

1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 AFSANEH EGHBALDARI (BAR NO. 250107)
Corporations Counsel
4 1350 Front Street, Room 2034
San Diego, California 92101
5 Telephone: (619) 645-3166

6 Attorneys for Complainant

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

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In the Matter of the Accusation of THE) File No.: 415-0045
11 CALIFORNIA CORPORATIONS)
COMMISSIONER,)

12

Complainant,)

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**ORDER REVOKING RESIDENTIAL
MORTGAGE LENDER AND MORTGAGE
LOAN SERVICER LICENSE**

14

v.)

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FIDELITY CAPITAL FUNDING, INC.,)

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Respondent.)

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The California Corporations Commissioner ("Commissioner") finds:

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21 1. Respondent Fidelity Capital Funding, Inc. ("Fidelity Capital Funding") is a residential
22 mortgage lender and mortgage loan servicer licensed by the California Department of Corporations
23 ("Department") pursuant to the California Residential Mortgage Lending Act ("CRMLA")
24 (California Financial Code sections 50000 *et seq.*) (All future references to sections are to the
25 California Financial Code unless indicated otherwise.). Fidelity Capital Funding has its principal
26 place of business located at 2694 Bishop Drive, Suite 203, San Ramon, California, 94583.

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28 2. Pursuant to California Financial Code section 50201, Fidelity Capital Funding is
required to maintain a minimum tangible net worth of two hundred fifty thousand dollars (\$250,000)

1 at all times. Fidelity Capital Funding's audited financial statements reflect a tangible net worth
2 deficiency of at least eighty three thousand eight hundred fifty seven dollars (\$83,857.00) as of
3 August 31, 2009. To date, Fidelity Capital Funding has failed to remedy its net worth deficiency.

4 3. On December 28, 2009, Fidelity Capital Funding notified the Commissioner of its
5 intention to surrender its CRMLA license. To date, Fidelity Capital Funding has failed to complete
6 the requirements to surrender its CRMLA license.

7 4. Pursuant to California Financial Code sections 50307, 50401, and California Code of
8 Regulations, title 10, section 1950.314.8, Fidelity Capital Funding is required to file an annual Report
9 of Principal Amount of Loans Originated and Aggregate Amount of Loans Serviced for the 12 Month
10 Period Ended December 31, 2009 ("Activity Report"), an annual Report on Non-traditional
11 Adjustable Rate and Mortgage Loan Products ("Non-traditional Report") and an annual Non-
12 traditional, Adjustable Rate and Mortgage Loan Survey ("Survey") on or before March 1st of each
13 year for the preceding twelve month period ended December 31st.

14 5. On January 29, 2010, an Activity Report form, Non-traditional Report form, and
15 Survey were sent to Fidelity Capital Funding with a notice that they were due on or before March 1,
16 2010. Fidelity Capital Funding failed to submit its Activity Report, Non-traditional Report and
17 Survey by the due date.

18 6. On August 12, 2010, a letter was sent to Fidelity Capital Funding demanding that its
19 Activity Report, Non-traditional Report, and Survey be filed "no later than 10 days from the date of
20 this letter," and assessing a penalty of \$1,000, pursuant to California Financial Code section 50326.
21 Fidelity Capital Funding was notified in the letter that its failure to file the reports or pay the penalty
22 would result in an action to either suspend or revoke its license.

23 7. Fidelity Capital Funding failed to submit its Activity Report, Non-traditional Report
24 and Survey or pay the penalty.

25 8. Pursuant to California Financial Code section 50205, Fidelity Capital Funding is
26 required to maintain a surety bond at all times. On May 4, 2010, the Commissioner received a Notice
27 of Cancellation from Washington International Insurance Company notifying the Commissioner that
28 the surety bond of Fidelity Capital Funding would be cancelled effective June 1, 2010.

1 9. On May 10, 2010, the Commissioner sent Fidelity Capital Funding a certified letter
2 reminding it that its surety bond needed to be replaced or reinstated before the cancellation date. On
3 June 3, 2010, the Commissioner issued and served Fidelity Capital Funding an Order to Discontinue
4 Residential Mortgage Lending and/or Servicing Activities. To date, Fidelity Capital Funding has
5 failed to reinstate or replace its surety bond.

6 10. Pursuant to Financial Code section 50002.5, Fidelity Capital Funding was required to
7 register with the Nationwide Mortgage Licensing System and Registry (“NMLS”) on or before July
8 31, 2010. Fidelity Capital Funding failed to file a transition request through NMLS for its CRMLA
9 license.

10 11. On January 10, 2011, the Commissioner filed and served, via certified mail, return
11 receipt requested, his accusation and notice of intention to revoke Fidelity Capital Funding’s
12 residential mortgage lender and mortgage loan servicer license and the accompanying documents
13 (collectively, “Accusation”). The return receipt shows that Fidelity Capital Funding received the
14 Accusation on January 13, 2011.

15 12. The Department has received no request for a hearing from Fidelity Capital Funding
16 and the time to request a hearing has expired.

17 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the residential
18 mortgage lender and mortgage loan servicer license of Fidelity Capital Funding, Inc. be revoked and
19 pursuant to California Financial Code sections 50310 and 50311, Fidelity Capital Funding, Inc. be
20 given a transition period of sixty (60) days within which to complete any loans for which it had
21 commitments and to transfer servicing to an authorized mortgage loan servicer.

23 Dated: February 7, 2011
24 Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

26 By _____
27 ALAN S. WEINGER
28 Deputy Commissioner