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9 BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues of) Case No.: 605-2672
11 THE CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) STATEMENT OF ISSUES
13)
14 Complainant,)
15 vs.)
16 ACCESS AMERICA, INC.,)
17 Respondent.)
_____)

18 Complainant, the California Corporations Commissioner (“Commissioner”), is informed
19 and believes, and based upon information and belief, alleges and charges Respondent as follows:

20 I
21 **INTRODUCTION**

22 The Commissioner seeks to deny the issuance of a finance lender license to Access
23 America, Inc., pursuant to section 22109 of the California Finance Lenders Law (California
24 Financial Code § 22000 et seq.)¹ for violation of section 22100 by engaging in the business of a
25 finance lender or broker without obtaining a license from the Commissioner, and for violation of
26 section 22161 by making false statements with regard to the business subject to the provisions of
27 the California Finance Lenders Law.

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¹ All further statutory references are to the Financial Code unless otherwise indicated.

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II

RESPONDENT’S APPLICATION

Section 22101 provides in pertinent part as follows:

(a) An application for a license under this division shall be in the form and contain the information that the commissioner may by rule require . . .

California Code of Regulations, title 10, section 1422, in relevant part, states:

(a) The application for a license as a finance lender or broker pursuant to Financial Code Section 22100 shall be filed upon the form set forth in subdivision (c) of this section.

(c) An application for a license as a finance lender or broker shall be submitted to the Commissioner on the following form: [FLL 839 rev 01/03]

On November 21, 2003, Access America, Inc., filed an application for a finance lender license with the Commissioner (File No. 605-2762) pursuant to section 22101 and California Code of Regulation, title 10, section 1422. Magda Gonzalez Aguilar verified the application as President/Chief Executive Officer of Access America, Inc., and listed Ricardo Diaz as its Secretary.

Access America, Inc., a Nevada corporation, first filed to do business in California with the California Secretary of State’s Office on July 30, 2003, stating its mailing address was at 870 Market Street, Suite 922, San Francisco, California 94102.

The application for a finance lender license filed by Access America, Inc., omits material information and contains contradictory statements. For example, the applicant did not indicate on page 1 whether an application is being filed to obtain a license to conduct business as a lender, broker or both. Thus, it is unclear what type of license is sought and what type of license may be issued by the Commissioner pursuant to section 22106, subdivision (a). The applicant failed to include in section 6 of the application the names of any officers, other than Magda Gonzalez Aguilar and Richardo Diaz, even though Edwin Omar Campos is listed as the COO, Chief Operations Officer. The applicant also failed to include the names of any directors, managers, trustees, control persons or others described in section 6 of the application.

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1 All of Access America, Inc.'s business cards for its employees state that they are a
2 "FINANCIAL LENDER" and include their toll free phone number, (877) 777-7520.

3 Access America Inc.'s employees provide consumers with copies of a Uniform
4 Residential Loan Application. In addition, they provided specific information about its
5 procedure for obtaining a loan and the terms of a loan that Access America, Inc., represented it
6 could arrange for those consumers seeking funding to purchase property.

7 In February 2004 persons at New Century Mortgage Corporation stated that Access
8 America, Inc., had solicited them to be able to broker loans and provided them with documents.
9 These documents provided by Respondent were furnished to further its activities as a financial
10 lender and broker. One document purports to be a license from the Commissioner.

11 But what Access America, Inc., provided was a counterfeit license, which falsely states:

12 Access America Inc. dba Access Mortgage & Financial
13 has been issued a Finance Lenders License Number 603-8359
14 by the Department of Corporations, CALIFORNIA, to operate the business of
15 Financial Lender in the State of CALIFORNIA, at a place of business located
16 at 870 Market Street Ste 922 San Francisco, CA 94102
17 CALIFORNIA, This date of 23 August 2003. [sic]

18 The Department of Corporations issued a California Finance Lenders license to Access
19 Mortgage & Financial Corporation, and the file number associated with that license is 603-8359.
20 Access Mortgage & Financial Corporation, which is unaffiliated with Respondent, have never
21 granted Access America, Inc., the right to use their name or license number. Access Mortgage &
22 Financial Corporation, upon discovering the misappropriation of their name and license number,
23 requested that Access America, Inc., cease using their name and license number.

24 The counterfeit license copied and distributed by Respondent appears to include the
25 letterhead used by the California Office of the California Secretary of State but contains the
26 street address for the Department of Corporations' Office in Los Angeles, and bears the seal of
27 the State of California in the lower left corner. These false, misleading and deceptive statements
28 are in violation of section 22161.

The Department of Real Estate has not licensed Respondent to conduct real estate related
activities. Respondent lacks any exemption from the license requirement found in section

1 22100. Consequently, on February 11, 2004, the Commissioner issued to Respondent and its
2 agents a Desist and Refrain Order pursuant to section 22712 to prohibit unlicensed activities in
3 violation of section 22100. None of the recipients of the Order have requested a hearing
4 concerning the Desist and Refrain Order.

5 Previously, in November 2003 Access America, Inc.’s President and Chief Executive
6 Officer, Magda Gonzalez Aguilar, filed with the Commissioner a letter representing, in part, that:

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8 **[T]he company depends of [sic] the approval of the license from your**
9 **department, we are just in standby testing the market and hiring**
10 **employees. . .**

11 Yet, Edwin Campos, Respondent’s COO informed the public that Access America, Inc.,
12 has many programs for a borrower, including 100% financing, and claimed it successfully
13 arranged for financing and real property loans for consumers. Access America, Inc., represented
14 that they were offering either fixed or adjustable rate mortgage (“ARM”) loans, the latter ARM
15 loans having an adjustable rate term of between two and five years, at a borrower’s option.
16 Access America, Inc.’s employees stated that they are currently able to obtain 80% loan-to-value
17 loans at interest rates ranging from 5.99% to 6.75%.

18 In addition, Access America Inc.’s employees told consumers that they can arrange for an
19 appraisal of the real property for which a consumer is seeking financing and stated that Access
20 America, Inc., will arrange for a credit report for the borrower and send it and the borrower’s
21 loan application to companies that they deal with including, but not limited to, CMG Mortgage
22 Inc., and Delta Funding Corporation, and WMC.

23 In exchange for the above described services, Access America, Inc., will receive
24 compensation consisting of various fees for the specific services they render and represented that
25 they have in the past completed the entire loan process in as few as four or five days.

26 Access America, Inc., falsely represented itself as properly licensed to act as a broker for
27 real estate loans by offering its services as brokers to several bona fide licensed California
28 Financial Lenders and Brokers including, but not limited to, Argent Mortgage Company, LLC

1 and New Century Mortgage Company. To arrange for the above-described loans and financing
2 arrangements, Access America, Inc., falsely stated that they are licensed as a California Finance
3 Lender and Broker. To support these false statements it copied, printed, displayed and/or
4 distributed the above-described counterfeit license.

5 Access America, Inc., made statements about their business and the conditions for
6 making or negotiating loans that were false, deceptive and misleading in violation of section
7 22161 of the California Financial Code. Misleading statements include the following: (1)
8 Access America, Inc., was licensed by the Department of Corporations to act as a California
9 Finance Lender and Broker; (2) Access America, Inc.'s license number was 603-8359, and was
10 affiliated with Access Mortgage & Financial Corporation, and (3) License issued containing the
11 letterhead and seal used by the California Office of Secretary of State.

12 Access America, Inc., made material omissions of fact in violation of section 22161 of
13 the California Financial Code including: (1) they did not possess a license to act as a finance
14 lender or broker; (2) they were using the license number and business name of another California
15 Finance Lender and Broker without its permission; and (3) they had a pending incomplete
16 application for a California Finance Lender and Broker license that had not been approved by the
17 Department of Corporations.

18 **V**

19 **GROUND FOR DENIAL OF RESPONDENT'S APPLICATION**

20 Section 22109 of the California Financial Code provides in pertinent part:

21 (a) Upon reasonable notice and opportunity to be heard, the
22 commissioner may deny the application for any of the following reasons:

23 (1) A false statement of a material fact has been made in the application.

24 (2) Any officer, director, general partner, or person owning or
25 controlling, directly or indirectly, 10 percent or more of the outstanding
26 interests or equity securities of the applicant has, within the last ten years
27 . . . (B) committed any act involving dishonesty, fraud, or deceit, if the . . .
28 act is substantially related to the qualifications, functions, or duties of a
person engaged in business in accordance with this division.

(3) The applicant or any officer, director, general partner, or person
owning or controlling, directly or indirectly, 10 percent or more of the

1 outstanding interests or equity securities of the applicant has violated any
2 provision of this division or the rules thereunder . . .

3 V

4 **CONCLUSION**

5 Complainant finds, by reason of the foregoing, that:

6 (1) Access America, Inc., has violated section 22100 by engaging in the business of a
7 financial lender or broker without obtaining a license from the Commissioner;

8 (2) Access America, Inc., has violated section 22161 by printing, displaying,
9 publishing or distributing statements or representations with regard to its business and licensing
10 status that are false, misleading or deceptive or that omits material information that is necessary
11 to make the statements not false, misleading or deceptive;

12 (3) Access America, Inc., has failed to comply with a demand of the Commissioner to
13 furnish further information to process its application in violation of section 22150; and

14 (4) Access America, Inc., is incapable of operating its finance lenders business in
15 accordance with the California Finance Lenders Law as demonstrated by Access America, Inc.'s
16 dishonest and illegal activities described herein.

17 The findings set forth above constitute grounds under California Financial Code section
18 22109 to deny the issuance of a finance lender license to Access America, Inc.

19 THEREFORE, the Commissioner asserts that he is justified under section 22109 in
20 denying the issuance of a finance lender license to Access America, Inc.

21 WHEREFORE, the Commissioner prays that the application for a finance lender license
22 filed by Access America, Inc., on November 21, 2003, be denied.

23 Dated: July 2, 2004
24 San Francisco, California

25 WLLIAM P. WOOD
26 California Corporations Commissioner

27 By _____
28 Joan E. Kerst
Senior Corporations Counsel