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8

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

11 In the Matter of the Accusation of THE ) File No.: 415-0028  
12 CALIFORNIA CORPORATIONS )  
13 COMMISSIONER, ) ACCUSATION  
 )  
14 Complainant, )  
 )  
15 v. )  
 )  
16 HARBOURTON MORTGAGE INVESTMENT )  
17 CORPORATION, )  
 )  
18 Respondent. )

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

23 Harbourton Mortgage Investment Corporation (“Respondent”) is a residential mortgage  
24 lender licensed by the Commissioner of Corporations of the State of California (“Commissioner” or  
25 “Complainant”) pursuant to the California Residential Mortgage Lending Act (“CRMLA”),  
26 California Financial Code section 50000 *et seq.* Respondent’s main office is located at 3750  
27 Westwind Avenue, Suite 200, Santa Rosa, California 95403.  
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## II

Pursuant to California Financial Code sections 50307 and 50401<sup>1</sup>, 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 50326, 50307 and 50401.

## III

Pursuant to section 50200, Respondent was required to submit its audited financial statements for fiscal year ended December 31, 2006 (“Audit Report”) to the Commissioner on or

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<sup>1</sup> All references are to the California Financial Code unless otherwise noted.

1 before April 15, 2007, including a reconciliation of trust accounts, and an Independent Auditor’s  
2 Report on Internal Controls (“Report on Internal Controls”) pursuant to California Code of  
3 Regulations, Title 10, section 1950.200. To date, Respondent has failed to file its Audit Report,  
4 trust account reconciliation, or Report on Internal Controls despite repeated, written demand.  
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6 On or about December 11, 2006, Complainant notified Respondent by letter that its Audit  
7 Report, trust account reconciliation, and Report on Internal Controls were due on or before April  
8 15, 2007. Respondent failed to submit the Audit Report, trust account reconciliation or Report on  
9 Internal Controls by such date.  
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11 On or about June 12, 2007, a second letter was sent to Respondent demanding that  
12 Respondent file its Audit Report, trust account reconciliation, and Report on Internal Controls on or  
13 before June 22, 2007 and notifying Respondent that the failure to do so would result in  
14 administrative action under section 50326, including penalties. Respondent failed to submit the  
15 Audit Report, trust account reconciliation, and Report on Internal Controls by such date.  
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17 On or about August 2, 2007, a third letter was sent to Respondent demanding that its Audit  
18 Report, trust account reconciliation, and Report on Internal Controls be filed on or before August  
19 12, 2007, and assessing a \$1,000 penalty pursuant to section 50326. Respondent was also notified  
20 that the failure to file the Audit Report, trust account reconciliation and Report on Internal Controls  
21 and/or pay the penalty by such date would result in an action to suspend or revoke its license.  
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23 To date, Respondent has failed to file its Audit Report, trust account reconciliation, and  
24 Report on Internal Controls or pay the assessed penalty as required by sections 50200 and 50326  
25 and section 1950.200, Title 10, California Code of Regulations.  
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## IV

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2 Section 50205 requires all CRMLA licensees to maintain a surety bond in the minimum  
3 amount of \$50,000.00. Respondent's surety bond expired effective March 14, 2007, and no  
4 replacement bond has been obtained.  
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6 On or about March 16, 2007, the Commissioner issued an Order to Discontinue Residential  
7 Mortgage Lending and/or Servicing Activities Pursuant to Section 50319, California Financial  
8 Code, based on Respondent's failure to maintain the required surety bond. This Order was served  
9 on Respondent on or about March 26, 2007. To date, Respondent has failed to obtain a surety bond  
10 in violation of section 50205 and the Order remains in effect.  
11

## V

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13 Section 50123 requires that prior to surrendering a license, a licensee must file a plan for  
14 approval by the Commissioner. The plan must contain the licensee's detailed proposal for orderly  
15 closing out of the residential mortgage lending business. In addition, the Commissioner must make  
16 a determination that there has been no violation of the CRMLA.  
17

18 On or about January 8, 2007, Respondent notified the Commissioner by letter that it  
19 intended to surrender its residential mortgage lender license. On or about January 18, 2007, the  
20 Commissioner sent Respondent a written response outlining the requirements for surrender under  
21 section 50123.  
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23 On or about March 2, 2007, Respondent sent a second letter to the Commissioner regarding  
24 surrender of its license. This second letter failed to meet the requirements for surrender under  
25 section 50123. On or about March 16, 2007, the Commissioner notified Respondent by letter that  
26 the requirements for surrender had still not been met, and thus its surrender was not accepted.  
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VI

California Financial Code section 50327 provides in pertinent part:

(a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if the commissioner finds that: (1) the licensee has violated any provision of this division or any 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 application for license, reasonably would have warranted the commissioner in refusing to issue the license originally.

VII

The Commissioner finds that, by reason of the foregoing, Respondent Harbourton Mortgage Investment Corporation has violated California Financial Code sections 50200, 50205, 50307, 50326 and 50401, and California Code of Regulations, Title 10, section 1950.200, and based thereon, grounds exist to revoke Respondent’s residential mortgage lender license.

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

Dated: September 13, 2007  
Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
Jennifer A. Granat  
Corporations Counsel