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Deputy Commissioner  
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8 Attorneys for Complainant

9  
10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
11 OF THE STATE OF CALIFORNIA

12 In the Matter of: ) CRMLA LICENSE NO.: 413-0495  
13 THE COMMISSIONER OF FINANCIAL ) CONSENT ORDER  
14 PROTECTION AND INNOVATION, )  
15 Complainant, )  
16 v. )  
17 STEARNS LENDING, LLC, )  
18 Respondent. )  
19 )  
20 )

21 This Consent Order is entered into between the Commissioner of Financial Protection and  
22 Innovation (Commissioner) and Respondent Stearns Lending, LLC (Stearns) and is made with  
23 respect to the following facts:

24 **I.**  
25 **RECITALS**

26 A. The Commissioner has jurisdiction over the licensing and regulation of entities  
27 engaged in the business of a residential mortgage lender and servicer under the California  
28 Residential Mortgage Lending Act, commencing at Fin. Code, § 50000 et seq. (CRMLA).

1 B. Stearns is a residential mortgage lender and servicer licensed by the Commissioner  
2 pursuant to the CRMLA with license number 413-0495.

3 C. Stearns' principal place of business is located at 401 E. Corporate Drive, Suite 150,  
4 Lewisville, Texas 75057. Stearns previously employed mortgage loan originators.

5 D. On or around November 29, 2021, the Commissioner commenced a regulatory  
6 examination of the books and records of Stearns pursuant to Section 50302 of the CRMLA covering  
7 the period from February 1, 2018, through February 28, 2021 (Regulatory Exam).

8 E. The Regulatory Exam disclosed that in 18 loan files originated from February 1,  
9 2018, through February 28, 2021 Stearns charged borrowers per diem interest in excess of one day  
10 prior to the date that the loan proceeds were disbursed from escrow, in violation of Financial Code  
11 section 50204, subdivision (o) and Civil Code section 2948.5, and failed to provide evidence of a  
12 refund and/or interest at the rate of 10 percent per annum to the borrower pursuant to Financial Code  
13 section 50504, subdivision (b).

14 F. On or around January 3, 2023, Stearns submitted a request to surrender its CRMLA  
15 license to the Commissioner.

16 G. Stearns' request to surrender its CRMLA license was not accepted by the  
17 Commissioner pursuant to Financial Code section 50123, subdivision (a), because the Department  
18 maintains that pending issues need to be resolved before the license surrender request can be  
19 accepted. The pending issues for Stearns are the violations of Financial Code section 50204,  
20 subdivision (o) and Civil Code section 2948.5.

21 H. The Commissioner finds that entering into this Consent Order is in the public interest  
22 and consistent with the purposes fairly intended by the policies and provisions of the CRMLA.

23 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set  
24 forth herein, the parties agree as follows:

25 **II.**

26 **TERMS AND CONDITIONS**

27 1. Purpose. This Consent Order resolves the issues before the Commissioner set forth in  
28 Paragraphs A through G above in a manner that avoids the expense of a hearing and other possible

1 court proceedings, protects consumers, is in the public interest, and is consistent with the purposes,  
2 policies, and provisions of the CRMLA.

3 2. Order to Discontinue Violations. Stearns hereby agrees that in accordance with  
4 Financial Code sections 50321 and 50323, it will immediately discontinue violating Financial Code  
5 section 50204, subdivision (o), and Civil Code section 2948.5.

6 3. Payment of Refunds. Stearns shall make refunds to 18 borrowers for the per diem  
7 interest overcharges described in Paragraph E above, totaling at least \$1,644.90, within 30 days of  
8 the Effective date of this Consent Order as defined in Paragraph 27 below. Refund amounts shall be  
9 equal to the amount of the overcharge plus 10 percent per annum, calculated from the date of the  
10 overcharge. Stearns shall provide evidence of issuance of such refunds, in the form of a canceled  
11 check or another method deemed acceptable to the Department and accompanying correspondence  
12 mailed to the borrower at his/her last known address, to the Department within 90 days of the  
13 Effective Date in Paragraph 27 below.

14 4. Outstanding Refunds. Stearns shall be responsible for escheating to the State of  
15 California pursuant to the provisions of the California Unclaimed Property Law (Code of Civ. Proc.,  
16 § 1500 et seq.) any outstanding refund payment owed to a borrower.

17 5. Penalty. Stearns shall pay a penalty in the amount of \$18,000.00 for the violations set  
18 forth in Paragraph E above by no later than 30 days after the Effective Date of this Consent Order as  
19 defined in Paragraph 27 below. The penalty shall be made payable in the form of a cashier's check  
20 or Automated Clearing House deposit to the Department of Financial Protection and Innovation and  
21 transmitted to the attention of Accounting – Litigation, at the Department of Financial Protection and  
22 Innovation, 2101 Arena Boulevard, Sacramento, California 95814-2306. Notice of the payment  
23 must be concurrently sent to Sophia C. Kim via e-mail at: Sophia.Kim@dfpi.ca.gov.

24 6. License Surrender. Upon the Effective Date of this Consent Order as defined in  
25 Paragraph 27 below, the Department agrees that it will not unduly delay processing of Stearns'  
26 license surrender request and will notify Stearns in writing of acceptance of the license surrender.

27 7. Waiver of Hearing Rights. Stearns acknowledges that the Commissioner is ready,  
28 willing, and able to proceed with the filing of an administrative enforcement action on the charges

1 contained in this Consent Order. Stearns hereby waives the right to any hearings, and to any  
2 reconsiderations, appeal, or other right to review which may be afforded pursuant to the CRMLA,  
3 the California Administrative Procedure Act, the California Code of Civil Procedure, or any other  
4 provision of law. Stearns further expressly waives any requirement for the filing of an Accusation  
5 pursuant to Government Code section 11415.60, subdivision (b). By waiving such rights, Stearns  
6 effectively consents to this Consent Order and Order to Discontinue Violations becoming final.

7 8. Failure to Comply with Consent Order. Stearns agrees that if it fails to comply with  
8 the terms of this Consent Order, the Commissioner may, in addition to all other available remedies  
9 she may invoke under the CRMLA, deny any application and/or summarily suspend or revoke any  
10 license granted by the Commissioner to Stearns until Stearns is in compliance. Stearns waives any  
11 notice and hearing rights to contest such denial or summary suspension or revocation which may be  
12 afforded under the CRMLA, the California Administrative Procedure Act, the California Code of  
13 Civil Procedure, or any other provision of law in connection therewith.

14 9. Information Willfully Withheld or Misrepresented. This Consent Order may be  
15 revoked and the Commissioner may pursue any and all remedies available under law against Stearns  
16 if the Commissioner discovers that Stearns knowingly or willfully withheld or misrepresented  
17 information used for and relied upon in this Consent Order.

18 10. Future Actions by Commissioner. If Stearns fails to comply with any terms of the  
19 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise  
20 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions  
21 against Stearns, or any of their partners, owners, officers, shareholders, directors, employees or  
22 successors for any and all unknown violations of the CRMLA and Financial Code.

23 11. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's  
24 ability to assist any other government agency (city, county, state, or federal) with any prosecution,  
25 administrative, civil or criminal brought by that agency against Stearns or any other person based  
26 upon any of the activities alleged in this matter or otherwise.

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1           12.    Headings. The headings to the paragraphs of this Consent Order are inserted for  
2 convenience only and will not be deemed a part hereof or affect the construction or interpretation of  
3 the provisions hereof.

4           13.    Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
5 interest.

6           14.    Reliance. Each of the parties represents, warrants, and agrees that in executing this  
7 Consent Order it has relied solely on the statements set forth herein and the advice of its own  
8 counsel. Each of the parties further represents, warrants, and agrees that in executing this Consent  
9 Order it has placed no reliance on any statement, representation, or promise of any other party, or  
10 any other person or entity not expressly set forth herein, or upon the failure of any party or any other  
11 person or entity to make any statement, representation or disclosure of anything whatsoever. The  
12 parties have included this clause: (1) to preclude any claim that any party was in any way  
13 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol  
14 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

15           15.    No Presumption Against Drafting Party. Each party acknowledges that it has had the  
16 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the parties  
17 intend that no presumption for or against the drafting party will apply in construing any part of this  
18 Consent Order. The parties waive the benefit of Civil Code section 1654 as amended or  
19 corresponding provisions of any successor statute, which provide that in cases of uncertainty,  
20 language of a contract should be interpreted most strongly against the party that caused the  
21 uncertainty to exist.

22           16.    Independent Legal Advice. Each of the parties represents, warrants, and agrees that it  
23 has received independent advice from its attorney(s) and/or representatives with respect to the  
24 advisability of executing this Consent Order.

25           17.    Waiver, Amendments, and Modifications. No waiver, amendment, or modification of  
26 this Consent Order will be valid or binding unless it is in writing and signed by each of the parties.  
27 The waiver of any provision of this Consent Order will not be deemed a waiver of any other  
28 provision. No waiver by either party of any breach of, or of compliance with, any condition or

1 provision of this Consent Order by the other party will be considered a waiver of any other condition  
2 or provision or of the same condition or provision at another time.

3 18. Full Integration. This Consent Order is the final written expression and the complete  
4 and exclusive statement of all the agreements, conditions, promises, representations, and covenants  
5 between the parties with respect to the subject matter hereof, and supersedes all prior or  
6 contemporaneous agreements, negotiations, representations, understandings, and discussions  
7 between and among the parties, their respective representatives, and any other person or entity, with  
8 respect to the subject matter covered hereby.

9 19. Governing Law. This Consent Order shall be construed and enforced in accordance  
10 with and governed by California law. Each of the parties hereto consents to the jurisdiction of such  
11 court in California, administrative or otherwise, best suited to handle any action or proceeding under  
12 this Consent Order, and hereby irrevocably waives, to the fullest extent permitted by law, the  
13 defense of an inconvenient forum to the maintenance of such action or proceeding in such court.

14 20. Counterparts. This Consent Order may be executed in one or more separate  
15 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall  
16 together constitute a single document.

17 21. Effect Upon Future Proceedings. If Stearns applies for any license, permit or  
18 qualification under the Commissioner's current or future jurisdiction, or are the subject of any future  
19 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be  
20 admitted for the purpose of such application(s) or enforcement proceeding(s).

21 22. Voluntary Agreement. Stearns enters into this Consent Order voluntarily and without  
22 coercion and acknowledge that no promises, threats or assurances have been made by the  
23 Commissioner or any officer, or agent thereof, about this Consent Order. The parties each represent  
24 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and  
25 without any duress or undue influence of any kind from any source.

26 23. Notice. Any notice required under this Consent Order shall be provided to each party  
27 at the following addresses:

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To Stearns:  
Stearns Lending, LLC – c/o Bradley Arant Boult Cummings LLP; Attention Haydn Richards, Partner; 1615 L Street, NW, Suite 1350, Washington, DC 20036; hrichards@bradley.com.

To the Commissioner:  
Sophia C. Kim, Senior Counsel, Enforcement Division, Department of Financial Protection and Innovation, 320 West 4<sup>th</sup> Street, Suite 750, Los Angeles, California 90013; Sophia.Kim@dfpi.ca.gov.

25. Signatures. A fax or electronic mail signature shall be deemed the same as an original signature.

26. Public Record. Stearns hereby acknowledges that this Consent Order is and will be a matter of public record.

27. Effective Date. This Consent Order shall become final and effective when signed by all parties and delivered by the Commissioner’s counsel via e-mail to Stearns at hrichards@bradley.com.

28. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Consent Order and undertake the obligations set forth herein.

Dated: 9/28/23 CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation

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

Dated: 9/25/23 STEARNS LENDING, LLC

By \_\_\_\_\_  
Jim Hettinger  
EVP of Operations; Authorized Signer of Stearns Lending, LLC