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BEFORE THE DEPARTMENT OF CORPORATIONS

10

OF THE STATE OF CALIFORNIA

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)  
) Case No.: 413-0552

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In the Matter of THE CALIFORNIA  
CORPORATIONS COMMISSIONER,

)  
) STATEMENT OF FACTS IN SUPPORT OF  
) ORDER TO DISCONTINUE VIOLATIONS  
) PURSUANT TO CALIFORNIA FINANCIAL  
) CODE SECTION 50321

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Complainant,

14

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vs.

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ACCEPTANCE CAPITAL MORTGAGE  
CORPORATION,

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Respondent.

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

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1. Acceptance Capital Mortgage Corporation ("Acceptance Capital") is a residential  
25 mortgage lender licensed by the California Corporations Commissioner ("Commissioner") pursuant  
26 to the California Residential Mortgage Lending Act ("CRMLA") (Fin. Code, § 50000, et seq.).

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2. On or about March 5, 2007, the Commissioner commenced a regulatory examination  
28 of the books and records of Acceptance Capital through his examination staff.

1           3.       During the regulatory examination, an Examination Questionnaire, completed by  
2 Acceptance Capital's Chief Financial Officer ("C.F.O."), stated that the licensee's general ledger,  
3 unaudited financial statements, and bank reconciliations were prepared on an annual basis.

4           4.       Pursuant to the March 5, 2007 regulatory examination, Acceptance Capital was to  
5 have made available and provided to the examiner its current unaudited financial statements,  
6 including, balance sheet, income statement, and bank reconciliations as of January 31, 2007. The  
7 requested financial records were not provided during the on-site regulatory examination.

8           4.       On March 7, 2007, following the on-site examination, the Commissioner's staff  
9 examiner sent a written request to Acceptance Capital demanding that it produce all current  
10 unaudited financial statements and bank reconciliations no later than 12:00 p.m. on March 8, 2007.  
11 The requested financial records were not produced on the date specified.

12           5.       On April 23, 2007, Acceptance Capital's C.F.O., via e-mail, requested that Acceptance  
13 Capital receive a thirty-day extension to produce the requested current unaudited financial statements  
14 and bank reconciliations. The Commissioner's staff examiner granted the request, providing  
15 Acceptance Capital with a production deadline of May 23, 2007. On May 23, 2007, Acceptance  
16 Capital provided only a portion of the requested financial records.

17           6.       Finally, on August 23, 2007, nearly six months after the initial examination,  
18 Acceptance Capital provided the Commissioner's staff examiner with complete copies of its current  
19 unaudited financial statements and bank reconciliations.

20           7.       Accordingly, pursuant to the regulatory examination conducted by the Commissioner's  
21 examination staff on March 5, 2007, Acceptance Capital's responses to the Commissioner's  
22 Examination Questionnaire, and Acceptance Capital's failure to timely provide the requested current  
23 financial statements and bank reconciliations, the Commissioner has concluded that Acceptance  
24 Capital only prepares its general ledger, unaudited financial statements, and bank reconciliations on  
25 an annual basis.

- 26           8.       California Financial Code section 50314 provides in relevant part:  
27                   (a) Every person subject to this division shall keep documents and records  
28                   that will properly enable the commissioner to

1 determine whether the residential mortgage lending . . . performed by that  
2 person comply with the provisions of this division and with all rules and orders  
3 made by the commissioner under this division . . .

4 (b) The business documents and records of every residential  
5 mortgage lender . . . are subject to inspection and examination by the  
6 commissioner at any time without prior notice . . .

7 9. California Code of Regulations, title 10, section 1950.314.2 provides in  
8 relevant part:

9 (a) A residential mortgage lender . . . shall establish, and maintain current, the  
10 following books with reference to its general accounts:

11 (1) General ledger reflecting assets, liabilities, capital, income and expense of  
12 the business, in accordance with generally accepted accounting principles;

13 (2) Cash receipt and disbursement journal.

14 The bank accounts contained in the general ledger shall be reconciled at least  
15 once each month with the bank statements of the general accounts . . .

16 10. California Financial Code section 50321 provides in relevant part:

17 If, after investigation, the commissioner has reasonable grounds to believe that  
18 any licensee has violated its articles of incorporation or any law or rule binding  
19 upon it, the commissioner shall, by written order addressed to the licensee,  
20 direct the discontinuance of the violation. The order shall be effective  
21 immediately, but shall not become final except in accordance with the  
22 provisions of Section 50323.

23 11. Section 50323 of the Financial Code provides:

24 (a) No order issued pursuant to Section 50321 or 50322 may become final  
25 except after notice to the affected licensee of the commissioner's intention to  
26 make the order final and of the reasons for the finding. The commissioner  
27 shall also notify the licensee that upon receiving a request the matter will be set  
28 for hearing to commence within 15 business days after receipt. The licensee  
may consent to have the hearing commence 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

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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 all practices named in the order.

(b) The licensee has 10 days after an order is made final to commence to restrain enforcement of the order. If the 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 requiring Acceptance Capital Mortgage Corporation to immediately discontinue the violations set forth above, including not maintaining its financial statements on a current basis and reconciling its bank accounts at least once a month. The Commissioner hereby notifies Acceptance Mortgage Capital Corporation of his intention to make the order final.

DATED: August 2, 2007  
Los Angeles, California

PRESTON DuFAUCHARD  
California Corporations Commissioner

By: \_\_\_\_\_  
Blaine A. Noblett  
Corporations Counsel  
Enforcement Division