

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 AFSANEH EGHBALDARI (State Bar No. 250107)
4 Counsel
Department of Business Oversight
5 1350 Front Street, Room 2034
6 San Diego, CA 92101
Telephone: (619) 645-3166
7 Facsimile: (619) 525-4045
8 Attorneys for Complainant

10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) CRMLA LICENSE NO. 413-1199
13)
14 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) ACCUSATION IN SUPPORT OF ORDER
15) REVOKING RESIDENTIAL MORTGAGE
Complainant,) LENDING LICENSE PURSUANT TO
16) FINANCIAL CODE SECTION 50327
17 v.)
18 BEXIL AMERICAN MORTGAGE, INC.,)
19 Respondent.)
20)

21
22 Jan Lynn Owen, the Commissioner of Business Oversight (“Commissioner”), finds the
23 following:

24 **I**
25 **Introduction**

26 1. Bexil American Mortgage, Inc. (“Bexil”) is a residential mortgage lender licensed by
27 the Commissioner, pursuant to the California Residential Mortgage Lending Act (Fin. Code § 50000
28 et seq.) (“CRMLA”).

1 2. Bexil has its principal place of business located at 10770 Wateridge Circle, Suite 250,
2 San Diego, CA 92121.

3 **II**
4 **Violations of the CRMLA**

5 3. Pursuant to Financial Code section 50200 and California Code of Regulations, Title
6 10, section 1950.200, all licensees under the CRMLA are required to submit their audited financial
7 statements for fiscal year ended December 31, including a reconciliation of trust accounts and an
8 Independent Auditor’s Report on Internal Controls (“Audit Report”) to the Commissioner on or
9 before April 15 of the following year. Licensees are directed to upload their Audit Report into the
10 Nationwide Multistate Licensing System & Registry (“NMLS”).

11 4. On or about December 16, 2014, the Commissioner notified Bexil by letter that its
12 2014 Audit Report was due on or before April 15, 2015, and that its failure to file the Audit Report
13 would result in fines pursuant to Financial Code section 50326, and/or revocation of its license
14 pursuant to Financial Code section 50327.

15 5. Bexil’s 2014 Audit Report was due by April 15, 2015, and its 2015 Audit Report was
16 due by April 15, 2016. Bexil failed to file its 2014 and 2015 Audit Reports.

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

23 7. On or about February 2, 2015, Activity Report forms were sent to all CRMLA
24 licensees with a notice that their Activity Report for the period ended December 31, 2014 was due on
25 March 1, 2015. Written reminders were sent to Bexil from February 2015 to March 1, 2015 to
26 ensure timely submission of its 2014 Activity Report. Bexil failed to file its 2014 Activity Report.

27 8. On or about January 20, 2016, Activity Report forms were sent to all CRMLA
28 licensees with a notice that their Activity Report for the period ended December 31, 2015 was due on

1 March 1, 2016. Bexil failed to file its 2015 Activity Report, despite written reminders that were sent
2 from February 8, 2016 to March 2, 2016.

3 9. Bexil failed to submit its 2014 and 2015 Activity Reports as required by Financial
4 Code sections 50307 and 50401 and California Code of Regulations, Title 10, section 1950.314.8.

5 10. Bexil also failed to pay its annual assessments to the Commissioner for the fiscal years
6 2015/2016 and 2016/2017 as required by Financial Code section 50401.

7 11. Pursuant to Financial Code section 50307.2, all licensees under the CRMLA are
8 required to file the NMLS Mortgage Call Report with the NMLS for transmission to the
9 Commissioner. Bexil has failed to file any of its Mortgage Call Reports since the 3rd quarter of 2014.

10 12. Pursuant to Financial Code section 50205, all licensees under the CRMLA are
11 required to maintain a surety bond in the minimum amount of \$50,000.00.

12 13. On or about November 7, 2014, the Commissioner received a Notice of Cancellation
13 of Bexil's surety bond from International Fidelity Insurance Company. The date of cancellation of its
14 surety bond was December 31, 2014.

15 14. On or about November 14, 2014, the Commissioner notified Bexil of its requirement
16 to replace or reinstate its surety bond on or before the cancellation date of December 31, 2014.
17 Bexil's surety bond expired effective December 31, 2014, and no replacement bond has been
18 obtained, in violation of Financial Code section 50205. On January 21, 2015, the Commissioner
19 issued an order to Bexil to discontinue residential mortgage lending activities, pursuant to Financial
20 Code section 50319, for its failure to replace or reinstate its surety bond.

21 15. In or about December 2014, Bexil requested a surrender of its residential mortgage
22 lender license. Pursuant to Financial Code section 50123, a license is not surrendered until its tender
23 is accepted in writing by the Commissioner after a review, and a finding has been made on the
24 licensee's plan, and a determination has been made that there is no violation of the CRMLA.

25 16. On or about February 24, 2015, a license item was set in Bexil's NMLS record with
26 detailed instructions for the surrender of its license, including, but not limited to complying with all
27 the CRMLA requirements, providing a closing audit, paying of all the assessments, and filing of all
28 reports. On or about February 27, 2015, the Commissioner also sent Bexil a written letter outlining

1 the requirements for surrender under Financial Code section 50123.

2 17. On or about June 12, 2015, the Commissioner sent a letter to Bexil notifying Bexil of
3 its failure to file the 2014 Activity Report, assessing a \$1,000.00 penalty pursuant to Financial Code
4 section 50326, and demanding that the 2014 Activity Report be filed within 10 days of the letter. The
5 Commissioner also notified Bexil that failure to file the 2014 Activity Report and/or pay the penalty
6 by such date would result in an action to suspend or revoke its license.

7 18. In or about July 2015, Bexil submitted its closing audit. The surrender was not
8 accepted because Bexil failed to file any of the required reports and pay the assessed penalty.

9 **III**
10 **Revocation**

11 19. Based on the above described violations, the Commissioner may revoke Bexil's
12 CRMLA License under Financial Code section 50327, which provides in pertinent part:

- 13 (a) The commissioner may, after notice and a reasonable opportunity to
14 be heard, suspend or revoke any license, if the commissioner finds that:
15 (1) the licensee has violated any provision of this division
16 [commencing with Fin. Code § 50000] or rule or order of the
17 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.

18 (Cal. Fin. Code § 50327.)

19 **IV**
20 **Conclusion**

21 The Commissioner finds that, by reason of the foregoing, Bexil American Mortgage, Inc. has
22 violated Financial Code sections 50200, 50205, 50307, 50401 and 50307.2, and California Code of
23 Regulations sections 1950.200 and 1950.314.8. Therefore, grounds exist to revoke the residential
24 mortgage lender license of Bexil American Mortgage, Inc., pursuant to Financial Code section 50327.

25 ///
26 ///
27 ///
28 ///

1 WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Bexil
2 American Mortgage, Inc. be revoked under Financial Code section 50327, and in accordance with
3 Financial Code section 50311 Bexil American Mortgage, Inc. be given a transition period of sixty
4 days within which to complete any loans for which it had prior commitments.

5 Dated: November 16, 2016
6 San Diego, California

JAN LYNN OWEN
Commissioner of Business Oversight

7
8 By: _____
9 AFSANEH EGHBALDARI
10 Counsel
11 Enforcement Division
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28