

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN M. ROONEY  
Assistant Chief Counsel  
3 UCHE ENENWALI (SBN: 235832)  
Senior Corporations Counsel  
4 Department of Business Oversight  
320 West 4<sup>th</sup> Street, Suite 750  
5 Los Angeles, California 90013  
Telephone: (213) 576-7586  
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

11 In the Matter of THE COMMISSIONER OF ) File Nos.: 417-0030  
12 BUSINESS OVERSIGHT OF THE STATE OF )  
13 CALIFORNIA, ) ORDER TO DISCONTINUE VIOLATIONS  
14 Complainant, ) PURSUANT TO CALIFORNIA FINANCIAL  
15 vs. ) CODE SECTION 50321  
16 OPEN MORTGAGE, LLC, )  
17 Respondent. )  
18 )

19 TO: OPEN MORTGAGE, LLC  
20 14101 W. Hwy 290, Suite #1300  
21 Austin, TX 78737

22 The Commissioner of Business Oversight (“Commissioner”)<sup>1</sup> finds that Open Mortgage,  
23 LLC acted, or failed to act, as follows:

24 (1) Failed to timely reconcile its escrow liability ledgers to its control account at least  
25 once each week and to the bank statement balance at least once each month in violation of section  
26 50202 of the Financial Code and Section 1950.314.1(b) of the California Code of Regulation.

27 \_\_\_\_\_  
28 <sup>1</sup> As of July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the Department of Business Oversight.

- 1 (2) Overcharged borrowers appraisal fees in violation of Financial Code section
- 2 50203(a)(1) and 50204(i),(k);
- 3 (3) Overcharged borrowers credit report fees in violation of Financial Code section
- 4 50203(a)(1) and 50204(i),(k);
- 5 (4) Charged borrowers interest on loans for a period in excess of one day prior to the
- 6 disbursement of loans proceeds in at least four (4) loans in violation of Financial Code section
- 7 50204(0),(k) and section 2948.5 of the California Civil Code;
- 8 (5) Failed to maintain information evidencing the “disbursement date” of loan proceeds
- 9 in violation of Financial Code section 50314;
- 10 (6) Failed to maintain documentation showing that it first obtained written brokerage
- 11 agreements with borrowers before providing brokerage services in violation of Financial Code
- 12 section 50700(1)(c);
- 13 (7) Failed to provide borrowers The initial Fair Lending Notice Disclosure (Disclosure)
- 14 in violation of the Health & Safety Code section 35830 and California Code of Regulations section
- 15 7114;
- 16 (8) Provided borrowers inadequate Disclosures in that the Disclosures provided did not
- 17 contain the information enumerated in section 35838 of the Health & Safety Code and California
- 18 Code of Regulations section 7114.
- 19 (9) Failed to retain a Notice of Assignment, Sale, or Transfer in its record in violation of
- 20 Code of Federal Regulation, Title 12 section 1024.21(d).
- 21 (10) Caused debit balances to exist in trust bank accounts in violation of California Code
- 22 of Regulations, title 10, section 1950.314.6.
- 23 (11) Caused its trust account to be placed in an interest-bearing account in violation of
- 24 Financial Code section 50202(b).
- 25 ///
- 26 ///
- 27 ///
- 28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING, it is hereby ORDERED under the provisions of California Financial Code section 50321, that Open Mortgage, LLC immediately discontinue the violations set forth above.

Dated: January 6, 2015  
Los Angeles, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division