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8

9 BEFORE THE DEPARTMENT OF CORPORATIONS  
10 OF THE STATE OF CALIFORNIA  
11

12 In the Matter of THE CALIFORNIA ) File Nos.: 413-0267 and 413-0576  
CORPORATIONS COMMISSIONER, )  
13 ) ORDER TO DISCONTINUE VIOLATIONS  
Complainant, ) AND UNSAFE AND INJURIOUS  
14 ) PRACTICES PURSUANT TO CALIFORNIA  
vs. ) FINANCIAL CODE SECTIONS 50321 AND  
15 ) 50322 AND STATEMENT OF FACTS IN  
16 AMERICAN HOME MORTGAGE CORP. ) SUPPORT THEREOF  
doing business as AMERICAN BROKERS )  
17 CONDUIT, MORTGAGESELECT, MARINA )  
18 MORTGAGE, FIRST HOME MORTGAGE, )  
and/or MTEAM FINANCIAL; and )  
19 AMERICAN HOME MORTGAGE )  
20 ACCEPTANCE, INC., )  
21 Respondents. )

22  
23 TO: AMERICAN HOME MORTGAGE CORP. doing business as  
24 AMERICAN BROKERS CONDUIT, MORTGAGESELECT,  
25 MARINA MORTGAGE, FIRST HOME MORTGAGE and/or  
26 MTEAM FINANCIAL  
538 Broadhollow Road  
Melville, New York 11747

27 AMERICAN HOME MORTGAGE ACCEPTANCE, INC.  
28 538 Broadhollow Road  
Melville, New York 11747

1 The California Corporations Commissioner (“Commissioner”) having determined that  
2 American Home Mortgage Corp. doing business as American Brokers Conduit, Mortgageselect,  
3 Marina Mortgage, First Home Mortgage and/or MTeam Financial (“American Home Mortgage” or  
4 “Company”) and American Home Mortgage Acceptance, Inc. (“Acceptance”) have engaged in, or  
5 are engaging in, or are about to engage in, acts or practices constituting violations of the California  
6 Residential Mortgage Lending Act (Financial Code sections 50000 et seq.) and applicable  
7 regulations (“CRMLA”) and is conducting business in an unsafe and injurious manner, hereby issues  
8 the following Findings of Fact and Order To Discontinue Violations and Unsafe and Injurious  
9 Practices Pursuant to Financial Code Sections 50321 and 50322 (“Order To Discontinue”).

10 **FINDINGS OF FACT**

11 1. The Department of Corporations (“Department”), through the Commissioner, has  
12 jurisdiction over the licensing and regulation of persons and entities engaged in the business of  
13 residential mortgage lending and residential mortgage loan servicing pursuant the CRMLA.

14 2. American Home Mortgage is licensed by the Commissioner as a residential mortgage  
15 lender and residential mortgage loan servicer under Chapters 2 and 3 of the CRMLA. According to  
16 records maintained on file with the Department, the Commissioner initially issued a residential  
17 mortgage lender and residential mortgage loan servicer license to American Home Mortgage to  
18 engage in the business of residential mortgage lending and residential mortgage loan servicing in  
19 California on or about June 23, 1999.

20 3. American Home Mortgage is, and at all relevant times, has been a corporation  
21 conducting business in California. American Home Mortgage’s main office is located at 538  
22 Broadhollow Road, Melville, New York, 11747.

23 4. American Home Mortgage maintains additional branch office locations from which it  
24 conducts residential mortgage lending and residential mortgage loan servicing business. According  
25 to records maintained on file with the Department, American Home Mortgage has notified the  
26 Commissioner pursuant to Financial Code section 50124(a)(10) of one hundred and fifty-four (154)  
27 additional branch locations operated both in California as well as outside the State.  
28

1           5.       American Home Mortgage is a wholly owned subsidiary of American Home  
2 Mortgage Holdings, Inc., which, in turn, is a wholly owned subsidiary of American Home Mortgage  
3 Investment Corp., a publicly traded company listed on the New York Stock Exchange.

4           6.       Acceptance is licensed by the Commissioner as a residential mortgage lender under  
5 Chapter 2 of the CRMLA. According to records maintained on file with the Department, the  
6 Commissioner initially issued a residential mortgage lender license to Acceptance to engage in the  
7 business of residential mortgage lending on or about April 20, 2004.

8           7.       Acceptance is, and at all relevant times, has been a corporation conducting business  
9 in California. Acceptance’s main office is located at 538 Broadhollow Road, Melville, New York,  
10 11747.

11          8.       Acceptance maintains additional branch office locations from which it conducts  
12 residential mortgage lending business. According to records maintained on file with the  
13 Department, Acceptance has notified the Commissioner pursuant to Financial Code section  
14 50124(a)(10) of five (5) additional branch locations operated both in California as well as outside the  
15 State.

16          9.       Acceptance is a wholly owned subsidiary of American Home Mortgage Investment  
17 Corp.

18          10.      On or about April 10, 2007, the Department commenced a regulatory examination of  
19 American Home Mortgage. A review and analysis of the un-audited financial statements for  
20 American Home Mortgage for the period ended February 28, 2007 disclosed that American Home  
21 Mortgage did not meet the tangible net worth requirements of \$250,000 set forth in Financial Code  
22 section 50201.

23          11.      On or about June 28, 2007, due to the concerns raised by the February 28, 2007  
24 financial statements, the Commissioner requested that American Home Mortgage submit its  
25 financial statements for the period ended April 30, 2007. A review of the un-audited financial  
26 statements of American Home Mortgage for the period ended April 30, 2007 disclosed a tangible net  
27 worth deficiency of \$31,982.396 in violation of Financial Code section 50201.

28          12.      The Department has received no information from American Home Mortgage that it

1 has cured its tangible net worth deficiency, and based upon the information set forth in paragraphs  
2 13-22, believes that a tangible net worth deficiency continues through the date of this Order to  
3 Discontinue.

4 13. On or about July 31, 2007, counsel for American Home Mortgage informed the  
5 Department by way of letter that American Home Mortgage had temporarily ceased funding loans  
6 because it was unable to draw upon its warehouse lines.

7 14. On or about July 31, 2007, representatives for the Department, joined representatives  
8 of other state banking and mortgage lending regulators, to contact American Home Mortgage to  
9 schedule a telephone conference call to be held on August 1, 2007 with senior executives of  
10 American Home Mortgage, to discuss concerns regarding the Company's financial condition and its  
11 apparent inability to fund mortgage loans. Telephone conference calls were held on August 1 and 2,  
12 2007 between the Department and other regulators and senior executives of American Home  
13 Mortgage.

14 15. During the conference calls, the Department learned that as of July 30, 2007 there  
15 were no warehouse lines of credit available to American Home Mortgage or its affiliates, including  
16 Acceptance, resulting in an inability to fund any loans on or after July 30, 2007. American Home  
17 Mortgage further informed the Department that it was no longer accepting applications and that the  
18 application system had been shut down.

19 16. A line of credit used by a residential mortgage lender enables the entity to fund  
20 residential mortgage loans prior to selling them to an investor. Without access to its lines of credit,  
21 and in the absence of the residential mortgage lender independently maintaining sufficient reserves  
22 and liquidity positions within the institution to fund such loans, the residential mortgage lender  
23 would be unable to meet its funding commitments, negating its ability to meet contractual  
24 obligations to fund residential mortgage loans.

25 17. During the August 1, 2007 conference call, the Department requested that American  
26 Home Mortgage provide a pipeline report regarding mortgage loans involving residential property in  
27 California ("pipeline report"). In response to that request, on August 2, 2007, American Home  
28 Mortgage provided the Department with a pipeline report. However, the pipeline report was

1 incomplete. The pipeline report included loans, which had been approved, loans cleared to close and  
2 “Close Docs” (loan commitment with borrower acceptance), but failed to include crucial information  
3 concerning pending applications which had not yet been approved or loans which had been closed  
4 but not yet funded.

5 18. On August 3, 2007, American Home Mortgage provided the Department with a “pre-  
6 commitment” report, which the Department believes contains the pipeline information concerning  
7 pending applications. However, American Home Mortgage has yet to provide the Department with  
8 information concerning loans, which had been closed, but not yet funded.

9 19. Pursuant to Financial Code section 50307(b), American Home Mortgage is required  
10 to submit to the Commissioner any and all special reports the Commissioner from time to time may  
11 require. The information described in paragraphs 17 and 18 above were such a special report  
12 required by the Commissioner under Section 50307(b).

13 20. As a result of American Home Mortgage’s failure to produce a complete pipeline  
14 report, the Department is unable to determine the actual extent to which the funding problems at  
15 American Home Mortgage will affect California borrowers.

16 21. The pipeline report provided by American Home Mortgage indicated though that, as  
17 of August 1, 2007, American Home Mortgage failed to disburse loan proceeds, or was about to fail  
18 to disburse loan proceeds, or otherwise fund, as many as two-hundred and fifty-three (253) mortgage  
19 loan transactions involving residential property in California.

20 22. Financial Code section 50124(a)(4) requires all residential mortgage lenders to  
21 disburse funds in accordance with its agreements and to make a good faith and reasonable effort to  
22 effect closing in a timely manner.

23 **CONCLUSIONS OF LAW**

24 23. Based upon the information contained in Paragraphs 1 through 22, American Home  
25 Mortgage does not meet the minimum net worth requirements for residential mortgage lenders and  
26 residential mortgage loan servicers in violation of the Financial Code section 50201.

27 24. Based upon the information contained in Paragraphs 1 through 22, American Home  
28 Mortgage has failed to submit a special report to the Commissioner in the form of a complete

1 pipeline report in violation of Financial Code section 50307(b).

2 25. Based upon the information contained in Paragraphs 1 through 22, American Home  
3 Mortgage has failed to disburse funds in accordance with its agreements with its borrowers and to  
4 make a good faith and reasonable effort to effect closing in a timely manner in violation of Financial  
5 Code section 50124(a)(4) and an unsafe and injurious practice.

6 26. Based upon the information contained in Paragraphs 1 through 22, American Home  
7 Mortgage’s acts or practices of contracting with consumers for a purchase or refinance mortgage  
8 loan, through the underwriting and subsequent execution of residential mortgage loan closing  
9 documents relating to California residential property, and thereafter failing to fund the residential  
10 mortgage loan(s), constitutes a violation of Financial Code section 50204(b) and an unsafe and  
11 injurious practice.

12 27. Based upon the information contained in Paragraphs 1 through 22, American Home  
13 Mortgage has failed to demonstrate the financial responsibility, character, and general fitness that  
14 would support the belief that the business will be operated honestly, fairly, and in accordance with  
15 the requirements of the CRMLA.

16 28. Based upon the information contained in Paragraphs 1 through 22, and due to the  
17 relationship of officers, directors, and principals of American Home Mortgage and Acceptance, the  
18 Department is unable to conclude that Acceptance has demonstrated the financial responsibility,  
19 character, and general fitness that would support the belief that the business will be operated  
20 honestly, fairly, and in accordance with the requirements of the CRMLA.

21 29. Based upon the information contained in Paragraphs 1 through 22, had the facts and  
22 conditions found therein existed at the time of American Home Mortgage’s original residential  
23 mortgage lender and residential mortgage loan servicer license applications, the Commissioner  
24 would have been warranted in refusing to issue such licenses. Further, the facts and conditions set  
25 forth in paragraphs 1 through 22 present sufficient grounds for the revocation of the residential  
26 mortgage lender and residential mortgage loan servicer licenses of American Home Mortgage  
27 pursuant to Financial Code section 50327.

28



1 (i) obtain funding for and close the loans, (ii) place with other qualified broker(s) or lender(s) with  
2 applicants' consent, or (iii) deny the applications for cause. The term "deny for cause" shall mean  
3 that the underwriting guidelines of American Home Mortgage and Acceptance in effect at the time  
4 of the application(s) would have provided grounds for American Home Mortgage and Acceptance to  
5 deny the application(s) in the normal course of business.

6 4. No later than one (1) business day after the effective date of this Order to  
7 Discontinue, American Home Mortgage and Acceptance shall submit to the Commissioner a  
8 detailed report, prepared as of the date of submission, of all of their residential mortgage loans that  
9 were closed on property located in California prior to the effective date of this Order, but remain as  
10 yet unfunded, including but not limited to: The names of all individuals from whom they processed  
11 an application and closed the residential mortgage loan, but failed to fund; the applicants' addresses  
12 and telephone numbers; the loan number; the amount of all prepaid loan fees submitted by the  
13 customer; the amount of each loan; the loan terms; the current funding status; the actual closing  
14 dates; the purpose of the loan (i.e. purchase or refinance); and identification of the applicable  
15 broker(s) or lender(s) with who each application will be placed. The report should include telephone  
16 numbers of contact persons at each broker or lender.

17 5. No later than five (5) days after the effective date of this Order to Discontinue,  
18 American Home Mortgage and Acceptance shall submit to the Commissioner a detailed report,  
19 prepared as of the date of submission, of all of their pending mortgage loan applications on property  
20 located in California, including but not limited to: The names of all individuals from whom they  
21 have accepted an application for a residential mortgage loan; the applicants' addresses and telephone  
22 numbers; the loan number; the amount of all prepaid loan fees submitted by the customer; rate lock  
23 status; the amount of each loan; application status (i.e. filed, cleared to close, etc.); loan terms, if  
24 approved; scheduled closing dates; the loan purpose (i.e. purchase or refinance) and identification of  
25 the applicable broker(s) or lender(s) with who each application will be placed. The report should  
26 include telephone numbers of contact persons at each broker or lender.

27 6. On the last business day of each subsequent week after the effective date of this Order  
28 to Discontinue, American Home Mortgage and Acceptance shall provide the Commissioner with an

1 updated, written status report of the mortgage loan applications identified above in paragraphs 4 and  
2 5. The form of the status report shall follow the format of the initial submission under paragraphs 4  
3 and 5 and shall indicate the final disposition of the loan application and include the final terms under  
4 which each approved loan is closed. The reporting requirement shall continue until each of the  
5 approved applications is funded by American Home Mortgage and Acceptance, or withdrawn by the  
6 applicant(s) or is placed and funded by another lender.

7 7. No later than five (5) days after the effective date of this Order to Discontinue,  
8 American Home Mortgage and Acceptance shall submit to the Commissioner a balance sheet and  
9 year-to-date income statement, prepared as of the date of submission, and attested to by a duly  
10 authorized officer of the company. The balance sheet should indicate the cash position of each  
11 company at each of its depository banks as well the company’s bank account numbers.

12 8. The Department reserves all of its rights, duties and authority to enforce the CRMLA  
13 against American Home Mortgage and Acceptance in the future regarding all matters, including but  
14 not limited to, those matters covered by this Order to Discontinue.

15 This Order to Discontinue shall become effective immediately and shall remain in effect  
16 unless set aside by the Commissioner or by a court as provided in Financial Code section 50323.

17 It is the Commissioner’s intention to make this Order to Discontinue final. A hearing will be  
18 scheduled on this matter to determine whether or not this Order To Discontinue shall become final  
19 only upon receipt of a written request for such a hearing from American Home Mortgage and/or  
20 Acceptance, respectively, within thirty (30) days of the effective date of this Order To Discontinue.  
21 If no hearing is requested within this thirty (30) day period, this Order To Discontinue shall become  
22 final unless and until it is modified or vacated by the Commissioner.

23 Dated: August 3, 2007  
24 Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

25  
26 By \_\_\_\_\_  
27 Alan S. Weinger  
28 Lead Corporations Counsel