industrial loan company, finance lender, or
14 insurer doing business under the authority of, and in accordance
15 with, the laws of this state, any other state, or the United States
16 relating to banks, trust companies, savings banks or savings
17 associations, credit unions, industrial banks or industrial loan
18 companies, commercial finance lenders, or insurers, as evidenced
19 by a license, certificate, or charter issued by the United States or a
20 state, district, territory, or commonwealth of the United States.

21 (C) Trustees of a pension, profit-sharing, or welfare fund, if the
22 pension, profit-sharing, or welfare fund has a net worth of not less
23 than fifteen million dollars (\$15,000,000).
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1 (D) A corporation with outstanding securities registered under
2 Section 12 of the Securities Exchange Act of 1934 or a wholly
3 owned subsidiary of that corporation.

4 (E) A syndication or other combination of any of the entities
5 specified in subparagraph (A), (B), (C), or (D) that is organized to
6 purchase the promissory note.

7 (F) The California Housing Finance Agency or a local housing
8 finance agency organized under the Health and Safety Code.

9 (G) A licensed residential mortgage lender or servicer acting under
10 the authority of that license.

11 (H) An institutional investor that issues mortgage-backed
12 securities, as specified in paragraph (11) of subdivision (i) of
13 Section 50003 of the Financial Code .

14 (I) A licensed real estate broker selling all or part of the loan, the
15 note, or the contract to a lender or purchaser specified in
16 subparagraphs (A) to (H), inclusive.

17 (2) The loan or sale is negotiated, or the loan or contract is being serviced
18 for the owner, under authority of a permit issued pursuant to applicable
19 provisions of the Corporate Securities Law of 1968 (Division 1
20 (commencing with Section 25000) of Title 4 of the Corporations Code).

1 (3) The transaction is subject to the requirements of Article 3
2 (commencing with Section 2956) of Chapter 2 of Title 14 of Part 4 of
3 Division 3 of the Civil Code.

4
5 (d) If two or more real estate brokers who are not under common management,
6 direction, or control cooperate in the negotiation of a loan or the sale or exchange of a promissory
7 note or real property sales contract and share in the compensation for their services, the dollar
8 amount of the transaction shall be allocated according to the ratio that the compensation received
9 by each broker bears to the total compensation received by all brokers for their services in
10 negotiating the loan or sale or exchange.

11 (e) A real estate broker who meets any of the criteria of subdivision (a) or (b)
12 shall notify the department in writing within 30 days after that determination is made.”

13 19.

14 **Filing Fiscal Year Reports – Accounting Criteria**

15 **Code Section 10232.2**

16 Pursuant to Code Section 10232.2 *Filing Fiscal Year Reports – Accounting*

17 *Criteria:*

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19 “A real estate broker who meets the criteria of subdivision (a) of Section 10232
20 shall annually file the reports referred to in subdivisions (a) and (c) with the Bureau of Real
21 Estate within 90 days after the end of the broker's fiscal year or within any additional time as the
22 Real Estate Commissioner may allow for filing for good cause:

23 (a) The report of a review by a licensed California independent public
24 accountant of trust fund financial statements, conducted in accordance with generally accepted
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1 accounting practices, which shall include within its scope the following information for the fiscal
2 year relative to the business activities of the broker described in subdivisions (d) and (e) of
3 Section 10131 :

4 (1) The receipt and disposition of all funds of others to be applied to the
5 making of loans and the purchasing of promissory notes or real property
6 sales contracts.

7
8 (2) The receipt and disposition of all funds of others in connection with
9 the servicing by the broker of the accounts of owners of promissory notes
10 and real property sales contracts including installment payments and loan
11 or contract payoffs by obligors.

12 (3) A statement as of the end of the fiscal year which shall include an
13 itemized trust fund accounting of the broker and confirmation that the trust
14 funds are on deposit in an account or accounts maintained by the broker in
15 a financial institution.

16 (b) A broker who meets the criteria of Section 10232 , but who, in carrying on the
17 activities described in subdivisions (d) and (e) of Section 10131, has not during a fiscal year,
18 accepted for the benefit of a person to whom the broker is a trustee, any payment or remittance in
19 a form convertible to cash by the broker, need not comply with the provisions of subdivision (a).
20 In lieu thereof, the broker shall submit to the commissioner within 30 days after the end of the
21 broker's fiscal year or, within any additional time as the commissioner may allow for a filing for
22 good cause, a notarized statement under penalty of perjury on a form provided by the bureau
23 attesting to the fact that the broker did not receive any trust funds in cash or convertible to cash
24 during the fiscal year.

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1 (c) A report of all of the following aspects of the business conducted by the
2 broker while engaging in activities described in subdivisions (d) and (e) of Section 10131 and in
3 Section 10131.1 :

4 (1) Number and aggregate dollar amount of loan, trust deed sales, and real
5 property sales contract transactions negotiated.

6
7 (2) Number and aggregate dollar amount of promissory notes and
8 contracts serviced by the broker or an affiliate of the broker.

9 (3) Number and aggregate dollar amount of late payment charges,
10 prepayment penalties, and other fees or charges collected and retained by
11 the broker under servicing agreements with beneficiaries and obligees.

12 (4) Default and foreclosure experience in connection with promissory
13 notes and contracts subject to servicing agreements between the broker
14 and beneficiaries or obligees.

15 (5) Commissions received by the broker for services performed as agent
16 in negotiating loans and sales of promissory notes and real property sales
17 contracts.

18 (6) Aggregate costs and expenses as referred to in Section 10241 paid by
19 borrowers to the broker.

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21
22 (d) The commissioner shall adopt regulations prescribing the form and content of
23 the report referred to in subdivision (c) with appropriate categories to afford a better
24 understanding of the business conducted by the broker.

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1 (e) If the broker fails to file either of the reports required under subdivisions (a)
2 and (c) within the time permitted herein, the commissioner may cause an examination and report
3 to be made and may charge the broker one and one-half times the cost of making the examination
4 and report. In determining the hourly cost incurred by the commissioner for conducting an
5 examination and preparing the report, the commissioner may use the estimated average hourly
6 cost for all department audit staff performing audits of real estate brokers. If a broker fails to
7 pay the above amount within 60 days of the mailing of a notice of billing, the commissioner may
8 suspend the broker's license or deny renewal of the broker's license. The suspension or denial
9 shall remain in effect until the above amount is paid or the broker's right to renew a license has
10 expired. The commissioner may maintain an action for the recovery of the above amount in any
11 court of competent jurisdiction.

12
13 (f) The reports referred to in subdivisions (a) and (c) are exempted from any
14 requirement of public disclosure by paragraph (2) of subdivision (d) of Section 6254 of the
15 Government Code . The commissioner shall annually make and file as a public record, a
16 composite of the annual reports and any comments thereon which are deemed to be in the public
17 interest.”

18 20.

19 Pursuant to Regulation 2849.01 *Annual Report Format*:

20
21 “For reports submitted to the Bureau, the following format shall be used by a real
22 estate broker who meets the criteria of section 10232 and/or 10238 of the Code for the annual
23 report required by section 10232.2(c) and 10238(p)...” (Accusation Exhibit 1).

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Pursuant to Regulation 2846.5 *Report of Annual Trust Fund Accounts Review*:

“(a) The annual report of a review of trust fund financial statements required under subdivision (a) of Section 10232.2 and/or subdivision (o) of Section 10238 of the Code shall include confirmation by an independent public accountant that:

(1) The broker maintains those records specified in Sections 2831 and 2831.1 of these regulations, and reconciles such records in accordance with Section 2831.2 of these regulations.

(2) Each trust fund bank account is maintained by the broker in compliance with Sections 2832 and 2834 of these regulations.

(3) The accountant has reviewed the accompanying balance sheet of trust funds held by the broker as of the last day of the fiscal year, and the accompanying statement of receipts and disbursements of trust funds and changes in cash for the fiscal year, in accordance with standards established by the American Institute of Certified Public Accountants.

(4) The accountant is not aware of any material modifications that should be made to the trust fund financial statements in order for them to be in conformity with generally accepted accounting principles.

(5) The adjusted balance(s) of the bank trust account(s) maintained by the broker as shown in the accompanying financial statements were on deposit as of the financial statements dates.

1 (6) The trust fund bank account balance(s) and receipts and disbursements
2 shown on the financial statements agreed with the amounts reflected on the cash
3 records specified in Section 2831 of these regulations.

4 (7) The trust fund liability balance for each open account as itemized in the
5 financial statements agreed with the amount reflected on the separate beneficiary
6 records specified in Section 2831.1 of these regulations.

7 (b) In preparing the report referred to in subdivision (a) the accountant may
8 incorporate qualifying representations or disclaimers substantially as follows:

9 (1) All information included in the financial statements examined by the
10 accountant are representations of the broker or of responsible officers of
11 the broker.

12 (2) The review by the accountant consisted principally of inquiries of
13 company personnel and analytical procedures applied to financial data. It
14 was substantially less in scope than an examination in accordance with
15 generally accepted auditing standards, the objective of which is the
16 expression of an opinion regarding the financial statements taken as a
17 whole. The report therefore includes no such opinion.

18 (c) In lieu of complying with subdivision (a) above, a broker may satisfy
19 subdivision (a) of Section 10232.2 and/or subdivision (o) of Section 10238 of the Code by
20 submitting the report by a California independent public accountant of an audit of the trust fund
21 financial statements of the broker in which the accountant expresses an unqualified opinion that
22 the financial statements fairly present, in conformity with generally accepted accounting
23 principles, (1) the trust fund position of the broker at the end of the fiscal year and *2) a
24 compilation of receipts and disbursements of trust funds for the fiscal year.

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1 (d) The annual report of a review of trust fund financial statements shall include
2 the following financial statements:

3 (1) Balance sheet of trust funds held by the broker as of the last day of the
4 fiscal year. Each of the trust fund bank accounts shall be identified, either
5 in the balance sheet or in the notes thereto, by name of bank and account
6 number.

7 (2) Statement of receipts and disbursements of trust funds and changes in
8 cash for the fiscal year.

9 (3) Schedule of trust fund liability balances showing each open beneficiary
10 account in connection with trust funds received in carrying on the
11 activities described in subdivisions (d) and(e) of Section 10131 of the
12 Code.”

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2 22.

3 Pursuant to Regulation 2846.7 *Delayed Filing of Annual Trust Account Report*:

4 “(a) A real estate broker whose fiscal year ends between the last day of November
5 and the last day of February inclusive shall regularly have until the following May 31 in which to
6 file the report required by subdivision (a) of Section 10232.2 or subdivision (o) of Section 10238
7 of the Code.

8 (b) A real estate broker whose fiscal year ends between March 1 and November
9 29 inclusive shall file the report required by subdivision (a) of Section 10232.2 or subdivision (o)
10 of Section 10238 of the Code not later than 90 days after the end of the fiscal year unless the
11 broker shall have previously obtained written authorization from the Bureau to file the report
12 more than 90 days after the end of the fiscal year. “

13 23.

14 Pursuant to Regulation 2846.8 *Quarterly Trust Fund Status Report*:

15 “(a) The Commissioner shall publish and make available to interested persons as
16 an official form of the Bureau, an approved format and content for the Trust Fund Status Report
17 described in Section 10232.25 of the Code.

18 (b) The publication of a form pursuant to subdivision (a) is for the purpose of
19 aiding real estate licensees in complying with Section 10232.25 of the code. The form prescribed
20 by the Commissioner shall not constitute the only format or content that will satisfy the
21 requirements of Section 10232.25”

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Trust Funds Status Report - Contents

Pursuant to Code Section 10232.25 *Trust Funds Status Report – Contents:*

“(a) A real estate broker who meets the criteria of subdivision (a) of Section 10232 shall, within 30 days after the end of each of the first three fiscal quarters of the broker's fiscal year, or within any additional time as the Real Estate Commissioner may allow for good cause, file with the commissioner a trust funds status report as of the last day of the fiscal quarter which shall include the following:

- (1) A representation that the form and content of the trust account records of the broker are in compliance with the regulations of the commissioner.
- (2) A representation that the broker's trust fund bank account is maintained in compliance with the regulations of the commissioner.
- (3) A statement of the broker's aggregate accountability for trust funds.
- (4) A report of trust funds in the broker's custody consisting of the trust account bank statements as of the bank's accounting date immediately preceding the end of the fiscal quarter and a schedule of withdrawals and deposits adjusting the account to its true balance as of the end of the fiscal quarter.
- (5) A statement explaining any difference in amount between the broker's total accountability under paragraph (3) above and the adjusted trust account bank balance under paragraph (4) above.

(b) Each report made pursuant to subdivision (a) shall include the following:

- (1) The name, address, and position or capacity of the person who prepared the report.

1 (2) A declaration under penalty of perjury by the broker that the
2 information and representations in the report are true, complete, and
3 correct to the best of the broker's knowledge and belief. The declaration
4 in a report submitted on behalf of a corporate broker shall be signed by a
5 broker-officer through whom the corporation is licensed as a real estate
6 broker and by the chief executive officer of the corporation if he or she is
7 not the signing broker-officer.

8 (c) If a broker fails to file a report required under subdivision (a) within the time
9 permitted, the commissioner may cause an examination and report to be made and may charge
10 the broker one and one-half times the cost of making the examination and report. In determining
11 the hourly cost incurred by the commissioner for conducting an examination and preparing the
12 report, the commissioner may use the estimated average hourly cost for all department audit staff
13 performing audits of real estate brokers. If a broker fails to pay the above amount within 60 days
14 of the mailing of a notice of billing, the commissioner may suspend the broker's license or deny
15 renewal of the broker's license. The suspension or denial shall remain in effect until the above
16 amount is paid or the broker's right to renew a license has expired. The commissioner may
17 maintain an action for the recovery of the above amount in any court of competent jurisdiction.

18 (d) A broker who meets the criteria of Section 10232, but who, in carrying on
19 the activities described in subdivisions (d) and (e) of Section 10131, did not during a fiscal
20 quarter, accept for the benefit of a person to whom the broker is trustee, any payment or
21 remittance in a form convertible to cash by the broker, need not comply with the provisions of
22 subdivision (a). In lieu thereof, the broker shall submit to the commissioner within 30 days after
23 the end of the fiscal quarter or within any additional time as the commissioner may allow for
24 good cause, a statement under penalty of perjury on a form provided by the department attesting
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1 to the fact that the broker did not receive any trust funds in cash or convertible to cash during the
2 fiscal quarter.

3 (e) Any real estate broker who engages in any of the activities specified in
4 subdivision (d) or (e) of Section 10131, but who is not required by this section to file trust funds
5 status reports with the commissioner and who is not exempt therefrom under subdivision (d),
6 shall complete trust funds status reports in accordance with either (1) the requirements of
7 subdivisions (a) and (b) applicable to trust funds status reports filed with the commissioner, or
8 (2) the requirements established by the lender or note owner, if the lender or note owner does all
9 of the following: (i) requires monthly reconciliations of trust account balances; (ii) requires
10 annual, CPA-audited financial statements; and (iii) maintains a contractual right to audit the trust
11 accounts held by the broker on behalf of the lender or note owner.

12 The broker shall retain all trust funds status reports prepared under this subdivision on file at the
13 broker's offices, where they shall be subject to inspection by representatives of the commissioner
14 upon 24 hours' notice.”

15 25.

16 **Recordation of Trust Deeds, Assignments – Code Section 10234**

17 Pursuant to Code Section 10234 *Recordation of Trust Deeds, Assignments*:

18 “(a) Except as provided in subdivision (d), every real estate licensee who
19 negotiates a loan secured by a trust deed on real property shall cause the trust deed to be
20 recorded, naming as beneficiary the lender or his or her nominee (who shall not be the licensee or
21 the licensee’s nominee), with the county recorder of the county in which the real property is
22 located prior to the time that any funds are disbursed, except when the lender has given written
23 authorization for prior release.

1 (b) If funds re released on the lender's written authorization as described in
2 subdivision (a), the trust deed shall be recorded, or delivered to the lender or beneficiary with a
3 written recommendation that it be recorded forthwith, within 10 days following release.

4 (c) Every real estate licensee who sells, exchanges, or negotiates the sale or
5 exchange of a real property sales contract or a promissory note secured by a trust deed on real
6 property shall cause a proper assignment of the real property sales contract or trust deed to be
7 executed and shall cause the assignment to be recorded, naming as assignee the purchaser or his
8 or her nominee (who shall not be the licensee or the licensee's nominee), with the county
9 recorder of the county in which the real property is located within 10 working days after the
10 licensee or seller receives any funds from the buyer or after close of escrow; or shall deliver the
11 real property sales contract or trust deed to the purchaser with a written recommendation that the
12 assignment thereof be recorded forthwith.

13 (d) A trust deed may be recorded in the name of the real estate broker negotiating
14 the loan if all of the following apply: (1) the lender or purchaser is any person or entity set forth
15 in paragraph (1) of subdivision (c) of Section 10232, (2) the trust deed is recorded with the
16 county recorder of the county in which the real property is located, and (3) the real property
17 securing the loan as described in the trust deed is not a dwelling as defined in Section 10240.2 or
18 unimproved real property."

19 **BROKER OFFICE SURVEY ("BOS") OF CMR**

20 26.

21 On or about August 17, 2017, a Broker Office Survey ("BOS") and inspection of
22 the books and records of CMR was conducted by DRE Special Investigator Kristy Rodrigues
23 ("SI Rodrigues"). The books and records provided by CMR for the BOS regarding its private
24 money loan transactions were inconsistent and incomplete for the DRE to make determinations
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1 as to CMC's reporting requirement(s) of its mortgage loan activities to the DRE. CMR's
2 incomplete and inconsistent production of books and records for the DRE's BOS is in violation
3 of **Code Section 10148**.

4 27.

5 On or about January 26, 2018, at a follow-up interview to the August 17, 2017
6 BOS, D.O. ANDERSON confirmed to SI Rodrigues that he had no knowledge of CMR's bank
7 account information or the specifics of the accounts handled by CMR.

8 **DRE AUDIT LA 180116: CHANGEMYRATE.COM, A MORTGAGE CORPORATION'S**
9 **MORTGAGE LOAN ACTIVITIES**

10 28.

11 On May 29, 2020, the DRE completed its audit examinations of the books and
12 records of Respondent CMR pertaining to its mortgage loan activities (LA 180116), which
13 require a real estate license, pursuant to Code Section 10131(d). The audit examination covered
14 a period of time beginning on January 1, 2017 and ending on May 31, 2019 ("audit examination
15 period" or "audit period"), and was performed between July 19, 2019 and November 15, 2019.
16 The final report of May 29, 2020 revealed violations of the Code and the Regulations as set forth
17 in the following paragraphs, and more fully discussed in the Audit Report Transmittal and Report
18 for LA 180116.

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Corporate Structure of CMR

According to ANDERSON and restricted RES ("RRES") Jackie Alexander Graves (DRE license ID 01099015; suspended as of January 23, 2020) ("Graves"), the corporate structure and ownership for CMR was as follows:

Name	Title	License	Shareholder Percentage
Graves	President	RRES - suspended	100%
Graves	Secretary	RRES - suspended	100%
Graves	Treasurer	RRES - suspended	100 %
ANDERSON	Vice-President	REB	0%

CMR's Mortgage Loan Activities

According to ANDERSON and the records examined for audit, CMR was engaged in mortgage loan activities. CMR arranged and negotiated private investor loans secured by investment properties for both borrowers and lenders. In the last twelve (12) months leading to the audit, CMR closed approximately twenty-nine (29) private investor loans totaling approximately \$6,991,000.00. Also according to ANDERSON, CMR did not maintain a trust account in connection with its mortgage loan activities. However, according to CMR President Graves, there were four (4) instances [in four (4) transactions] that CMR received funds from the lender and he deposited only those funds into CMR's business account at Chase Bank (#####5205); three (3) of those four (4) loan transactions were negotiated, two (2) were closed [on June 21, 2017 and on August 1, 2017], and one (1) was cancelled [on June 29, 2017] during

1 the period beginning June 21, 2017 and ending August 1, 2017. According to Graves, there
2 were funds from a lender in the amount of \$48,000 collected and deposited into CMR's business
3 account on February 1, 2017; no records were provided to the DRE auditor regarding this
4 particular loan.

5 31.

6 Bank Account

7 During the audit period, CMR did not maintain a trust account in connection with
8 its mortgage loan activities. However, CMF received funds from a lender/private investor in
9 June 2017 and deposited said funds into CMR's business account (BA #1):

10 Bank Account #1 (Account #####5205) ("BA #1")

11 * Bank: Chase Bank, P.O. Box 182051, Columbus, Ohio 42318

12 * Account Name: CHANGEMYRATE.COM, A MORTGAGE CORPORATION

13 * Signatories: Graves (suspended RRES)

14 * Signatures required: 1

15 According to BA #1's bank signature card, it was opened on February 1, 2017 for CMR's
16 handling of broker's fees/origination fees and disbursements for its operations.

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1 with CMR's funds during the period from June 2017 to August 2017, in violation of Code
2 Sections 10145(a) and 10176(e) and Regulation 2832.

3 35.

4 (Aggravation)

5 **Handling of Trust Funds/Conversion of Funds/Unauthorized Disbursements**

6 **(Code Sections 10145 and 10176(i))**

7 According to the documents examined, including but not limited to CMR's bank
8 statements and loan files, CMR received trust funds from a lender/private investor in the amount
9 of \$277,400.50 related to three (3) private money loan transactions between June 23, 2017 and
10 June 28, 2017 and deposited said funds into its business account, BA #1, which were
11 commingled with CMR's funds in its business account.

12 A. Between June 26, 2017 and July 28, 2017, trust funds totaling \$267,919.63 in
13 BA #1 were disbursed and the balance of BA #1 was reduced to an amount less than the amount
14 of trust funds deposited into BA #1, in violation of Code Sections 10145 and 10176(i).

15 B. On July 7, 2017, CMR made disbursements from BA #1 to borrower Linda
16 M.'s son in the amount of \$3,500.00. On June 29, 2017, CMR made an advance disbursement to
17 itself of unearned origination fees in the amount of \$4,760.00 prior to the close of escrow
18 (August 1, 2017) without written authorization from the principal owner (lender/private investor)
19 of said funds, in violation of Code Sections 10145 and 10176(i).

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1 36.

2 **Trust Fund Record To Be Maintained**
3 **(Code Sections 10145 and Regulation 2831)**

4 **Audit LA1801116: Issue Six**

5 During the audit period, CMR did not maintain an accurate columnar record for
6 all trust funds received and disbursed for BA #1, in violation of **Code Sections 10145 and**
7 **Regulation 2831.**

8 37.

9 **Separate Record For Each Beneficiary or Transaction**
10 **(Code Sections 10145 and Regulation 2831.1)**

11 **Audit LA1801116: Issue Seven**

12 During the audit period, CMR did not maintain an accurate record for all trust
13 funds received and disbursed for each beneficiary or transaction for BA #1 related to the three (3)
14 private money loan transactions described above in Paragraph 34, in violation of **Code Sections**
15 **10145 and Regulation 2831.1.**

16 38.

17 **Separate Record For Each Beneficiary or Transaction**
18 **(Code Sections 10145 and Regulation 2831.2)**

19 **Audit LA1801116: Issue Eight**

20 CMR did not provide the records of monthly reconciliation comparing the balance
21 of all separate beneficiary or transaction records (separate records) to the balance of the record of
22 all trust funds received and disbursed (control record) for BA #1 as required, in violation of **Code**
23 **Sections 10145 and Regulation 2831.2.**

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Misrepresentation

(Code Section 10176(a))

Audit LA1801116: Issue Nine

According to the loan files provided for the audit examination, during the audit period, CMR provided borrowers with California Finance Lender Statement of Loan (“CFL Statement”) and Fair Lending Notice (“FLN”).

A. (Aggravation) CFL Statement: In at least two (2) loan files examined, CMR provided the borrowers a CFL Statement that misrepresented CMR as a California Finance Lender (“CFL”) licensed by the California Department of Business Oversight (“DBO”) with the Broker CFL or DBO License number 01523445. In fact, the license number 01523445 is CMR’s DRE license number. The CFL Statement was provided to the two borrowers, who signed in attestation that the loan “is made pursuant to the California Finance Lender Law.” According to ANDERSON and suspended RRES (CMR’s President) Graves, CMR was not a licensed CFL licensed by DBO. CMR’s misrepresentation of its license status as a CFL licensed by DBO on its CFL Statements is in violation of Code Section 10176(a).

B. FLN: In at least four (4) loan files examined, CMR provided borrowers with a FLN which did not bear the DRE’s address and telephone numbers. The FLN provided to said borrowers bore DBO’s address and telephone numbers. Additionally, the FLN in the loan files examined showed the Washington, D.C. addresses of the U.S. Department of Housing and Urban Development and Federal Trade Commission. CMR’s misrepresentation of its DBO and federal agency affiliations on its FLN is in violation of **Code Section 10176(a)**.

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1 40.

2 **Threshold Notification**

3 **(Code Section 10232(e))**

4 **Audit LA1801116: Issue Ten**

5 CMR did not notify the DRE in writing within thirty (30) days of when CMR met
6 the threshold criteria on August 28, 2017, in violation of **Code Section 10232(e)**.

7 41.

8 **Filing Fiscal Year Reports – Annual Business Activity Report**

9 **(Code Sections 10232.2(c) and Regulation 2849.01)**

10 **Audit LA1801116: Issue Eleven**

11 According to ANDERSON, the fiscal year for CMR ends on December 31. CMR
12 did not submit its Annual Mortgage Loan Business Activity Report (BAR) to the DRE within
13 ninety (90) days after the end of CRM's fiscal years ending December 31, 2017 and December
14 31, 2018, the BARs of which were due on March 31, 2018 and March 31, 2019, respectively.
15 CMR's failure to submit its BARs to the DRE for fiscal years ending December 31, 2017 and
16 December 31, 2018 is in violation of **Code Sections 10232.2(c) and Regulation 2849.01**.

17 42.

18 **Quarterly Trust Fund Status Report**

19 **(Code Sections 10232.25(a) and 10232.25(d) and Regulation 2846.8)**

20 **Audit LA1801116: Issue Twelve**

21 A. CMR did not file with the DRE within thirty (30) days after the end of its fiscal
22 quarter the Trust Fund Status Report (DRE Forms RE 855 and RE 856) for the quarter ending
23 September 30, 2017 (due on October 30, 2017), in violation of **Code Sections 10232.25(a) and**
24 **10232.25(d) and Regulation 2846.8**.

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1 B. CMR did not file with the DRE within thirty (3) days after the end of its fiscal
2 year the Trust Fund Non-Accountability Report (DRE Form RE 854) for the quarters ending
3 March 31, 2018 (due on April 30, 2018), June 30, 2018 (due on July 30, 2018), September 30,
4 2018 (due on October 30, 2018), and March 31, 2019 (due on April 30, 2019), in violation of
5 **Code Sections 10232.25(a) and 10232.25(d) and Regulation 2846.8.**

6 43.

7 **Filing Fiscal Year Reports – Accounting Criteria/Report of**

8 **Annual Trust Fund Account Review**

9 **(Code Sections 10232.2(a) and 10232.2(b) and Regulations 2846.5 and 2846.7)**

10 **Audit LA1801116: Issue Thirteen**

11 A. CMR did not file with the DRE the Annual Trust Account Review (“TAR”)
12 report for the fiscal year ending December 31, 2017, which was due on May 31, 2018, in
13 violation of **Code Sections 10232.2(a) and 10232.2(b) and Regulations 2846.5 and 2846.7.**

14 B. CMR did not submit to the DRE within thirty (30) days after the end of its
15 fiscal quarter ending December 31, 2018 (due on January 30, 2019) a notarized statement on the
16 Trust Fund Non-Accountability Report (DRE Form RE 854), in violation of **Code Sections**
17 **10232.2(a) and 10232.2(b) and Regulations 2846.5 and 2846.7.**

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Recordation of Trust Deeds, Assignments

(Code Section 10234)

Audit LA1801116: Issue Fourteen

A. In at least five (5) of the private loan transaction files that were examined for the audit, CMR recorded the Deed of Trust in the name of CHANGEMYRATE.COM, A MORTGAGE CORPORATION; although CMR was not the lender that funded the loans, it was named as the beneficiary on the Deeds of Trust, in violation of **Code Section 10234**. CMR also dated the Assignment of Deed of Trust (which named the lender that funded the loan as beneficiary) simultaneously with the aforementioned Deed of Trust executed in the name of CMR.

B. CMR closed Linda M.'s loan (#17061878 on August 1, 2017. The Deed of Trust dated June 27, 2017 named CHANGEMYRATE.COM, A MORTGAGE CORPORATION as the lender/beneficiary when CMR was not the lender that funded the loan. The Deed of Trust on Linda M.'s loan was recorded on August 1, 2017; however, the Assignment of Deed of Trust (which named the lender that funded the loan as beneficiary) was dated June 27, 2017 and recorded on August 18, 2017, in violation of **Code Section 10234**.

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ACCUSATION: CHANGEMYRATE.COM, A MORTGAGE CORPORATION & LOWELL WARNER ANDERSON

1 45.

2 **Responsibility of Corporate Officer in Charge/Broker**

3 **Code Section 10159.2 and Regulation 2725**

4 **Audit LA1801116: Issue Fifteen**

5 Based on the aforementioned findings, D.O. ANDERSON did not exercise
6 adequate supervision and control over the activities of CMR and its employees to ensure
7 compliance with Real Estate Laws and Regulations, in violation of **Code Section 10159.2 and**
8 **Regulation 2725.**

9 46.

10 **Additional Violations of the Real Estate Law**

11 The overall conduct of Respondents CMR and ANDERSON is violative of the
12 Real Estate Law and constitutes cause for the suspension or revocation of their real estate
13 licenses and license rights under the provisions of **Code Section 10177(g)** for negligence, **Code**
14 **Section 10177(d)** for willful disregard of the Real Estate Law, and [as to Respondent
15 ANDERSON only] **Code Section 10177(h)** for failure to supervise. The overall conduct of
16 Respondents CMR and Anderson is violative of the Real Estate Law and constitutes cause for the
17 suspension and revocation of their MLO license endorsements and license rights under the
18 provisions of **Code Section 10166.51** for failure to meet the requirements of Code Section
19 10166.05 (demonstration of financial responsibility).

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ACCUSATION: CHANGEMYRATE.COM, A MORTGAGE CORPORATION & LOWELL WARNER ANDERSON

1 **COSTS**

2 **Investigation and Enforcement Costs**

3 47.

4 **Code Section 10106** provides, in pertinent part, that in any order issued in
5 resolution of a disciplinary proceeding before the Department of Real Estate, the Commissioner
6 may request the administrative law judge to direct a licensee found to have committed a violation
7 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement
8 of the case.

9 **Audit Costs**

10 48.

11 **Code Section 10148(b)** provides, in pertinent part, the Commissioner shall charge
12 a real estate broker for the cost of any audit, if the Commissioner has found in a final decision
13 following a disciplinary hearing that the broker has violated Code section 10145 or a regulation
14 or rule of the Commissioner interpreting said section.

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ACCUSATION: CHANGEMYRATE.COM, A MORTGAGE CORPORATION & LOWELL WARNER ANDERSON

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against the licenses and license rights of Respondents CHANGEMYRATE.COM, A
4 MORTGAGE CORPORATION and LOWELL WARNER ANDERSON under the Real Estate
5 Law (Part 1 of vision 4 of the Business and Professions Code), for the cost of investigation and
6 enforcement as permitted by law, and for such other and further relief as may be proper under
7 other provisions of law, and for costs of audit.

8 Dated at Sacramento, California

9 this 25th day of August, 2020.

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11 
12 Chika Sunquist
13 Supervising Special Investigator

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15 cc: CHANGEMYRATE.COM, A MORTGAGE CORPORATION
16 LOWELL WARNER ANDERSON
17 Enforcement – K. Rodriguez, C. Sunquist
18 Audits – C. Picayo, J. Lin
19 Sacto.

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ACCUSATION: CHANGEMYRATE.COM, A MORTGAGE CORPORATION & LOWELL WARNER ANDERSON

EXHIBIT A

Regulation 2849.01 *Annual Report Format*

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ACCUSATION: CHANGEMYRATE.COM, A MORTGAGE CORPORATION & LOWELL WARNER ANDERSON

- (K) Number of months and percentage of original loan amount after which minimum payments will not be accepted and the loan re-amortizes
- (L) The monthly payment based on the maximum interest rate, and the loan balance after all negative amortization is included, assuming minimum payments are made
- (M) If the loan contains a prepayment penalty, a statement to that effect
- (N) If the loan contains a balloon payment, a statement to that effect
- (18) A statement that the licensee can arrange "low doc/no doc", "no income/no asset", "stated income", "stated asset", "no ratio" or similar loan products without a statement that these products may have a higher interest rate, more points or more fees than other products requiring documentation.
- (19) The failure to include a statement, in an advertisement for investments in trust deeds secured by one or more interests in real property, that "investments in trust deeds secured by one or more interests in real property are subject to risk of loss". Any advertisements, for investments in trust deeds secured by one or more interests in real property shall be retained for a period of three years from the date of its last publication or use. After notice, advertisements for investments in trust deeds secured by one or more interests in real property shall be made available for examination, inspection, and copying by the commissioner or his or her designated representative during regular business hours.

2849.01. Annual Report Format.

For reports submitted to the Bureau, the following format shall be used by a real estate broker who meets the criteria of section 10232 and/or 10238 of the Code for the annual report required by section 10232.2(c) and 10238(p).

MORTGAGE LOAN/TRUST DEED ANNUAL REPORT
(Business and Professions Code Section 10232.2(c) or 10238(p))

NAME OF REPORTING BROKER (CORPORATION OR INDIVIDUAL)

PRINCIPAL BUSINESS ADDRESS

This report covers mortgage loan brokerage and trust deed and from (month/day/year) to (month/day/year) real property sales contract transactions for the period from (month, day, year) to (month, day, year).

During the reporting period, mortgage loan/trust deed business activities were conducted by the reporting broker and his affiliates at the following address(es) in addition to the principal business address above:

<i>Report Data</i>	<i>Article 7¹ Loans</i>	<i>Other Loans</i>
I. LOANS ORIGINATED AS AGENT		
[B&P Code Section 10131(d)]		
TOTAL LOANS		
Number.....	_____	_____
Aggregate Principal Amount.....	\$ _____	\$ _____
Total Commissions Received from All Loans		
Originated as Agent.....	\$ _____	\$ _____

REGULATIONS OF THE REAL ESTATE COMMISSIONER

A. MULTIPLE LENDER LOANS (FRACTIONALIZED)²
 1) Total Number of Loans _____
 2) Aggregate Principal Amount \$ _____ \$ _____
 3) Aggregate Number of Investors _____

**B. LOANS TO REFINANCE³
 LOANS PREVIOUSLY NEGOTIATED BY
 REPORTING BROKER OR AFFILIATE⁴**
 1) Number _____
 2) Aggregate Principal Amount \$ _____ \$ _____

**C. BALLOON PAYMENT AND INTEREST-
 ONLY LOANS**
 1) Number _____
 2) Aggregate Principal Amount \$ _____ \$ _____

**D. LOANS COVERED UNDER FINANCIAL
 CODE SECTION 4970¹¹**
 1) Number _____
 2) Aggregate Principal Amount \$ _____ \$ _____

**II. LOANS ORIGINATED AS PRINCIPAL
 (FUNDED BY BROKER) FOR RESALE
 [B&P Code Section 10131.1]
 TOTAL LOANS**
 Number _____
 Aggregate Principal Amount \$ _____ \$ _____
 Loan Origination Fees (Points) of all Loans
 Originated as Principal Funded for Resale \$ _____ \$ _____

**A. LOANS TO REFINANCE LOANS³
 PREVIOUSLY NEGOTIATED BY
 REPORTING BROKER OR AFFILIATE⁴**
 1) Number _____
 2) Aggregate Principal Amount \$ _____ \$ _____

**B. BALLOON PAYMENT AND INTEREST-
 ONLY LOANS**
 1) Number _____
 2) Aggregate Principal Amount (at maturity)..... \$ _____ \$ _____

**C. PRINCIPAL (BROKER FUNDED) LOANS
 RESOLD**
 1) Single Purchaser
 a) Number _____
 b) Aggregate Selling Price..... \$ _____ \$ _____
 2) Multiple Purchasers (Fractionalized)²
 a) Number _____
 b) Aggregate Selling Price..... \$ _____ \$ _____
 c) Aggregate Number of Purchasers \$ _____ \$ _____

**D. LOANS COVERED UNDER FINANCIAL
 CODE SECTION 4970¹¹**
 1) Number _____
 2) Aggregate Principal Amount \$ _____ \$ _____

**III. COSTS AND EXPENSES PAID BY
BORROWERS TO THE BROKER IN
ORIGINATED LOAN TRANSACTIONS⁵**

Total \$ _____ \$ _____
Retained by Broker or Affiliate for Services..... \$ _____ \$ _____

**IV. LOANS FOR BROKER'S USE OR
BENEFIT⁶ [B&P Code Section 10231.2]**

All Loans/Sales

A. Total Number _____
B. Number of Fractionalized Loans..... _____
C. Aggregate Amount Borrowed \$ _____

**V. SALES OF NOTES AS AGENT
[B&P Code Section 10131(e)]**

TOTAL LOANS

A. Number _____
B. Aggregate Selling Price..... \$ _____
C. Commissions Received..... \$ _____
D. Multi-Lender Sales (Fractionalized)
1) Number of Loans _____
2) Aggregate Number of Lenders/Investors _____
3) Aggregate Selling Price \$ _____
4) Commissions Received..... \$ _____

**VI. REALES AS PRINCIPAL OF NOTES
PURCHASED BY BROKER**

[B&P Code Section 10131.1]

TOTAL LOANS

A. Number _____
B. Aggregate Purchase Price \$ _____
C. Aggregate Resale Price \$ _____
D. Multi-Lender Resales (Fractionalized)
1) Number of Loans _____
2) Aggregate Number of Investors _____
3) Aggregate Selling Price \$ _____
4) Commissions Received..... \$ _____

**VII. SALES OF REAL PROPERTY SALES (RPS)
CONTRACTS⁷ AS AGENT OR PRINCIPAL**

[B&P Code Sections 10131(e) and 10131.1]

A. Number _____
B. Aggregate Selling Price..... \$ _____

VIII. NOTE AND RPS CONTRACT SERVICING

A. Total Number of Notes and/or Contracts
Serviced During Reporting Period _____
B. Number of Fractionalized Notes Serviced _____
C. Total Dollar Amount of Payments Collected
from the Borrowers During the Reporting Period
including Payoffs⁸ \$ _____
D. Total Dollar Amount of Payments Collected
from the Borrowers on Fractionalized Loans
During the Reporting Period, including Payoffs¹⁰ \$ _____
E. Total Dollar Amount of Loans Serviced⁹ \$ _____
F. Total Dollar Amount of Fractionalized Loans
Serviced¹⁰ \$ _____

