

1 PRESTON DUFAUCHARD
2 CALIFORNIA CORPORATIONS COMMISSIONER
3 ALAN S. WEINGER (CA BAR NO. 86717)
4 DEPUTY COMMISSIONER
5 320 WEST 4th Street, Ste. 750
6 LOS ANGELES, CALIFORNIA 90013-1105

7 Attorneys for Complainant

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BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Order of THE) File No. 413-0877
COMMISSIONER OF CORPORATIONS OF)
THE STATE OF CALIFORNIA,)
Complainant,)
vs.)
FAIR HOUSING RESOURCE CENTER,)
SMART MONEY FUNDING, NET AMERICA)
LENDING (NETMORE AMERICA, INC.,)
DBA),)
Respondent.)

ORDER TO DISCONTINUE RESIDENTIAL MORTGAGE LENDING
AND/OR SERVICING ACTIVITIES PURSUANT TO
SECTION 50319, CALIFORNIA FINANCIAL CODE

TO: FAIR HOUSING RESOURCE CENTER, SMART MONEY
FUNDING, NET AMERICA LENDING (NETMORE AMERICA, INC., DBA)
109 E. MAIN STREET, SUITE 301
WALLA WALLA, WA 99362

THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA
FINDS THAT:

FAIR HOUSING RESOURCE CENTER, SMART MONEY FUNDING, NET AMERICA
LENDING (NETMORE AMERICA, INC., DBA) has failed to comply with the bonding
requirements of the California Residential Mortgage Lending Act (California Financial Code

1 Section 50000 et seq.) in that effective May 5, 2011 Bond No. 76053510 issued by THE
2 GUARANTEE COMPANY OF NORTH AMERICA USA in favor of NETMORE AMERICA,
3 INC. expired and no replacement bond has been obtained.

4
5 Based on the foregoing, Respondent is conducting residential mortgage lending
6 and/or servicing business in violation of Section 50205 of the Financial Code and is conducting
7 business in such an unsafe and injurious manner as to render further operations hazardous to the
8 public or to customers.

9 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING
10 THEREFORE, it is hereby ORDERED, under the provisions of Section 50319 of the California
11 Financial Code, FAIR HOUSING RESOURCE CENTER, SMART MONEY FUNDING, NET
12 AMERICA LENDING (NETMORE AMERICA, INC., DBA) immediately discontinue the
13 disbursement, in whole or in part, of trust funds held by the licensee and establish a separate trust
14 account for all subsequent trust funds received by the licensee.
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17 THIS ORDER is to remain in full force and effect until further order of the Commissioner.

18 Section 50319 of the Financial Code provides as follows:

19 (a) If the commissioner, as a result of any examination or from any report
20 made to him or her, shall find that any person subject to this division is in an
21 insolvent condition, is conducting business in an unsafe or injurious manner that
22 renders further operations hazardous to the public or to customers, has failed to
23 comply with the provision of Section 50317, has permitted its tangible net worth to
24 be lower than the minimum required by law, or has failed to comply with the
25 bonding requirements of Section 50205, the commissioner may, by an order
26 addressed to and served by registered or certified mail, or by personal service on that
27 person, and on any other person having in his or her possession or control any trust
28 funds or other property deposited in escrow with that person, direct discontinuance
of the disbursement, in whole or in part, of trust funds held by the licensee and order
the establishment of a separate trust account for all subsequent trust funds received
by the licensee. No person having in his or her possession any of these funds or
documents shall be liable for failure to comply with the order unless he or she has
received written notice of the order. Subject to subdivision (b), the order shall
remain in effect until set aside by the commissioner, or the person has been adjudged
bankrupt.

(b) Within 15 days from the date of an order pursuant to subdivision (a), the
person may request a hearing under the Administrative Procedure Act (Chapter 5

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(commencing with Section 11500) of Part 2 of Division 3 of Title 2 of the Government Code). Upon receiving a request, the matter shall be set for hearing to commence within 30 days after the receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of the notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

DATED: May 9, 2011
Los Angeles, California

Preston DuFauchard
California Corporations Commissioner

By _____
DiAun M. Burns
Special Administrator
California Residential Mortgage Lending Act

1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
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3 MIRANDA LEKANDER (BAR NO. 210082)
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6 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

| | | | |
|----|---|---|-----------------------------|
| 10 | In the Matter of the Accusation of THE |) | OAH NO: UNASSIGNED |
| | CALIFORNIA CORPORATIONS |) | |
| 11 | COMMISSIONER, |) | File No.: 413-0877 |
| | |) | |
| 12 | Complainant, |) | |
| | |) | ACCUSATION IN SUPPORT OF |
| 13 | |) | REVOCAION OF CALIFORNIA |
| | v. |) | RESIDENTIAL MORTGAGE LENDER |
| 14 | |) | LICENSE |
| | |) | |
| 15 | NETMORE AMERICA, INC. doing business as |) | |
| | FAIR HOUSING RESOURCE CENTER, |) | |
| 16 | SMART MONEY FUNDING, and NET |) | |
| | AMERICA LENDING, |) | |
| 17 | |) | |
| | Respondent. |) | |
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20 The California Corporations Commissioner ("Commissioner" or "Complainant") is informed
21 and believes, and based upon such information and belief, alleges and charges as follows:

22 I.

23 Netmore America, Inc. doing business as Fair Housing Resource Center, Smart Money
24 Funding, and Netmore America Lending (hereafter "Netmore America" or "Respondent") is a
25 residential mortgage lender licensed by the California Department of Corporations ("Department")
26 pursuant to the California Residential Mortgage Lending Act ("CRMLA") (California Financial Code
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1 section 50000 *et seq.*¹). Respondent last reported to the Commissioner that its principal place of
2 business is located at 109 E. Main Street, Suite 301, Walla Walla, Washington, 99362.

3 On or about July 22, 2007, the Department first issued a CRMLA license to Respondent. At
4 the section marked “Exhibit M” of the CRMLA license application, Respondent averred under
5 penalty of perjury that the licensee:

6
7 15. Hereby attests that the applicant has acted with due care and competence in
8 performing any act for which it is required to hold a license under the California
9 Residential Mortgage Lending Act.

10 16. Hereby attests that the applicant will comply with all applicable requirements
11 of California and federal law. . . when servicing residential mortgage loans.

12 II.

13 Despite the Respondent’s sworn acknowledgment of the CRMLA licensing requirements,
14 Respondent has committed multiple violations of the CRMLA during its tenure of licensure,
15 including the following:

16 i. Failure to File 2010 Activity Report

17 Pursuant to Financial Code sections 50307 and 50401 and California Code of Regulations,
18 title 10, section 1950.314.8, on or before March 1st of each year all licensees under the CRMLA are
19 required to file an annual Report of Principal Amount of Loans Originated and Aggregate Amount of
20 Loans Serviced for the preceding 12-month period ended December 31, the Report on Non-
21 Traditional, Adjustable Rate and Mortgage Loan Products, and, the Non-Traditional, Adjustable Rate
22 and Mortgage Loan Survey (hereafter collectively referred to as the “Activity Report”).

23 On or about January 27, 2011, forms for the Activity Report preprinted with the licensee’s
24 name, address and Department file number were sent to each CRMLA licensee along with filing
25 instructions and notice that the enclosed reports were due on or before March 1, 2011.

26 Respondent failed to timely file its 2010 Activity Report by the March 1, 2011 deadline.

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28 ¹ All code references are to the California Financial Code unless otherwise indicated.

1 On or about June 17, 2011, the Commissioner assessed a \$1,000.00 penalty against
2 Respondent pursuant to Financial Code section 50326 for failure to timely submit its 2010 Activity
3 Report to the Department in compliance with the provisions of the CRMLA. To date, Respondent's
4 2010 Activity Report has not been filed with the Commissioner nor has the \$1,000.00 penalty been
5 paid.

6 ii. Failure to Maintain Surety Bond

7 Financial Code section 50205 requires each CRMLA licensee to maintain a surety bond to be
8 used for the recovery of expenses, fines, or fees levied by the Commissioner for losses or damages
9 incurred by borrowers or consumers as a result of a licensee's noncompliance with the requirements
10 of the CRMLA.

11 On April 8, 2011, the Commissioner informed Respondent that on April 4, 2011 the
12 Department was notified by The Guarantee Company of North America that it was canceling
13 Respondent's surety bond number 76053510 effective May 5, 2011. The April 8, 2011 letter advised
14 that if a new replacement bond was not obtained prior to the cancellation date, it would be necessary
15 for the Commissioner to issue an order for Respondent to discontinue mortgage lending and/or
16 servicing activities.

17 On May 5, 2011, the surety bond issued to Respondent expired, and no replacement bond was
18 obtained.

19 On May 9, 2011, the Commissioner issued an order under the authority of Financial Code
20 section 50319 requiring Respondent to discontinue conducting residential mortgage lending and/or
21 servicing activities in an unsafe and injurious manner as to render further operations hazardous to the
22 public or to customers. As no hearing was timely requested by Respondent pursuant to the provisions
23 of section 50319, this order is final and remains in effect.

24 iii. Failure to Comply with License-Surrender Requirements

25 On or about May 9, 2011, Respondent submitted an electronic request through the
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1 Nationwide Mortgage Licensing System and Registry (“NMLS”) to surrender its California residential
2 mortgage lender license.

3 On May 9, 2011, the Department provided Respondent instructions through the NMLS
4 outlining how to comply with the “Jurisdiction-Specific Requirements” for surrender of its California
5 residential mortgage lender license as set forth in Financial Code section 50123. This
6 jurisdiction-specific list (“Surrender Checklist”) informs that surrender of a California residential
7 mortgage lender license cannot be completed unless the licensee, among other things, files with the
8 Commissioner a withdrawal plan setting forth a timetable for the orderly disposition of its California
9 residential mortgage lender business. The Surrender Checklist itemizes documents that the licensee
10 must submit to the Commissioner in connection with the proposed closure. To date, Respondent has
11 not submitted the information and closing documents necessary to effectuate the surrender of its
12 California residential mortgage lender license, as required by section 50123.

13 III.

14 Financial Code section 50326 provides:

15 If any licensee fails to do any of the following, the licensee shall forfeit to the people of the
16 state a sum of up to one hundred dollars (\$100) for every day up to the 10th day: (a) to make
17 any report required by law or by the commissioner within 10 days from the day designated for
18 the making of the report, or within any extension of time granted by the commissioner, or (b)
19 fails to include therein any matter required by law or by the commissioner. Thereafter, any
20 failure shall constitute grounds for the suspension or revocation of the license held by the
21 residential mortgage lender or residential mortgage loan servicer.

22 IV.

23 Financial Code section 50205 provides in pertinent part:

24 (a) A residential mortgage lender or servicer licensee shall maintain a surety bond in
25 accordance with this subdivision. The bond shall be used for the recovery of expenses,
26 fines, and fees levied by the commissioner in accordance with this division or for losses or
27 damages incurred by borrowers or consumers as the result of a licensee's noncompliance
28 with the requirements of this division.

V.

Financial Code section 50123 provides in relevant part:

(a) A license shall remain in effect until suspended, surrendered, or revoked.

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(b) A licensee that ceases to engage in the business regulated by this division and desires to no longer be licensed shall inform the commissioner in writing and, at that time, surrender the license and all other indicia of licensure to the commissioner. The licensee shall file a plan for the withdrawal from regulated business, and the plan shall include a timetable for the disposition of the business. The plan shall also include a closing audit, review, or other agreed upon procedures performed by an independent certified public accountant prescribed by rule or order of the commissioner. Upon receipt of the written notice and plan, the commissioner shall review the plan and, if satisfactory to the commissioner, shall accept the surrender of the license. A license is not surrendered until its tender is accepted in writing by the commissioner after a review, and a finding has been made on the licensee's plan required to be filed by this section, and a determination has been made that there is no violation of this law

VI.

Financial Code section 50327 provides in pertinent part:

(a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if the commissioner finds that: (1) the licensee has violated any provision of this division or any rule or order of the commissioner thereunder; or (2) any fact or condition exists that, if it had existed at the time of the original application for license, reasonably would have warranted the commissioner in refusing to issue the license originally.

VII.

Financial Code section 50311 provides in pertinent part:

Nothing in this law shall preclude a person whose license has been suspended or revoked, summarily or otherwise, from making a residential mortgage loan pursuant to a commitment issued by that person prior to the suspension or revocation. A prospective borrower who received a commitment issued by a person whose license has been suspended or revoked may, prior to the closing of the loan, terminate the commitment or receive a refund of all money paid to that person.

VIII.

A CRMLA applicant is required pursuant to Financial Code section 50124, as a condition of receiving a license, to agree in writing to, among other things, comply with the provisions of the CRMLA and any rule or order of the Commissioner and file with the Commissioner all reports required under law or by rule or order of the Commissioner. Failure to comply with the provisions of section 50124 constitutes grounds under Financial Code section 50125 for the Commissioner to refuse to issue a license.

1 Pursuant to Financial Code section 50327, the Commissioner can revoke a CRMLA license if
2 a fact or condition now exists, that if it existed at the time of original licensure, would reasonably
3 have warranted the Commissioner in refusing to issue the license originally. Had the facts and
4 conditions alleged herein existed at the time Respondent applied for its residential mortgage lender
5 license, the Commissioner would have been warranted in refusing to issue such license. Further, the
6 present facts set forth herein constitute sufficient grounds for the revocation of the residential
7 mortgage lender license of Respondent pursuant to section 50327.

8 The Commissioner finds that, by reason of the foregoing, Respondent Netmore America, Inc.
9 doing business as Fair Housing Resource Center, Smart Money Funding, and Net America Lending is
10 in violation of Financial Code sections 50123, 50205, 50307, 50326, 50401 and section 1950.314.8
11 of title 10 of the California Code of Regulations, and based thereon grounds exist under Financial
12 Code section 50327 to revoke Respondent’s residential mortgage lender license.

13 WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Netmore
14 America, Inc. doing business as Fair Housing Resource Center, Smart Money Funding, and Net
15 America Lending be revoked pursuant to Financial Code section 50327 and that Respondent be given
16 a transition period of sixty (60) days within which to complete any loans for which it had prior
17 commitments pursuant to Financial Code section 50311.

18
19 DATED: August 29, 2011
Sacramento, CA

PRESTON DUFAUCHARD
California Corporations Commissioner

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22 By _____
Miranda LeKander
23 Senior Corporations Counsel
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1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 MIRANDA LEKANDER (BAR NO. 210082)
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6 Attorneys for Complainant

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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

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| 10 | In the Matter of the Accusation of THE |) | File No.: 413-0877 |
| | CALIFORNIA CORPORATIONS |) | |
| 11 | COMMISSIONER, |) | |
| | |) | ORDER REVOKING CALIFORNIA |
| 12 | Complainant, |) | RESIDENTIAL MORTGAGE LENDER |
| | |) | LICENSE |
| 13 | |) | |
| | v. |) | |
| 14 | |) | |
| | |) | |
| 15 | NETMORE AMERICA, INC. doing business as |) | |
| | FAIR HOUSING RESOURCE CENTER, |) | |
| 16 | SMART MONEY FUNDING, and NET |) | |
| | AMERICA LENDING, |) | |
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| 18 | Respondent. |) | |

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20 On August 29, 2011, the Commissioner issued a Notice of Intention to Issue Order Revoking
21 Residential Mortgage License, Accusation, and accompanying documents (hereafter collectively
22 referred to as "Accusation") against Netmore America, Inc. doing business as Fair Housing Resource
23 Center, Smart Money Funding, and Net America Lending ("Netmore"), and Netmore was served
24 with those documents on September 9, 2011 via certified mail, return receipt requested, at its licensed
25 location on file with the California Department of Corporations. A timely hearing request was not
26 received by the Department.

27 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the residential
28 mortgage lender license issued by the Commissioner to Netmore America, Inc. doing business as Fair

1 Housing Resource Center, Smart Money Funding, and Net America Lending is hereby revoked. This
2 order is effective as of the date hereof. Pursuant to California Financial Code section 50311,
3 Netmore America, Inc. doing business as Fair Housing Resource Center, Smart Money Funding, and
4 Net America Lending has sixty (60) days within which to complete any loans for which it had
5 commitments.

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7 DATED: September 27, 2011
8 Sacramento, CA

California Corporations Commissioner

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10 By _____
11 ALAN S. WEINGER
12 Deputy Commissioner
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