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BEFORE THE DEPARTMENT OF CORPORATIONS

10

OF THE STATE OF CALIFORNIA

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12 THE CALIFORNIA CORPORATIONS)
COMMISSIONER,)

File No.: 413-0100

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Complainant,)

**ACCUSATION IN SUPPORT OF
REVOCATION OF CALIFORNIA
RESIDENTIAL MORTGAGE LENDER
AND MORTGAGE LOAN SERVICER
LICENSE**

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v.)

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16 BROOKSAMERICA MORTGAGE)
CORPORATION,)

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Respondent.)

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21 The Complainant, California Corporations Commissioner ("Commissioner"), is informed and
22 believes, and based upon such information and belief, alleges and charges BrooksAmerica Mortgage
23 Corporation ("Respondent") as follows:

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I.

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26 Respondent is a residential mortgage lender and mortgage loan servicer licensed by the
California Department of Corporations pursuant to the California Residential Mortgage Lending Act
27 ("CRMLA") (California Financial Code sections 50000 *et seq.*). Respondent has its principal place
28 of business located at 2 ADA, Suite 100, Irvine, CA 92618.

II.

Pursuant to Financial Code section 50200, each licensee is required to submit a comprehensive audited financial report ("Audit Report") audited by an independent certified public accountant for the end of the licensee's fiscal year. On or about December 23, 2008, the Commissioner notified Respondent in writing that it was required to submit its annual Audit report for fiscal year ending on December 31, 2008 no later than April 15, 2009. Respondent was further notified that its failure to file the Audit Report may result in assessment of fines, an immediate examination by the Commissioner, and/or revocation of Respondent's license. Respondent failed to file its Audit Reports. On or about April 17, 2009, the Commissioner again notified Respondent in writing that it had failed to file its Audit Report and it was required to file the Audit Report within ten (10) days of the date of the letter.

Pursuant to Financial Code section 50326, a licensee shall pay \$100.00 penalty for each day up to the 10th day for failure to file a report required by law or by the Commissioner. On June 10, 2009, the Commissioner notified Respondent in writing that Respondent was required to pay an administrative penalty in the amount of \$1,000.00 for failure to file its Audit Report. Respondent was notified again that its failure to file the Audit Report would result in revocation of Respondent's license. Respondent did not file its Audit Report and did not pay the administrative penalty.

III.

Pursuant to Financial Code sections 50307, 50401 and California Code of Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report") on or before March 1st of each year for the preceding 12-month period ended December 31.

On or about January 23, 2009, an Activity Report form was sent to all CRMLA licensees with a notice that its Activity Report was due on or before March 1, 2009. Respondent did not file its Activity Report in violation of Financial Code sections 50307, 50401 and California Code of Regulations, title 10, section 1950.314.8.

On May 22, 2009, the Commissioner notified Respondent in writing that Respondent was required to file the Activity Report within ten (10) days of the date of the letter. Respondent was

1 further directed to pay an administrative penalty in the amount of \$1,000.00, pursuant to Financial
2 Code section 50326. Respondent was notified again that its failure to file the Activity Report would
3 result in revocation of Respondent's license. Respondent did not file its Activity Report and did not
4 pay the administrative penalty.

5 IV.

6 On or about January 21, 2009, Respondent notified the Commissioner that it was moving its
7 office and wanted to surrender its license. On February 5, 2009, the Commissioner provided
8 Respondent detailed instructions for the surrender of its license. On or about July 20, 2009, the
9 Commissioner, by and through his representative, informed respondent that he had not received the
10 Audit Report, Activity Report and the administrative penalties. Respondent was further notified that
11 Respondent's mail was returned by the post office. The Commissioner received a voice mail
12 response indicating that Respondent was no longer in business. Respondent never filed its Audit
13 Report and Activity Report, and did not pay the administrative penalties. Respondent further did not
14 respond to the surrender instructions.

15 V.

16 Financial Code section 50327 provides in pertinent part:

- 17 (a) The commissioner may, after notice and a reasonable opportunity to be
18 heard, suspend or revoke any license if the commissioner finds that: (1) the
19 licensee has violated any provision of this division or any rule or order of
20 the commissioner thereunder; or (2) any fact or condition exists that, if it
21 had existed at the time of the original application for license, reasonably
would have warranted the commissioner in refusing to issue the license
originally.

22 Financial Code section 50311 states:

23 Nothing in this law shall preclude a person whose license has been
24 suspended or revoked, summarily or otherwise, from making a
25 residential mortgage loan pursuant to a commitment issued by that
26 person prior to the suspension or revocation. A prospective borrower
27 who received a commitment issued by a person whose license has
28 been suspended or revoked may, prior to the closing of the loan,
terminate the commitment or receive a refund of all money paid to
that person.

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VI.

The Commissioner finds that, by reason of the foregoing, BrooksAmerica Mortgage Corporation has violated California Financial Code sections 50200, 50307, 50401 and California Code of Regulations, title 10, section 1950.314.8, and based thereon grounds exist to revoke the residential mortgage lender and mortgage loan servicer license of BrooksAmerica Mortgage Corporation.

WHEREFORE, IT IS PRAYED that the residential mortgage lender and mortgage loan servicer license of BrooksAmerica Mortgage Corporation be revoked and, pursuant to Financial Code section 50311, BrooksAmerica Mortgage Corporation be given a transition period of sixty (60) days within which to complete any loans for which it had prior commitments.

DATED: September 3, 2009
San Diego, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
AFSANEH EGHBALDARI
Corporations Counsel