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

11	In the Matter of:	)	CRMLA License No.: 413-1002
12	THE COMMISSIONER OF BUSINESS	)	STATEMENT OF FACTS IN SUPPORT OF
13	OVERSIGHT,	)	ORDER TO DISCONTINUE VIOLATIONS
14	Complainant,	)	PURSUANT TO FINANCIAL CODE
15	vs.	)	SECTION 50321 AND NOTICE OF INTENT
16	W. J. BRADLEY MORTGAGE CAPITAL,	)	TO MAKE ORDER FINAL
17	LLC,	)	
18	Respondent.	)	
19		)	

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

22 1. W. J. Bradley Mortgage Capital, LLC (“WJ Bradley”) is a residential mortgage  
23 lender and loan servicer licensed by the Commissioner of Business Oversight ("Commissioner" or  
24 "Complainant") pursuant to the California Residential Mortgage Lending Act ("CRMLA")  
25 (Financial Code §50000 et seq.). WJ Bradley has its principal place of business located at 6465  
26 Greenwood Plaza Boulevard, Suite 500, Centennial, Colorado 80111. WJ Bradley currently has 28  
27 branch office locations under its CRMLA license located in California and elsewhere. WJ Bradley  
28 employs mortgage loan originators in its CRMLA business.

1 2. WJ Bradley is also licensed by the Commissioner as a finance lender pursuant to the  
2 California Finance Lenders Law ("CFLL") (Financial Code Section 22000 et seq.). WJ Bradley has  
3 its principal place of business under the CFLL also located at 6465 Greenwood Plaza Boulevard,  
4 Suite 500, Centennial, Colorado 80111. WJ Bradley has one other license under the CFLL located  
5 at 100 West Towne Ridge Parkway, Suite 300, Sandy, Utah 84070.

6 **II**

7 **CRMLA Violations**

8 3. On or about April 8, 2013, the Commissioner, by and through staff, commenced a  
9 regulatory examination of the books and records of WJ Bradley under the CRMLA ("2013  
10 regulatory examination"). The 2013 regulatory examination disclosed that in 7 of the 32 funded  
11 loans reviewed, or approximately 22%, WJ Bradley was charging the borrower per diem interest in  
12 excess of one day prior to the disbursement of loan proceeds in violation of Financial Code section  
13 50204, subdivision (o). The per diem interest overcharges averaged \$72.87 per loan. The range of  
14 per diem interest overcharges was between \$40.97 and \$162.49. The range of days that interest was  
15 overcharged was between 2 and 3.

16 4. On or about June 3, 2014, the Commissioner, based upon the findings of the 2013  
17 regulatory examination, directed WJ Bradley, pursuant to Financial Code section 50307, subdivision  
18 (b), to conduct a self-audit regarding per diem interest charges for all loans originated from October  
19 20, 2010 through June 3, 2014; make appropriate refunds; and submit a report as to the findings of  
20 the self-audit ("self-audit report"). The self-audit report was to include at a minimum the loan  
21 number; borrower's name; loan amount; interest rate; date funds were disbursed by the settlement  
22 agent; the date per diem interest commenced; per diem interest overcharged; and the date refunded.

23 5. On or about August 29, 2014, WJ Bradley submitted its self-audit report to the  
24 Commissioner in PDF format. Upon request, WJ Bradley re-submitted the self-audit report to the  
25 Commissioner in Excel format. The self-audit report filed with the Commissioner disclosed 3,320  
26 per diem interest overcharges.

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1           6.       In testing the thoroughness of the self-audit, the Commissioner discovered that in 5 of  
2 the 40 (12.5%) sampled loans, WJ Bradley had failed to use the “disbursement date” in calculating  
3 per diem interest charges as required by Financial Code section 50204, subdivision (o) and Civil  
4 Code section 2948.5, subdivision (a)(1). The sampling included 20 loans disclosed as overcharges  
5 and 20 loans disclosed as no overcharge. The 5 loans wherein WJ Bradley failed to use the  
6 “disbursement date” in calculating per diem interest included 1 disclosed as an overcharge and 4  
7 with no overcharge.

8           7.       Additionally, it was discovered that in 12 of the 20 sampled loans disclosed as  
9 overcharged, WJ Bradley employed a 365 day basis in calculating refunds when it had employed a  
10 360 day basis in originally calculating per diem interest. This resulted in the affected borrowers  
11 receiving less than a full refund. Accordingly, the Commissioner determined that the self-audit was  
12 unreliable. On about June 8, 2015, the Commissioner made written demand on WJ Bradley to re-  
13 submit the self-audit to comply with Financial Code section 50204, subdivision (o) and Civil Code  
14 section 2948.5. On or about June 12, 2015, WJ Bradley informed the Commissioner that it was  
15 refusing to re-submit the self-audit as demanded in violation of Financial Code section 50307,  
16 subdivision (b).

17           8.       By reason of the foregoing, WJ Bradley has violated Financial Code sections 50204,  
18 subdivision (o), and 50307, subdivision (b).

19           9.       Financial Code section 50321 provides in pertinent part:

20                   If, after investigation, the commissioner has reasonable grounds  
21 to believe that any licensee has violated its articles of incorporation or  
22 any law or rule binding upon it, the commissioner shall, by written order  
23 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.

24           10.      Financial Code section 50323 provides:

25                   (a) No order issued pursuant to Section 50321 or 50322 may become  
26 final except after notice to the affected licensee of the commissioner's  
27 intention to make the order final and of the reasons for the finding. The  
28 commissioner shall also notify the licensee that upon receiving a

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request the matter will be set for hearing to commence within 15 business days after receipt. The licensee may consent to have the hearing commenced 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 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.

(b) The licensee has 10 days after an order is made final to commence an action to restrain enforcement of the order. If 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.

WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to Financial Code Section 50321 and notifying WJ Bradley of her intention to make the order final.

Dated: February 4, 2016  
Los Angeles, CA

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
Judy L. Hartley  
Senior Counsel  
Enforcement Division