1 2 3 4 5 6	MARY ANN SMITH Deputy Commissioner SEAN M. ROONEY Assistant Chief Counsel JUDY L. HARTLEY (CA BAR NO. 110628) Senior Corporations Counsel Department of Business Oversight 320 West 4 <sup>th</sup> Street, Ste. 750 Los Angeles, California 90013-2344 Telephone: (213) 576-7604 Facsimile: (213) 576-7181		
7	Attorneys for Complainant		
8	BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT		
9	OF THE STATE OF CALIFORNIA		
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11	In the Matter of)File No.: 603-8638THE COMMISSIONER OF BUSINESS)		
12	OVERSIGHT,       )       ACCUSATION IN SUPPORT OF NOTICE OF         )       INTENTION TO REVOKE FINANCE		
13	Complainant, ) LENDER LICENSE		
14	) VS. )		
15	) CAR CAPITAL FINANCIAL, INC., )		
16	)		
17 18	Respondent. )		
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20	The Complainant is informed and believes, and based upon such information and belief,		
21	alleges and charges Respondent as follows:		
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24	1. Car Capital Financial, Inc. ("Car Capital") is a finance lender licensed by the		
25	Commissioner of Business Oversight ("Commissioner") pursuant to the Finance Lender Law ("FLL") (Financial Code § 22000 et seq.). Car Capital has its principal place of business located at		
26	700 W. Collins Avenue, Orange, California 92867.		
27	700 W. Comins Avonaci, Orango, Camornia 52007.		
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	ACCUSATION IN SUPPORT OF NOTICE OF INTENTION TO REVOKE FINANCE LENDER LICENSE		

State of California – Department of Business Oversight

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FINANCE LENDER LAW	VIOLATIONS
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#### Understating Annual Percentage Rate:

2. On or about October 11, 2013, the Commissioner commenced a regulatory examination of the books and records of Car Capital under the FLL ("2013 regulatory examination"). The 2013 regulatory examination disclosed that Car Capital had understated the annual percentage rate ("APR") in excess of the .125% tolerance in 15 of the 17 funded loans reviewed (88%); calculating the APR based upon the terms of the loan agreement, in violation of Financial Code section 22346(b) and 12 Code of Federal Regulations, section 1026.22(a)(2) (hereinafter Reg. Z, Rule 1026.22). The APR understatements ranged from 1.3428 to 22.7816 %.

3. On or about April 16, 2014, the Commissioner directed Car Capital to conduct a selfaudit regarding APR understatements for all loans made since June 10, 2011, make appropriate refunds, and submit a report as to the findings of the self-audit ("APR self-audit report"). Car Capital has yet to comply with the Commissioner's demand for the APR self-audit report in violation of Financial Code section 22159(b).

4. The Commissioner had found that Car Capital was understating the APR during the last regulatory examination that commenced in April 2011. Based upon the findings of the 2011 regulatory examination, the Commissioner instructed Car Capital to assure compliance in the future.

Understating Finance Charges:

5. The 2013 regulatory examination further disclosed that in 14 of the 17 funded loans reviewed (82%), Car Capital had understated the finance charges in violation of Financial Code section 22346(b) and Reg. Z, Rule 1026.18(d)(2). The finance charge understatements ranged from \$68.45 to \$4,800.70.

6. On or about April 16, 2014, the Commissioner directed Car Capital to conduct a selfaudit regarding finance charge understatements for all loans made since June 10, 2011, make
appropriate refunds, and submit a report as to the findings of the self-audit ("finance charge selfaudit report"). Car Capital has yet to comply with the Commissioner's demand for the finance
charge self-audit report in violation of Financial Code section 22159(b).

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7. The Commissioner had found that Car Capital was understating finance charges during the last regulatory examination that commenced in April 2011. Based upon the findings of the 2011 regulatory examination, the Commissioner instructed Car Capital to assure compliance in the future.

Failure to Itemize Amount Financed:

8. The 2013 regulatory examination also disclosed that in 7 of the 17 funded loans reviewed (41%), Car Capital had failed to itemize the amount financed in violation of Financial Code section 22346(b) and Reg. Z, Rule 1026.18(c).

Misstatement of Late Fees:

9. The 2013 regulatory examination additionally disclosed that Car Capital misstated the late fees in all loans reviewed for amounts under \$5,000 in violation of Financial Code section 22320.5. Financial Code section 22320.5 allows late fee charges of \$10 for a delinquency of not less than 10 days and \$15 for a delinquency of not less than 15 days. Car Capital's promissory notes provided for a late fee of \$15 if the payment was more than 10 days late.

10. On or about April 16, 2014, the Commissioner directed Car Capital to conduct a selfaudit regarding late fee charges for all loans made, refinanced, or paid in full since June 10, 2011, make appropriate refunds, and submit a report as to the findings of the self-audit ("late fee self-audit report"). Car Capital has yet to comply with the Commissioner's demand for the late fee self-audit report in violation of Financial Code section 22159(b).

20 11. The Commissioner had found that Car Capital was misstating allowed late fees during the last regulatory examination that commenced in April 2011. Based upon the findings of the 2011 22 regulatory examination, the Commissioner instructed Car Capital to state the corrective steps to be 23 taken to assure compliance in the future.

Unauthorized Business Activity:

25 12. It was further discovered during the regulatory examination that other business 26 activity, a used car dealership operated by its affiliate Car Capital, Inc., continued to be conducted on 27 the premises of Car Capital without prior written authorization in violation of Financial Code section 28 22154.

13. The Commissioner had found the same unauthorized business activity during the last regulatory examination that commenced in April 2011. Car Capital was notified that it needed to 3 address the issue immediately.

### False Advertising:

14. It was also discovered during the 2013 regulatory examination that Car Capital was falsely advertising on its website that it had more than one location and that loans could be based on collateral alone in violation of Financial Code section 22161.

Failure to Maintain Books and Records:

15. Pursuant to Financial Code section 22104, all licensees under the FLL are required to maintain a tangible net worth of \$25,000. During the 2013 regulatory examination, Car Capital was requested to provide financial statements for the period ended September 30, 2013 in order that the net worth of the Car Capital could be ascertained. Car Capital was also unable to provide a financial statement for September 30, 2013 in violation of Financial Code section 22156.

#### III

## **REVOCATION STATUTE**

16. Financial Code section 22714 provides in pertinent part:

> (a) The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(1) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.

(2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division. . . .

# IV

## PRAYER

The Commissioner finds that, by reason of the foregoing, Respondent Car Capital has violated Financial Code sections 22154, 22156, 22159(b), 22161, 22320.5 and 22346(b) and it is in the best interests of the public to revoke the finance lender license of Respondent Car Capital.

> ACCUSATION IN SUPPORT OF NOTICE OF INTENTION TO REVOKE FINANCE LENDER LICENSE

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1	WHEREFORE, IT IS PRAYED that the finance lender license of Respondent Car Capital be	
2	revoked.	
3	Dated: February 18, 2015 JAN LYNN OWEN	
4	Los Angeles, California Commissioner of Business Oversight	
5	By	
6	Judy L. Hartley Senior Corporations Counsel	
7	Enforcement Division	
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	ACCUSATION IN SUPPORT OF NOTICE OF INTENTION	
	TO REVOKE FINANCE LENDER LICENSE	