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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of:) NMLS ID: 197155
12 THE COMMISSIONER OF BUSINESS)
13 OVERSIGHT,) ORDER DENYING APPLICATION FOR
14 Complainant,) CALIFORNIA FINANCE BROKER LICENSE
15 vs.)
16 FIRST AMERICAN HOME LOANS, INC.,)
17 Respondent.)
18)
19)
20)

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23 The Complainant, the Commissioner of Business Oversight (“Commissioner”) finds that:

- 24 1. First American Home Loans, Inc. (“First American”) is a California corporation
25 formed on or around October 11, 2000, with a principal place of business located at 1748 W.
26 Katella Ave., #204, Orange, CA 92867.
27 2. At all relevant times, Mark H. Bryan (“Bryan”) is the president and 100% owner of
28 First American with a business address located at 1748 W. Katella Ave., #204, Orange, CA 92867.

1 3. On or around April 6, 2016, First American submitted an application to the
2 Commissioner for a finance broker license through the Nationwide Mortgage Licensing System and
3 Registry (“NMLS”) under section 22101 of the California Finance Lenders Law, commencing at
4 Fin. Code § 22000 et seq. (“CFLL”) (file number 60DBO-55074, hereinafter “Application”).

5 4. As the authorized individual of First American and part of the application process,
6 Bryan submitted the NMLS Individual Form (“Form MU4”) through NMLS.

7 5. Question (K)(3) of the Form MU4 asks, “Has any State or federal regulatory agency
8 or foreign financial regulatory authority or self-regulatory organization (SRO) ever: . . . (3) found
9 you to have been involved in a violation of a financial services-related business regulation(s) or
10 statute(s)?” Bryan answered, “No.”

11 6. Question (K)(5) of the Form MU4 asks, “Has any State or federal regulatory agency
12 or foreign financial regulatory authority or self-regulatory organization (SRO) ever: . . . (5) revoked
13 your registration or license?” Bryan answered, “Yes.”

14 7. Question (K)(5) of the Form MU4 asks, “Has any State or federal regulatory agency
15 or foreign financial regulatory authority or self-regulatory organization (SRO) ever: . . . (9) entered
16 an order concerning you in connection with any license or registration?” Bryan answered, “Yes.”

17 8. In the section entitled, “Disclosure Explanations,” on the Form MU4, Bryan
18 explained his “Yes” answers to Questions (K)(5) and (K)(9) by submitting documentation regarding
19 the administrative action by the California Bureau of Real Estate (“BRE”) on or around March 3,
20 2011, *In the Matter of the Accusation of First American Home Realty Inc.; and Mark H. Bryan,*
21 *individually and as designated officer of First American Home Realty Inc.* (Case No. H-37103 LA)
22 (hereinafter, “March 2011 Accusation”).

23 9. Currently, Bryan holds a restricted real estate salesperson license with the BRE (Lic.
24 No. 01177908). First American holds a real estate broker license with the BRE (Lic. No.
25 01299073) and employs Bryan as its president and 100% owner.

26 10. The application process disclosed that Bryan had violated provisions of a similar
27 regulatory scheme of the State of California, as described below.

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1 11. In or around November 2009, the BRE performed a regulatory audit of First
2 American Home Realty Inc. (“FAHRI”). In March 2011, the BRE issued the March 2011
3 Accusation to FAHRI and Bryan, citing violations of the Business and Professions (“B&P”) Code
4 and Title 10, Chapter 6 of the California Code of Regulations (“10 CCR”).

5 12. On or around November 28, 2011, the BRE, Bryan, and FAHRI entered into a
6 Stipulation and Agreement wherein the BRE made a final determination that Bryan and FAHRI
7 violated the following regulations and statutes as described in the March 2011 Accusation: (1) B&P
8 Code section 10085 and 10 CCR section 2970 (collecting advance fees before getting the BRE’s
9 authorization); (2) B&P Code sections 10145 and 10146 and 10 CCR section 2832 (collecting and
10 depositing advance fees into a general account rather than a designated trust account); (3) B&P
11 Code section 10148 (failing to retain books, accounts, and records for examination by the BRE); (4)
12 B&P Code section 10159.5 (collecting advanced fees using an unlicensed fictitious business name);
13 and (5) 10 CCR sections 2832.1 and 2972. Based on these violations, the BRE revoked Bryan’s
14 real estate broker license and issued to him a restricted real estate salesperson license. To date,
15 Bryan’s real estate salesperson license remains restricted.

16 13. In or around May 2012, the BRE conducted a regulatory audit of First American.
17 On or around January 4, 2013, the BRE initiated the administrative action, *In the Matter of the*
18 *Accusation of First American Home Loans Inc.; and Mark H. Bryan, individually and as designated*
19 *officer of First American Home Loans Inc.* (Case No. H-38638 LA) (hereinafter, “January 2013
20 Accusation”).

21 14. In the January 2013 Accusation, the BRE cited multiple violations by Bryan and
22 First American, including, but not limited to, B&P Code sections 10145 and 10146, and 10 CCR
23 sections 2831 and 2831.1, which had been cited against Bryan and FAHRI in the March 2011
24 Accusation. The January 2013 Accusation also cited Bryan and First American for violating B&P
25 Code section 10236.4(b) (failure to display the license number and/or NMLS ID on Mortgage Loan
26 Disclosure Statements) and violating B&P Code section 10130 (unlicensed activity).

27 15. On or around September 12, 2013, the BRE, Bryan, and First American entered into
28 a Stipulation and Agreement wherein the BRE determined based on the factual allegations in the

1 January 2013 Accusation that Bryan and First American violated B&P Code section 10236.4(b).
2 The BRE issued an order to Bryan and First American, effective December 23, 2013, that included,
3 among other things: (1) a 30 day-suspension that was stayed for two years upon certain terms and
4 conditions, and (2) an order to pay restitution to consumers totaling \$2,050.00 for advance fees
5 collected by First American during its unlicensed period (“December 2013 Order”).

6 16. Bryan did not disclose on his Form MU4, which he submitted in connection with
7 First American’s Application for a CFLL broker license, the existence of either the January 2013
8 Accusation or the December 2013 Order.

9 17. Financial Code section 22109, subdivision (a)(3) provides:
10 (a) Upon reasonable notice and opportunity to be heard, the commissioner
11 may deny the application for a finance lender or broker license for any of
12 the following reasons: . . .
13 (3) The applicant or an officer, director, general partner, person
14 responsible for the applicant’s lending activities in this state, or person
15 owning or controlling, directly or indirectly, 10 percent or more of the
16 outstanding interests or equity securities of the applicant has violated any
17 provision of this division or the rules thereunder or any similar regulatory
18 scheme of the State of California or a foreign jurisdiction

17 18. On September 20, 2016, under Financial Code section 22109, subdivision (a)(3), the
18 Commissioner issued to First American her Notice of Intention to Issue Order Denying Application
19 for California Finance Broker License; Statement of Issues; Statement to Respondent; a blank
20 Notice of Defense; and a copy of Government Code sections 11507.5, 11507.6, and 11507.7
21 (“Notice of Intention to Deny Application”).

22 19. On September 23, 2016, First American was served with the Notice of Intention to
23 Deny Application at its business address on file.

24 20. First American did not request a hearing regarding the Notice of Intention to Deny
25 Application, and the time to request a hearing has expired.

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NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the Application filed by First American Home Loans, Inc. for a California finance broker license, file number 60DBO-55074, is denied. This order is effective as of the date hereof.

Dated: October 12, 2016
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Mary Ann Smith
Deputy Commissioner
Enforcement Division