

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
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8 BEFORE THE DEPARTMENT OF CORPORATIONS  
9 OF THE STATE OF CALIFORNIA

11	In the Matter of	)	CASE NO.
12	THE CALIFORNIA CORPORATIONS	)	FILE NO. 506-2943
13	COMMISSIONER,	)	
14	Complainant,	)	
15	v.	)	ACCUSATION
16	HURST FINANCIAL CORPORATION,	)	
17	Respondent.	)	
18		)	
19		)	

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21 Preston DuFauchard, the California Corporations Commissioner ("Commissioner") of the  
22 Department of Corporations ("Department") alleges and charges as follows:

- 23 1. Hurst Financial Corporation (hereinafter referred to as Respondent) is a California  
24 corporation located at 7035 Morro Road Atascadero, California 93422, and owned and operated by  
25 James H. Miller.
- 26 2. On December 14, 2007, the Commissioner issued a permit under Corporations Code section  
27 25113 to Hurst Financial Corporation to offer and sell securities in the form of fractional interests in  
28 notes secured by deeds of trust in California. The permit expires on December 14, 2008.

1 3. The permit was issued under a limited offering qualification authorizing the offer and sale of  
2 Respondent's securities only to investors residing in California with (a) a net worth (exclusive of  
3 home, furnishings and automobiles) of at least \$250,000 and an annual gross income of at least  
4 \$65,000; or (b) a net worth (exclusive of home, furnishings and automobiles) of at least \$500,000  
5 and the amount of each investor's investment must not exceed 10% of such investor's net worth  
6 (exclusive of home, furnishings and automobiles.)  
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8 4. In July 2008, the Department determined that Respondent violated the terms of the Permit.

9 5. From 2004 through the present, Respondent operated business in contradiction to the  
10 Offering Circular in the following ways:  
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12 a. Respondent disbursed to borrowers "all net proceeds" on loans instead of using the  
13 "draw system" in contradiction of the Offering Circular. Additionally, when deciding whether to  
14 invest in the securities offered by Respondent, investors relied on oral representations made by  
15 Respondent that the loan money would be disbursed to borrowers using a "draw system."

16 b. Respondent extended loans after the maturity date without the approval of investors,  
17 in contradiction of the Offering Circular materials.

18 c. Respondent failed to return investor principle when requested, after the loan maturity  
19 date, in contradiction of the Offering Circular.

20 d. Respondent permitted at least one investor that was not a California resident to  
21 purchase the securities offered by Respondent, even though Respondent knew that the investor was  
22 not living in California.

23 e. Respondent told investors that construction was starting on certain projects and  
24 investors relied on this representation when deciding whether to invest in the securities offered by  
25 Respondent. In fact no construction was started on these projects.

26 6. Corporations Code section 25140(a)(1) provides in pertinent part as follows:

27 The commissioner . . . may suspend or revoke any permit issued under Section 25113 or  
28 25122 if he or she finds (A) that the order is in the public interest and (B) that the proposed

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plan of business of the issuer or the proposed issuance or sale of securities is not fair, just, or equitable, or that the issuer does not intend to transact its business fairly and honestly, or that the securities proposed to be issued or the method to be used in issuing them will tend to work a fraud upon the purchaser thereof.

7. Corporations Code section 25143(a) provides in pertinent part as follows:

The commissioner may by order summarily postpone or suspend the effectiveness of any qualification pending final determination of any proceeding under this chapter. Upon the entry of the order, the commissioner shall promptly notify each person specified in subdivision (b) of this section that it has been entered and of the reasons therefor and that upon receipt of a written request the matter will be set down for hearing to commence within 15 business days after such receipt unless the applicant consents to a later date. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice and hearing in accordance with subdivision (b) of this section, may modify or vacate the order or extend it until final determination.

8. The Commissioner finds that summarily suspending the permit issued to Respondent is in the public interest and that Respondent's proposed plan of business and proposed issuance of securities is no longer fair, just and equitable because the Respondent's Offering Circular contains material misrepresentations about the investment and the Respondent is not conducting business as disclosed in the Offering Circular, that the securities proposed to be issued or the method to be used in issuing them will tend to work a fraud upon the purchaser thereof.

9. The Commissioner finds that revoking the permit issued to Respondent is in the public interest and that Respondent's proposed plan of business and proposed issuance of securities is no

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longer fair, just and equitable because the Respondent's Offering Circular contains material misrepresentations about the investment and the Respondent is not conducting business as disclosed in the Offering Circular, that the securities proposed to be issued or the method to be used in issuing them will tend to work a fraud upon the purchaser thereof.

WHEREFORE, that the permit issued under Corporations Code section 25113 to Hurst Financial Corporation is summarily suspended as of this date.

WHEREFORE, IT IS PRAYED that the permit issued under Corporations Code section 25113 to Hurst Financial Corporation be revoked.

Dated: July 18, 2008  
Sacramento, California

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
Mary Ann Smith  
Senior Corporations Counsel  
Enforcement Division