

1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER (BAR NO. 86717)
Lead Corporations Counsel
4 UCHE L. ENENWALI (BAR NO. 235832)
Corporations Counsel
5 320 West 4th Street, Suite 750
Los Angeles, California 90013-2344
6 Telephone: (213) 576-7586 Fax: (213) 576-7181

7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Accusation of THE) Case No.: 413-0365
CALIFORNIA CORPORATIONS)
11 COMMISSIONER,) FIRST AMENDED ACCUSATION
12)
Complainant,)
13)
vs.)
14)
15 DEL WEBB MORTGAGE CORPORATION,)
16 Respondent.)
17 _____)

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

20 I

21 Respondent Del Webb Mortgage Corporation ("Del Webb") is a residential mortgage lender
22 and residential mortgage loan servicer licensed by the California Corporations Commissioner
23 ("Commissioner") pursuant to the California Residential Mortgage Lending Act (California Financial
24 Code § 50000 et seq.) ("CRMLA"). Del Webb has its principal place of business located at 7475 S.
25 Joliet Street, Englewood, CO 80112.

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

II

Pursuant to California Financial Code (“CFC”) section 50200, Del Webb was required to submit its audited financial statement for its fiscal year ended December 31, 2003 (“2003 audit report”) to the Commissioner by April 15, 2004. Del Webb has yet to file its 2003 audit report with the Commissioner despite numerous reminders. On November 1, 2003 Del Webb Mortgage Corporation merged into Del Webb Mortgage LLC (“LLC”). Del Webb initially claimed that the merger was actually a conversion and that the licensee thereby became an LLC and the license should remain intact. Documentation submitted to the Department of Corporations however did not support that assertion, as Del Webb filed a notice of merger with the Department of Corporations.

On or about December 22, 2003, the Commissioner notified Del Webb in writing that its 2004 audit report was due April 15, 2004. Del Webb failed to submit the 2003 audit report by April 15, 2004. On April 8, 2004 Del Webb filed the audited financial statements for LLC with the Department of Corporations. On June 25, 2004 Del Webb was informed that the LLC’s financial statements were rejected pursuant to Section 50200 (b) of the CFC and that the audited financial statements of Del Webb had still not been filed.

On January 4, 2005, Del Webb was assessed a penalty of \$1000.00 pursuant to CFC section 50326 for failure to file the 2003 audit report. On January 18, 2005 the Department of Corporations received a check for the amount of the penalty but the financial statements have not been received. Del Webb has yet to file the 2003 audit report as required by CFC section 50200.

Pursuant to CFC section 50200, Del Webb was required to submit its audited financial statement for its fiscal year ended December 31, 2004 (“2004 audit report”) to the Commissioner by April 15, 2005. On December 13, 2004 Del Webb was sent a reminder letter concerning the filing requirement and that the report was due on April 15, 2005. Del Webb has yet to file its 2004 audit report with the Commissioner.

On July 7, 2005, Del Webb was assessed a penalty of \$1000.00 pursuant to CFC section 50326 for failing to file the 2004 audit report. On November 17, 2005 a reminder letter was sent to Del Webb requiring payment of the penalty and filing of the 2004 audit report within ten days. To date the penalty has not been paid and the report has not been filed.

1 Pursuant to CFC section 50200, Del Webb was required to submit its audited financial
2 statement for its fiscal year ended December 31, 2005 (“2005 audit report”) to the Commissioner by
3 April 15, 2006. On December 6, 2005 Del Webb was sent a reminder letter concerning the filing
4 requirement and that the report was due on April 15, 2006. Del Webb has yet to file its 2005 audit
5 report with the Commissioner despite numerous reminders.

6 On August 10, 2006 Del Webb was assessed a penalty pursuant to 50326 of the CFC for
7 failing to file the 2005 audit report. To date the penalty has not been paid and the report has not been
8 filed.

9 Pursuant to CFC section 50200, Del Webb was required to submit its audited financial
10 statement for its fiscal year ended December 31, 2006 (“2006 audit report”) to the Commissioner by
11 April 15, 2007. On December 11, 2006 Del Webb was sent a reminder letter concerning the filing
12 requirement and that the report was due on April 15, 2007. Del Webb has yet to file its 2006 audit
13 report with the Commissioner despite numerous reminders. On June 12, 2007 a second letter was
14 sent to Del Webb reminding it that the 2006 audit report was due April 15, 2007. Del Webb has yet
15 to file the 2003, 2004, 2005 or 2006 audit report as required by CFC sections 50200 (a) and (d).

16 III

17 California Financial Code section 50326 provides in pertinent part as follows:

18 If any licensee fails to do any of the following, the licensee shall forfeit to
19 the people of the state a sum of up to one hundred dollars (\$100) for every
20 day up to the tenth day: (a) to make any report required by law or by the
21 commissioner within 10 days from the day designated for the making of the
22 report, or within any extension of time granted by the commissioner
23 Thereafter, any failure shall constitute grounds for the suspension or revocation
24 of the license held by the residential mortgage lender or residential
25 mortgage loan servicer.

26 California Financial Code section 50327 provides in pertinent part:

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV

The Commissioner finds that, by reason of the foregoing, Del Webb has violated CFC sections 50200 and 50326 and based thereon, grounds exist to revoke the residential mortgage lender and residential mortgage loan servicer license of Del Webb.

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

Dated: February 5, 2008
Los Angeles, California

PRESTON DUFAUCHARD
California Corporations Commissioner

By: _____
Uche L. Enenwali
Corporations Counsel
Attorneys for Complainant