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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT

OF THE STATE OF CALIFORNIA

In the Matter 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 STATEMENT OF FACTS IN SUPPORT OF ORDER TO DISCONTINUE VIOLATIONS PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 50321 AND NOTICE OF INTENT TO MAKE ORDER FINAL

This Amended Statement of Facts in Support of Order to Discontinue Violations Pursuant to California Financial Code Section 50321 and Notice of Intent to Make Order Final ("Amended Statement of Facts") partially amends and supersedes the Statement of Facts in Support of Order to Discontinue Violations Pursuant to California Financial Code Section 50321 and Notice of Intent to Make Order Final issued on June 30, 2014 ("June 30, 2014 Statement of Facts") by revising lines 14 – 15 in Paragraph 3 and deleting Paragraphs 5 and 6. The remaining portions of the June 30, 2014 Statement of Facts remain in effect.

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

1. 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.

2. 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.

3. 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.

4. 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.

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(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.

5. 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.

6. 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.

7. 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.

By reason of the foregoing, Respondent has violated FC section 50204, subdivision (o).

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California Financial Code section 50321 provides in pertinent part:

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

California Financial Code section 50323 provides:

> (a) No order issued pursuant to Section 50321 or 50322 may become final except after notice to the affected licensee of the commissioner's intention to make the order final and of the reasons for the finding. The commissioner shall also notify the licensee that upon receiving a request the matter will be set for hearing to commence within 15 business days after receipt. The licensee may consent to have the hearing commence at a later date. If no hearing is requested within 30 days after the mailing or service of the required notice, and none is ordered by the commissioner, the order may become final without hearing and the licensee shall immediately discontinue the practices named in the order. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of 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.
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> (b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If the enforcement of the order is not 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 Mann Mortgage, LLC d.b.a. Life Mortgage, Westcorp Mortgage Group of her intention to make the order final.

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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