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

11 In the Matter of: ) CRMLA LICENSE NO. 413-0593  
12 )  
13 THE COMMISSIONER OF BUSINESS ) ACCUSATION  
OVERSIGHT, )  
14 )  
15 Complainant, )  
16 v. )  
17 )  
18 ALLIED HOME MORTGAGE )  
CORPORATION, aka ALLQUEST HOME )  
19 MORTGAGE CORPORATION )  
20 Respondent. )  
21 )

22 Jan Lynn Owen, the Commissioner of Business Oversight (Commissioner), is informed and  
23 believes, and based upon such information and belief, alleges and charges Respondent Allied Home  
24 Mortgage Corporation, aka AllQuest Home Mortgage Corporation (Allied) as follows:

25 I.

26 **Jurisdiction and Venue**

27 1. The Commissioner brings this action to revoke Allied’s California Residential  
28 Mortgage Lending Act (Fin. Code, § 50000 et seq.) (CRMLA) lender’s license

1 under the provisions of Financial Code section 50327 and the rules and regulations promulgated  
2 thereunder.

3 2. The Commissioner is authorized to administer and enforce the provisions of the  
4 CRMLA and the rules issued under title 10 of the California Code of Regulations (CCR) that regulate  
5 the business and activities of residential mortgage lenders.

6 **II.**

7 **Statement of Facts**

8 3. Allied is a residential mortgage lender licensed by the Commissioner under the  
9 CRMLA. Allied has its principal place of business located at 6110 Pinemont Drive, Suite 220,  
10 Houston, Texas. At all relevant times herein, Allied employed mortgage loan originators and  
11 operated branch locations throughout California.

12 4. Allied attempted to change its name to “AllQuest Home Mortgage Corporation” by  
13 updating its name in the Nationwide Mortgage Licensing System (NMLS) on or about February 10,  
14 2012, but the Commissioner never received the licensee’s request to change its name and therefore  
15 never approved the name change. Under the CRMLA, a licensee may not engage in the business as a  
16 residential mortgage lender under a name other than the name that appears on the license, or a legally  
17 assumed name disclosed either in the application or in an amendment to the application, which is  
18 reflected on the company’s license. (Fin. Code, § 50120, subd. (b); see also Fin. Code, §§ 50130 and  
19 50207, subd. (a).)

20 5. Under Financial Code section 50200 of the CRMLA and CCR section 1950.200, all  
21 licensees are required to file annual audited financial statements within 105 days of the company’s  
22 fiscal year-end. Allied’s fiscal year-end is December 31. The company’s December 31, 2014 fiscal  
23 year-end annual audited financial statements were due by April 15, 2015.

24 6. The Commissioner’s examiner sent Allied a letter on or about December 16, 2014,  
25 reminding the company that its annual audited financial statements would be due by April 15, 2015.

26 7. On or about January 27, 2015, Allied provided the Commissioner, through NMLS,  
27 *unaudited* December 31, 2014 fiscal year-end financial statements. But the CRMLA requires the  
28 licensee’s financial statements be audited by an independent certified public account and, therefore,

1 the financial statements Allied provided failed to satisfy the requirements of Financial Code section  
2 50200 and CCR section 1950.200.

3 8. In addition to failing to file audited financial statements for its fiscal year ended  
4 December 31, 2014, Allied has failed to file its annual audited financial statements for the fiscal years  
5 ended December 31, 2015 and December 31, 2016, in violation of Financial Code section 50200 and  
6 CCR section 1950.200.

7 9. Financial Code sections 50307 and 50401 require licensees file an annual report on or  
8 before March 1 of each year, providing relevant information that the Commissioner reasonably  
9 requires to make a calculation of the licensee's annual assessment. The annual report includes: Report  
10 of Principal Amount of Loans Originated and Aggregate of Amount of Loans Serviced for the 12-  
11 month Period Ended December 31 (the Report); the Report on Non-Traditional Adjustable Rate and  
12 Mortgage Loan Products (Non-Traditional Report); and the Non-Traditional, Adjustable Rate and  
13 Mortgage Loan Survey (Survey). Allied received (at its designated e-mail addresses) the  
14 Commissioner's reminders concerning the company's requirement to file the reports by the March 1  
15 deadline. Despite having been sent reminder e-mails at its designated e-mail addresses, Allied failed  
16 to file its 2014 Report; 2014 Non-Traditional Report; 2014 Survey; 2015 Report; 2015 Non-  
17 Traditional Report; 2015 Survey; 2016 Report; 2016 Non-Traditional Report; and 2016 Survey.

18 10. Under Financial Code section 50326, the Commissioner assessed penalties against  
19 Allied, on or about June 12, 2015, for the licensee's failure to file its 2014 Report, 2014 Non-  
20 Traditional Report, and 2014 Survey. The penalties imposed against the company remain unpaid.

21 11. Financial Code section 50307.2 requires all licensees to file Mortgage Call Reports  
22 (MCRs). The MCRs must be filed quarterly through NMLS and must be completed within 45 days of  
23 the quarter's close. Allied has not filed its MCRs since the fourth quarter of 2014.

24 12. Under Financial Code section 50123, a licensee that ceases to engage in the business  
25 of a CRMLA lender, and no longer desires to be licensed, shall inform the Commissioner in writing  
26 and file a plan for withdrawal from the business, which includes the submission of a closing audit,  
27 review, or other agreed upon procedures performed by an independent certified public accountant. A  
28 license is not considered surrendered until its tender is accepted in writing by the Commissioner after

1 a review, a finding has been made on the licensee's plan of withdrawal, and a determination has been  
2 made that there is no violation of the CRMLA. On or about January 8, 2015, Allied submitted a  
3 request to surrender its license through NMLS. The Department sent the licensee a surrender  
4 checklist, setting forth the items it needed to complete prior to the Commissioner's acceptance of  
5 Allied's surrender of its license. To date, the company has failed to submit the required items set  
6 forth in the Department's checklist. A review of NMLS indicates Allied's lending licenses in other  
7 states have either lapsed or were surrendered.

### 8 III.

#### 9 Applicable Statutes

10 13. Financial Code section 50120, subdivision (b), provides:

11 A licensee may not engage in the business as a residential mortgage  
12 lender under a name other than the name that appears on the license, or  
13 a legally assumed name disclosed either in the application or in an  
amendment to the application, which shall be reflected on the license.

14 14. Financial Code section 50123 provides:

15 (a) A residential mortgage lender license shall remain in effect until  
16 suspended, surrendered, or revoked.

17 (b) A residential mortgage lender licensee that ceases to engage in the  
18 business regulated by this division and desires to no longer be licensed  
19 shall inform the commissioner in writing and, at that time, surrender the  
20 license and all other indicia of licensure to the commissioner. The  
21 licensee shall file a plan for the withdrawal from regulated business,  
22 and the plan shall include a timetable for the disposition of the  
23 business. The plan shall also include a closing audit, review, or other  
24 agreed upon procedures performed by an independent certified public  
25 accountant prescribed by rule or order of the commissioner. Upon  
26 receipt of the written notice and plan, the commissioner shall review  
27 the plan and, if satisfactory to the commissioner, shall accept the  
28 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.

(c) A residential mortgage lender or servicer licensee may not surrender  
its license under this division and, under the authority of a real estate  
license, subsequently engage in residential mortgage lending or

1 servicing activities that are subject to this division, unless the licensee  
2 has been licensed under this division for a period of five years or more.

3 15. Financial Code section 50130 provides:

4 (a) A mortgage servicer shall file an application for licensure under this  
5 chapter with the commissioner to service mortgage loans in this state  
6 by satisfying the requirements of this chapter and the applicable  
7 provisions, as determined by the commissioner, of Chapter 2  
8 (commencing with Section 50120).

9 (b) A mortgage servicer may apply for licensure by doing all of the  
10 following:

11 (1) Filing with the commissioner an application containing the  
12 information required by Section 50122, and any additional information  
13 the commissioner may require by rule.

14 (2) Paying the investigation and application fees required by Section  
15 50121.

16 (3) Submitting any information required by Section 50124.

17 (4) Complying with the applicable provisions of Chapter 2  
18 (commencing with Section 50120).

19 (c) A licensee may not make or service loans secured by real property  
20 pursuant to the authority of a license, or exemption from licensure,  
21 under the Real Estate Law.

22 (d) The commissioner may, pursuant to Section 50321, order a licensee  
23 to cease any other business conducted at any location where the  
24 licensee operates under the authority of a residential mortgage servicer  
25 license, if the commissioner finds that the conduct of that business has  
26 facilitated evasions of this division or the rules adopted pursuant to this  
27 division, or that the conduct of that business is in violation of any law  
28 to which that business is subject.

(e) A license for a business location outside this state shall constitute an  
agreement by the mortgage servicer to, at the discretion of the  
commissioner, either (1) make the licensee's books, accounts, papers,  
records, and files available to the commissioner or the commissioner's  
representatives in this state within 10 calendar days of a request from  
the commissioner or, (2) pay the reasonable expenses for travel, meals,  
and lodging of the commissioner or the commissioner's representatives  
incurred during an investigation or examination made at the licensee's

1 location outside this state.

2 (f) The commissioner shall license a mortgage servicer upon  
3 completion of the investigation and issuance of the findings required by  
4 Section 50121, subject to Sections 50123, 50125, 50126, and 50127.

5 (g) A mortgage servicer licensed to service mortgage loans shall  
6 comply with all applicable requirements of California and federal law,  
7 including the Civil Code and Section 2609 of the federal Real Estate  
8 Settlement Procedures Act of 1974, as amended (12 U.S.C. Sec. 2601  
9 et seq.).

10 (h) A license shall remain in effect until suspended, surrendered, or  
11 revoked.

12 (i) The commissioner may require an applicant or licensee to make  
13 some or all filings with the commissioner through the Nationwide  
14 Mortgage Licensing System and Registry.

15 16. Financial Code section 50200 provides:

16 (a) At the end of the licensee's fiscal year, but in no case more than 12  
17 months after the last audit conducted pursuant to this section, each  
18 licensed residential mortgage lender or servicer shall cause its books  
19 and accounts to be audited by an independent certified public  
20 accountant. Beginning with all audits of business conducted after  
21 December 31, 1995, the audit shall be sufficiently comprehensive in  
22 scope to permit the expression of an opinion on the financial statements  
23 prepared in accordance with generally accepted accounting principles  
24 and shall be performed in accordance with generally accepted auditing  
25 standards. The audit shall include a reconciliation of the licensee's trust  
26 accounts as of the audit date.

27 (b) "Expression of an opinion" includes (1) an unqualified opinion, (2)  
28 a qualified opinion, (3) a disclaimer of opinion, or (4) an adverse  
opinion. If a financial statement, report, certificate, or opinion of the  
independent certified public accountant is in any way qualified, the  
commissioner may require the licensee to take any action that the  
commissioner deems appropriate to address the qualification. The  
commissioner may reject any financial statement, report, certificate, or  
opinion by notifying the licensee or other person required to make the  
filing of the rejection and the reason therefor. Within 30 days after the  
receipt of the notice, the licensee or other person shall correct the  
deficiencies. Failure to correct the deficiencies is a violation of this  
division. The commissioner shall retain a copy of all financial  
statements, reports, certificates, or opinions so rejected.

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(c) If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefor must be fully explained.

(d) The audit report shall be filed with the commissioner within 105 days of the end of the licensee's fiscal year. The report filed with the commissioner shall be certified by the certified public accountant conducting the audit. The commissioner may promulgate rules regarding late audit reports.

(e) If a licensee required to make an audit fails to cause an audit to be made, the commissioner may cause the audit to be made by an independent certified public accountant at the licensee's expense. The commissioner shall select the independent certified public accountant by advertising for bids or by other fair and impartial means that the commissioner establishes by rule. The commissioner may summarily revoke the license of a licensee who fails to file a certified financial statement prepared by an independent certified public accountant as required by this division or at the request of the commissioner.

(f) Audits conducted in accordance with the uniform single audit procedures of the United States Department of Housing and Urban Development may be submitted in fulfillment of the requirements of this section.

17. Financial Code section 50207, subdivision (a), provides:

A license, along with any currently effective order of the commissioner approving use of a different name pursuant to Sections 50120 and 50130, shall be conspicuously posted in the place of business authorized by the license.

18. Financial Code section 50307 provides:

(a) Each residential mortgage lender or servicer licensee shall file a report with the commissioner annually, on or before the first day of March, giving the relevant information that the commissioner reasonably requires to make the calculation required by subdivision (a) of Section 50401. The report shall be made under oath and in the form prescribed by the commissioner.

(b) A licensee shall make any other special reports to the commissioner that the commissioner may, from time to time, require.

(c) If any licensed residential mortgage lender or servicer subject to this division fails to make a report required by law or by the commissioner,

1 the commissioner may immediately cause the books, records, papers,  
2 and affairs of that licensee to be thoroughly examined.

3 19. Financial Code section 50307.2 provides:

4 The commissioner may require a licensee that employs one or more  
5 mortgage loan originators to submit to the Nationwide Mortgage  
6 Licensing System and Registry reports of condition, which shall be in  
7 such form and shall contain such information as the Nationwide  
8 Mortgage Licensing System and Registry may require.

9 20. Financial Code section 50326 provides:

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

19 21. Financial Code section 50401 provides:

20 (a) In addition to other fees and reimbursements required to be paid  
21 under this division, each residential mortgage lender or servicer  
22 licensee shall pay to the commissioner an amount equal to the lesser of:  
23 (1) its pro rata share of all costs and expenses (including overhead and  
24 the maintenance of a prudent reserve not to exceed 90 days' costs and  
25 expenses) that the commissioner reasonably expects to incur in the  
26 current fiscal year in the administration of this division and not  
27 otherwise recovered by the commissioner under this division or from  
28 the State Corporations Fund, plus a deficit or less a surplus actually  
incurred during the prior fiscal year; or (2) five thousand dollars  
(\$5,000). The pro rata share shall be the greater of either one thousand  
dollars (\$1,000) or the sum of: (A) a number derived from the ratio of  
the aggregate principal amount of the mortgage loans secured by  
residential real property originated by the licensee to all mortgage loans  
secured by residential real property originated by all licensees under  
this division, as shown by the annual financial reports to the  
commissioner, which number is then multiplied by one-half of the costs  
and expenses estimated by the commissioner for the current fiscal year;  
plus (B) a number derived from the ratio of the average value of  
mortgage loans secured by residential real property serviced by a  
licensee to the average value of all mortgage loans secured by



1 residential real property serviced by all licensees under this division, as  
2 shown by the annual financial reports to the commissioner, which  
3 number is then multiplied by one-half of the costs and expenses  
4 estimated by the commissioner for the current fiscal year. For the  
5 purposes of this section, the "principal amount" of a mortgage loan  
6 means the initial total amount a borrower is obligated to repay the  
7 lender and the "average value" of loans serviced means the sum of the  
8 aggregate dollar value of all mortgage loans secured by residential real  
9 property serviced by a licensee, calculated as of the last day of each  
10 month in the calendar year just ended, divided by 12.

11 In order for the commissioner to calculate the assessment under this  
12 section, each licensee shall file an annual report for the calendar year  
13 just ended containing the information required by the commissioner on  
14 or before March 1 of the year in which the assessment is to be  
15 calculated.

16 In determining the amount assessed, the commissioner shall consider  
17 all appropriations from the State Corporations Fund for the support of  
18 this division and all reimbursements provided for under this division.

19 (b) In no case shall the reimbursement, payment, or other fee  
20 authorized by this section exceed the cost, including overhead,  
21 reasonably incurred in the administration of this division, and the  
22 maintenance of a prudent reserve not to exceed 90 days' costs and  
23 expenses.

24 (c) On or before the 30th day of September in each year, the  
25 commissioner shall notify each licensee by mail of the amount assessed  
26 and levied against it and that amount shall be paid within 20 days. If  
27 payment is not made within 20 days, the commissioner shall assess and  
28 collect a penalty, in addition to the assessment of 1 percent of the  
assessment for each month or part of a month that the payment is  
delayed or withheld.

(d) If a licensee fails to pay the assessment on or before the 30th day  
following the day upon which payment is due, the commissioner may  
by order summarily suspend or revoke the license issued to the  
licensee. An order issued under this section is not stayed by the filing  
of a request for a hearing. If, after an order is made, the request for  
hearing is filed in writing within 15 days from the date of service of the  
order and a hearing is not held within 60 days of the filing, the order is  
deemed rescinded as of its effective date. During a period when its  
license is revoked or suspended, a licensee shall not conduct business  
pursuant to this division except as may be permitted by further order of

1 the commissioner. However, the revocation, suspension, or surrender of  
2 a license shall not affect the powers of the commissioner as provided in  
3 this division.

4 22. CCR section 1950.200 provides:

5 These instructions have been prepared as an aid to licensees and their  
6 independent certified public accountants in the preparation of the audit  
7 report to be filed with the Department pursuant to Section 50200 of the  
8 California Residential Mortgage Lending Act [Division 20  
9 (commencing with Section 50000), Financial Code.]

10 A. In General.

11 This report should be filed with the office of the Department with  
12 which the residential mortgage lender or residential mortgage loan  
13 servicer ordinarily transacts its business within 105 days of the end of  
14 the licensee's fiscal year.

15 B. Internal Control

16 The independent certified public accountant must provide a description  
17 of the system of internal control used by the residential mortgage lender  
18 or residential mortgage loan servicer, including material weaknesses in  
19 internal accounting controls, recommendations for improvements, and  
20 comments concerning corrective actions taken or in process.

21 C. The independent certified public accountant's opinion, the Statement  
22 of Financial Position, the Statement of Income and the Statement of  
23 Cash Flows, including any footnotes that are an integral part of those  
24 statements, are public records except as provided in Section 250.10,  
25 Title 10, California Code of Regulations. Other information required in  
26 the report will be considered confidential information and should be  
27 submitted as a separate report or in such a manner as to be easily  
28 separated from the Statement of Financial Position, Statement of  
Income and the Statement of Cash Flows.

**IV.**  
**Prayer**

29 The Commissioner finds that, by reason of the foregoing, Allied has violated Financial Code  
30 sections 50120, 50123, 50130, 50200, 50207, 50307, 50307.2, 50326, 50401, and CCR section  
31 1950.200, and based thereon, grounds exist to revoke Allied's CRMLA lender's license under  
32 Financial Code section 50327.

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WHEREFORE, IT IS PRAYED:

The residential mortgage lender’s license of Allied Home Mortgage Corporation be revoked and that under Financial Code section 50311 the company be provided a period of 60 days within which to complete any loans for which it had prior commitments.

Dated: June 6, 2017  
Los Angeles, California

JAN LYNN OWEN  
Commissioner of Business Oversight

By \_\_\_\_\_  
Blaine A. Noblett  
Senior Counsel  
Enforcement Division