

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 SOPHIA C. KIM (CA BAR NO. 265649)
Senior Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013
Telephone: (213) 576-7594
6 Facsimile: (213) 576-7181

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) STATEMENT OF ISSUES
13 OVERSIGHT,)
14 Complainant,)
15 vs.)
16 FIRST AMERICAN HOME LOANS, INC.,)
17 Respondent.)
18)
19)
20)

21
22 The Complainant, the Commissioner of Business Oversight (“Commissioner”) is informed
23 and believes, and based upon such information and belief, alleges and charges Respondent First
24 American Home Loans, Inc. (“First American”) as follows:

25 I

26 **Introduction**

27 1. The Commissioner seeks to deny the application of First American for a finance
28 broker license pursuant to Section 22109, subdivision (a)(3) of the California Finance Lenders Law,

1 commencing at Fin. Code § 22000 et seq. (“CFL”) on the grounds that First American’s president
2 and 100% owner has violated provisions of a similar regulatory scheme of the state of California.

3 **II**

4 **The Application**

5 2. First American is a California corporation formed on or around October 11, 2000,
6 with a principal place of business located at 1748 W. Katella Ave., #204, Orange, CA 92867.

7 3. At all relevant times, Mark H. Bryan (“Bryan”) is the president and 100% owner of
8 First American with a business address located at 1748 W. Katella Ave., #204, Orange, CA 92867.

9 4. On or around April 6, 2016, First American submitted an application to the
10 Commissioner for a finance broker license through the Nationwide Mortgage Licensing System and
11 Registry (“NMLS”) pursuant to section 22101 of the CFL (file number 60DBO-55074, hereinafter
12 “Application”). As the authorized individual of First American and part of the application process,
13 Bryan submitted the NMLS Individual Form (“Form MU4”) through NMLS.

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

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

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

24 8. In the section entitled, “Disclosure Explanations,” on the Form MU4, Bryan
25 explained his “Yes” answers to Questions (K)(5) and (K)(9) by submitting documentation regarding
26 the administrative action by the California Bureau of Real Estate (“BRE”) on or around March 3,
27 2011, *In the Matter of the Accusation of First American Home Realty Inc.; and Mark H. Bryan,*
28

1 *individually and as designated officer of First American Home Realty Inc. (Case No. H-37103 LA)*
2 *(hereinafter, “March 2011 Accusation”).*

3 9. Currently, Bryan holds a restricted real estate salesperson license with the BRE (Lic.
4 No. 01177908). First American holds a real estate broker license with the BRE (Lic. No.
5 01299073) and employs Bryan as its President and 100% owner.

6 **III**

7 **Regulatory Actions**

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

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

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

28 *///*

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

7 14. On or around September 12, 2013, the BRE, Bryan, and First American entered into
8 a Stipulation and Agreement wherein the BRE determined based on the factual allegations in the
9 January 2013 Accusation that Bryan and First American violated B&P Code section 10236.4(b).
10 The BRE issued an order to Bryan and First American, effective December 23, 2013, that included,
11 among other things: (1) a 30 day-suspension that was stayed for two years upon certain terms and
12 conditions, and (2) an order to pay restitution to consumers totaling \$2,050.00 for advance fees
13 collected by First American during its unlicensed period (“December 2013 Order”).

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

17 **IV**

18 **Applicable Law**

19 16. Financial Code section 22109, subdivision (a)(3) provides:
20 (a) Upon reasonable notice and opportunity to be heard, the commissioner
21 may deny the application for a finance lender or broker license for any of
22 the following reasons: . . .

23 (3) The applicant or an officer, director, general partner, person
24 responsible for the applicant’s lending activities in this state, or person
25 owning or controlling, directly or indirectly, 10 percent or more of the
26 outstanding interests or equity securities of the applicant has violated any
27 provision of this division or the rules thereunder or any similar regulatory
28 scheme of the State of California or a foreign jurisdiction

27 17. The multiple violations of the Business and Professions Code and Title 10, Chapter 6
28 of the California Code of Regulations by Mark H. Bryan, an officer and person owning more than

1 10 percent of the outstanding interests of First American, that resulted in the administrative
2 disciplinary actions by the BRE against Bryan and First American constitute violations of a similar
3 regulatory scheme of the State of California under section 22109(a)(3) of the CFLL.

4 **V**

5 **Conclusion**

6 The Commissioner finds, by reason of the foregoing, that First American Home Loans, Inc.,
7 or an officer or person owning more than 10 percent of the outstanding interests of First American
8 Home Loans, Inc. has violated a similar regulatory scheme of the State of California or a foreign
9 jurisdiction, which is grounds under section 22109, subdivision (a)(3) to deny the application of
10 First American Home Loans, Inc. for a finance broker license.

11 WHEREFORE, the Commissioner prays that the application of First American Home
12 Loans, Inc. for a finance lender and broker license, file number 60DBO-55074, be denied.

13

14

15 Dated: September 20, 2016
16 Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

17

18

By _____
Sophia C. Kim
Senior Counsel
Enforcement Division

19

20

21

22

23

24

25

26

27

28