

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
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Acting Deputy Commissioner  
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8 BEFORE THE DEPARTMENT OF CORPORATIONS  
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Accusation of THE  
CALIFORNIA CORPORATIONS  
11 COMMISSIONER,  
12 Complainant,  
13  
14 vs.  
15 BUSH & HEWITT HOLDING, INC. dba  
DIRECT FUNDING,  
16 Respondent.

File No.: 413-0863

**ACCUSATION**

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18  
19 The Complainant is informed and believes and based upon such information and belief, alleges and  
20 charges as follows:

21 I

22 Respondent Bush & Hewitt Holding, Inc. dba Direct Funding (“Bush & Hewitt”) is a  
23 residential mortgage lender licensed by the California Corporations Commissioner  
24 (“Commissioner”) pursuant to the California Residential Mortgage Lending Act (California  
25 Financial Code, sections 50000 et seq.) (“CRMLA”). Bush & Hewitt has its principal place of  
26 business located at 41769 Enterprise Circle North, #108, Temecula, CA 92590.

27 II

28 Pursuant to California Financial Code Sections 50307 and 50401, all licensees under the  
CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate Amount

1  
2 of Loans Serviced (“Activity Report”) on or before March 1<sup>st</sup> of each year for the preceding 12-  
3 month period ended December 31.

4 On or about February 1, 2008, An Activity Report form was sent to all CRMLA licenses  
5 with a notice that the Activity Report was due on or before March 1, 2008. Also, pursuant to Title  
6 10, section 1950.314.8 of the California Code of Regulations Respondent was to submit a Non-  
7 traditional Report and Survey as an addendum to the Activity Report. Bush & Hewitt has yet to  
8 submit the Activity Report or the Non-traditional Report and Survey, to the Commissioner despite  
9 the fact that the Commissioner has sent it numerous reminders.

10 On or about May 15, 2008 a letter was sent to Bush & Hewitt demanding that the Activity  
11 Report be filed no later than May 25, 2008 and assessing Bush & Hewitt a penalty of \$1,000.00  
12 pursuant to California Financial Code section 50326. Bush & Hewitt was notified in the letter that  
13 failure to file the Activity Report and/or pay the penalty by May 25, 2008 would result in an action  
14 to either suspend or revoke its license.

15 Bush & Hewitt has yet to submit the Activity Report, the Non-traditional Report, or Survey  
16 or pay the penalty as required by California Financial Code sections 50307, 50326, and 50401, and  
17 Title 10, section 1950.314.8 of the California Code of Regulations.

### 18 III

19 Pursuant to California Financial Code sections 50200, subdivision (a), Bush & Hewitt was  
20 required to submit its audited financial statement for its fiscal year ended December 31, 2007  
21 (“Audit Report”) to the Commissioner on or before April 15, 2008, including a reconciliation of its  
22 trust accounts. In addition, pursuant to the California Code of Regulations, Title 10, section  
23 1950.200, Bush & Hewitt was required to submit an Independent Auditor’s Report on Internal  
24 Controls (“Report on Internal Controls”) to the Commissioner on or before April 15, 2008. Bush &  
25 Hewitt has yet to file its Audit Report, trust account reconciliation, or Report on Internal Controls  
26 with the Commissioner despite having been sent numerous reminder letters.

27 On or about December 17, 2007 Complainant notified Bush & Hewitt in writing that its  
28 Audit Report, trust account reconciliation and Report on Internal Controls would be due on or before

1 April 15, 2008, noting that failure to file the report by that date “may result....in revocation of the  
2 license.” Bush & Hewitt failed to submit the Audit Report, trust account reconciliation, and Report  
3 on Internal Controls or respond to the letter.

4 On or about June 3, 2008 a second letter was mailed to Bush & Hewitt reminding the  
5 licensee that the Audit Report had been due on April 15, 2008 and adding that failure to file the  
6 report would result in fines and possible administrative action.

7 On or about August 1, 2008 a final letter was sent to Bush & Hewitt demanding that the  
8 Audit Report, trust account reconciliation, and Report on Internal Controls be filed no later than  
9 August 11, 2008 and imposing a \$1000 fine pursuant to California Financial Code section 50326 and  
10 warning, for a second time, that failure to comply may result in a referral for administrative action.

11 Bush & Hewitt has yet to file its Audit Report, trust account reconciliation, Report on  
12 Internal Controls as required by Financial Code sections 50200, subdivision (a), 50326, and Title 10,  
13 section 1950.200 of the California Code of Regulations.

14 IV

15 On or about May 6, 2008, Hartford Fire Insurance Co. (“Hartford”) notified the  
16 Commissioner that the bond that Hartford had put in place in favor of the Principal, Bush & Hewitt  
17 in the amount of \$50,000 would be terminated effective June 10, 2008. In response to said bond  
18 termination notice, the Commissioner, pursuant to California Financial Code section 50319, issued  
19 an Order to Discontinue Residential Mortgage Lending for failure to comply with the bonding  
20 requirements of the CRMLA. Bush & Hewitt was validly served with the above captioned Order and  
21 never requested a hearing in the matter as provided for in Financial Code section 50319. To date the  
22 Order remains in effect and the bond has not been reinstated.

23 V

24 California Financial Code section 50327 provides in pertinent part:

25 (a) The commissioner may, after notice and a reasonable opportunity to be  
26 heard, suspend or revoke any license if the commissioner finds that: (1) the licensee  
27 has violated any provision of this division or any rule or order of the commissioner  
28 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.

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VI.

The Commissioner finds that, by reason of the foregoing, Bush & Hewitt Holding, Inc. dba Direct Funding, has violated Financial Code sections 50200(a), 50307, 50319, 50326, 50401 and California Code of Regulations, Title 10, sections 1950.200 and 1950.314.8 and based thereon, grounds exist to revoke the residential mortgage lender license of Bush & Hewitt Holding, Inc. dba Direct Funding.

WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Bush & Hewitt Holding, Inc. dba Direct Funding be revoked and pursuant to California Financial Code section 50311, Bush & Hewitt Holding, Inc. dba Direct Funding be given a transition period of (60) days within which to complete any loans for which it had commitments.

Dated: August 19, 2008  
San Francisco, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

By: \_\_\_\_\_  
John R. Drews  
Corporations Counsel  
California Department of Corporations