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

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11 In the Matter of) File No.: 603-8638
THE COMMISSIONER OF BUSINESS)
12 OVERSIGHT,) ACCUSATION IN SUPPORT OF NOTICE OF
13) INTENTION TO REVOKE FINANCE
Complainant,) LENDER LICENSE
14)
15 vs.)
16 CAR CAPITAL FINANCIAL, INC.,)
17 Respondent.)
18)

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

21 I
22 INTRODUCTION

23 1. Car Capital Financial, Inc. ("Car Capital") is a finance lender licensed by the
24 Commissioner of Business Oversight ("Commissioner") pursuant to the Finance Lender Law
25 ("FLL") (Financial Code § 22000 et seq.). Car Capital has its principal place of business located at
26 700 W. Collins Avenue, Orange, California 92867.
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II

FINANCE LENDER LAW VIOLATIONS

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 self-audit 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 self-audit 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 self-audit 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).

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

5 Failure to Itemize Amount Financed:

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

9 Misstatement of Late Fees:

10 9. The 2013 regulatory examination additionally disclosed that Car Capital misstated the
11 late fees in all loans reviewed for amounts under \$5,000 in violation of Financial Code section
12 22320.5. Financial Code section 22320.5 allows late fee charges of \$10 for a delinquency of not less
13 than 10 days and \$15 for a delinquency of not less than 15 days. Car Capital’s promissory notes
14 provided for a late fee of \$15 if the payment was more than 10 days late.

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

20 11. The Commissioner had found that Car Capital was misstating allowed late fees during
21 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.

24 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.

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WHEREFORE, IT IS PRAYED that the finance lender license of Respondent Car Capital be
revoked.

Dated: February 18, 2015
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Corporations Counsel
Enforcement Division