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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT

OF THE STATE OF CALIFORNIA

In the Matter of Accusation of THE COMMISSIONER OF BUSINESS OVERSIGHT OF THE STATE OF CALIFORNIA, Complainant, vs. MANN MORTGAGE, LLC d.b.a. LIFE MORTGAGE, WESTCORP MORTGAGE GROUP, Respondent.	File No.: 413-0981 AMENDED ACCUSATION IN SUPPORT OF NOTICE OF INTENT TO ISSUE ORDERS SUSPENDING LICENSE AND IMPOSING PENALTIES

This Amended Accusation in Support of Notice of Intent to Issue Orders Suspending License and Imposing Penalties ("Amended Accusation") partially amends and supersedes the Accusation in Support of Notice of Intent to Issue Orders Suspending License and Imposing Penalties issued on June 30, 2014 ("June 30, 2014 Accusation") by revising lines 14 – 15 in Section II and deleting lines 1 – 12 in Section III. The remaining portions of the June 30, 2014 Accusation remain in effect.

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

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I

Mann Mortgage, LLC d.b.a. Life Mortgage, Westcorp Mortgage Group ("Mann Mortgage" or "Respondent") is a residential mortgage lender licensed since August 24, 2009 by the Commissioner of Business Oversight ("Commissioner" or "Complainant")[1] pursuant to the California Residential Mortgage Lending Act ("CRMLA") (California Financial Code sections 50000 et seq.). Mann Mortgage has its principal place of business located at 1220 Whitefish Stage, Kalispell, MT 59901. Mann Mortgage employs mortgage loan originators.

II

On or about July 5, 2011, the Department of Business Oversight ("Department") commenced a regulatory examination of the books and records of Respondent under the CRMLA ("2011 regulatory examination"). The 2011 regulatory examination disclosed that for two of 24 loans, or approximately 8.3% of the loans reviewed, Respondent charged the borrower per diem interest in excess of one day prior to the date that the loan proceeds were disbursed from escrow, in violation of California Financial Code ("FC") section 50204, subdivision (o). The range of per diem interest overcharges was between $46.28 and $141.06. The range of days that interest was overcharged was between one and three days.

On or about January 13, 2012, the Department directed Respondent to make appropriate refunds to the two borrowers in the amount of the overcharge plus 10% per annum. Evidence of these refunds was due within thirty (30) calendar days, or by February 13, 2012. Pursuant to an extension that was requested by Respondent on February 10, 2012, and granted by the Department to respond by March 1, 2012, Respondent timely provided its response on February 29, 2012.

III

On or about March 25, 2013, the Department commenced a regulatory examination of the books and records of Respondent under the CRMLA ("2013 regulatory examination"). The 2013 regulatory examination disclosed that for four of 18 loans, or approximately 22% of the loans reviewed, Respondent charged the borrower per diem interest in excess of one day prior to the date that the loan proceeds were disbursed from escrow, in violation of FC section 50204, subdivision

[1] As of July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight.

(o). While a document entitled, "California Per Diem Interest Accrual Disclosure" was found in one of the four loans with per diem interest overcharges, the disclosure did not comply with California Civil Code ("CC") section 2948.5, subdivision (b). Therefore, the disclosure was not considered in calculating per diem interest charges. The range of per diem interest overcharges was between $18.43 and $61.34. The range of days that interest was overcharged was between one and four days.

On or about December 10, 2013, the Department directed Respondent to complete the following: (i) review all loans that were originated since July 5, 2011 to January 31, 2013 to determine the number and amount of overcharges collected from borrowers; and (ii) provide a detailed report of the files reviewed and the dollar amount of the overcharges established through the review of its originated loans, including, but not limited to, the loan number, borrower's name, loan amount, interest rate, date disbursed by the settlement agent, date Respondent started collecting interest, interest overcharged, and date refunded ("Report"). In addition, the borrowers who were overcharged were to be refunded the amount of the overcharge plus interest at the rate of 10% per annum. The Report was due within thirty (30) calendar days, or by January 9, 2014.

On or about January 27, 2014, Respondent submitted its Report, which disclosed that in 15 out of 186 loans it reviewed, Respondent had charged the borrower per diem interest in excess of one day prior to the date that the loan proceeds were disbursed from escrow, in violation of FC section 50204, subdivision (o). Respondent also submitted copies of refund checks and letters to overcharged borrowers dated January 23, 2014. However, Respondent failed to provide the correct refund amount for each of the four loans that were noted for per diem interest overcharges during the 2013 regulatory examination.

On or about April 24, 2014, the Department directed Respondent to submit information to examine the accuracy of its Report. On or about May 3, 2014, Respondent provided a written response, which disclosed that for at least one out of 15 loans Respondent noted for per diem interest overcharges in its Report, Respondent had failed to determine the correct overcharge and the correct refund amount.

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IV

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.

California Financial Code section 50513 provides in pertinent part:

> (a) The commissioner may do one or more of the following:
> . . .
> (4) Impose fines on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).
> . . .
> (b) The commissioner may impose a civil penalty on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator has violated or failed to comply with any requirement of this division or any regulation prescribed by the commissioner under this division or order issued under authority of this division.
>
> (c) The maximum amount of penalty for each act or omission described in subdivision (b) shall be twenty-five thousand dollars ($25,000).
>
> (d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

V

The Commissioner finds that, by reason of the foregoing, Mann Mortgage, LLC d.b.a. Life Mortgage, Westcorp Mortgage Group has violated FC section 50204 of the CRMLA. Therefore, grounds exist to:

(1) suspend the CRMLA residential mortgage lender license of Mann Mortgage, LLC d.b.a. Life Mortgage, Westcorp Mortgage Group pursuant to FC section 50327, and

(2) levy penalties against Mann Mortgage, LLC d.b.a. Life Mortgage, Westcorp Mortgage Group pursuant to FC section 50513(b).

WHEREFORE, IT IS PRAYED that:

1. Pursuant to FC section 50327, the residential mortgage lender license of Mann Mortgage be suspended for up to 12 months; and

2. Pursuant to FC section 50513(b), penalties be levied against Mann Mortgage for at least 19 violations of FC section 50204(o), whereby Mann Mortgage overcharged borrowers per diem interest during the period from July 5, 2011 to January 31, 2013, in an amount of at least $2,500 per violation, for a total amount of penalties of at least $47,500, or according to proof.

Dated: July 22, 2014
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By_____
Sophia C. Kim
Corporations Counsel
Enforcement Division

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