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California Corporations Commissioner
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9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

11 In the Matter of the Accusation of THE) File No.: 413-0705
12 CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ACCUSATION
)
14 Complainant,)
)
15 v.)
)
16 FMF CAPITAL LLC dba FMF LENDING and)
17 FMF DIRECT,)
)
18 Respondent.)

19 Complainant is informed and believes, and based upon such information and belief alleges
20 and charges as follows:
21

22 I

23 FMF Capital LLC dba FMF Lending and FMF Direct (“Respondent”) is a residential
24 mortgage lender licensed by the Commissioner of Corporations of the State of California
25 (“Commissioner” or “Complainant”) pursuant to the California Residential Mortgage Lending Act
26 (“CRMLA”), California Financial Code section 50000 *et seq.* Respondent’s main office is located
27 at 25800 Northwestern Highway, Suite 500, Southfield, Michigan 48075.
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II

Pursuant to California Financial Code sections 50307 and 50401¹, all licensees under the CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced (“Report”) on or before March 1 of each year for the preceding 12-month period ended December 31. To date, Respondent has failed to submit the Report despite repeated, written demand.

On or about January 19, 2007, a Report form was sent to all CRMLA licensees with a notice that the Report was due on or before March 1, 2007.

On or about May 7, 2007, the Commissioner sent a letter to Respondent notifying Respondent of its failure to file the Report, assessing a \$1,000 penalty pursuant to section 50326 and demanding that the Report be filed no later than May 17, 2007. The letter notified Respondent that failure to file the Report and/or pay the penalty by such date would result in an action to suspend or revoke its license.

On or about June 27, 2007, another letter was sent to Respondent demanding that it submit its Report and pay the assessed penalty on or before July 7, 2007, and notifying Respondent that the failure to file the Report and/or pay the penalty by such date would result in an action to suspend or revoke its license pursuant to section 50327.

To date, Respondent has failed to pay the penalty or file the Report as required by sections 50307, 50326 and 50401.

III

Section 50205 requires all CRMLA licensees to maintain a surety bond in the minimum amount of \$50,000.00. Respondent’s surety bond expired effective May 23, 2007, and no replacement bond has been obtained.

¹ All references are to the California Financial Code unless otherwise noted.

1 On or about May 23, 2007, the Commissioner issued an Order to Discontinue Residential
2 Mortgage Lending and/or Servicing Activities Pursuant to Section 50319, California Financial
3 Code, based on Respondent’s failure to maintain the required surety bond. This Order was served
4 on Respondent on or about May 31, 2007. To date, Respondent has failed to obtain a surety bond
5 in violation of section 50205 and the Order remains in effect.
6

7 IV

8 Section 50123 requires that prior to surrendering a license, a licensee must file a plan for
9 approval by the Commissioner. The plan must contain the licensee’s detailed proposal for orderly
10 closing out of the residential mortgage lending business. In addition, the Commissioner must make
11 a determination that there has been no violation of the CRMLA.
12

13 On or about March 7, 2007, Respondent notified the Commissioner by letter that it intended
14 to surrender its residential mortgage lender license. On or about March 19, 2007, the
15 Commissioner sent Respondent a written response outlining the requirements for surrender under
16 section 50123.
17

18 On or about May 11, 2007, Respondent sent a second letter to the Commissioner regarding
19 surrender of its license. This second letter failed to meet the requirements for surrender under
20 section 50123. On or about June 14, 2007, the Commissioner notified Respondent by letter that the
21 requirements for surrender had still not been met, and thus its surrender was not accepted.
22

23 V

24 California Financial Code section 50327 provides in pertinent part:

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

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application for license, reasonably would have warranted the commissioner in refusing to issue the license originally.

VI

The Commissioner finds that, by reason of the foregoing, Respondent FMF Capital LLC dba FMF Lending and FMF Direct has violated California Financial Code sections 50205, 50307, 50326 and 50401, and based thereon, grounds exist to revoke Respondent’s residential mortgage lender license.

WHEREFORE, IT IS PRAYED that the residential mortgage lender license of FMF Capital LLC dba FMF Lending and FMF Direct be revoked, and pursuant to California Financial Code section 50311, FMF Capital LLC dba FMF Lending and FMF Direct be given a transition period of sixty (60) days within which to complete any loans for which it had commitments.

Dated: September 14, 2007
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Jennifer A. Granat
Corporations Counsel