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California Corporations Commissioner
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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,) ORDER REVOKING RESIDENTIAL
14 Complainant,) MORTGAGE LENDER LICENSE
15 v.)
16 HARBOURTON MORTGAGE INVESTMENT)
17 CORPORATION,)
18 Respondent.)

19 The California Corporations Commissioner finds:

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21 1. Harbourton Mortgage Investment Corporation (“Respondent”) is a residential
22 mortgage lender licensed by the Commissioner of Corporations of the State of California
23 (“Commissioner” or “Complainant”) pursuant to the California Residential Mortgage Lending Act
24 (“CRMLA”), California Financial Code section 50000 *et seq.* Respondent’s main office is located
25 at 3750 Westwind Avenue, Suite 200, Santa Rosa, California 95403.
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1 2. Pursuant to California Financial Code sections 50307 and 50401¹, all licensees under
2 the CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate
3 Amount of Loans Serviced (“Report”) on or before March 1 of each year for the preceding 12-
4 month period ended December 31. To date, Respondent has failed to submit the Report despite
5 repeated, written demand.
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7 3. On or about January 19, 2007, a Report form was sent to all CRMLA licensees with
8 a notice that the Report was due on or before March 1, 2007.

9 4. On or about May 7, 2007, the Commissioner sent a letter to Respondent notifying
10 Respondent of its failure to file the Report, assessing a \$1,000 penalty pursuant to section 50326
11 and demanding that the Report be filed no later than May 17, 2007. The letter notified Respondent
12 that failure to file the Report and/or pay the penalty by such date would result in an action to
13 suspend or revoke its license.
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15 5. On or about June 27, 2007, another letter was sent to Respondent demanding that it
16 submit its Report and pay the assessed penalty on or before July 7, 2007, and notifying Respondent
17 that the failure to file the Report and/or pay the penalty by such date would result in an action to
18 suspend or revoke its license pursuant to section 50327.
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20 6. To date, Respondent has failed to pay the penalty or file the Report as required by
21 sections 50326, 50307 and 50401.
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23 7. Pursuant to section 50200, Respondent was required to submit its audited financial
24 statements for fiscal year ended December 31, 2006 (“Audit Report”) to the Commissioner on or
25 before April 15, 2007, including a reconciliation of trust accounts, and an Independent Auditor’s
26 Report on Internal Controls (“Report on Internal Controls”) pursuant to California Code of
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28 ¹ All references are to the California Financial Code unless otherwise noted.

1 Regulations, Title 10, section 1950.200. To date, Respondent has failed to file its Audit Report,
2 trust account reconciliation, or Report on Internal Controls despite repeated, written demand.

3 8. On or about December 11, 2006, Complainant notified Respondent by letter that its
4 Audit Report, trust account reconciliation, and Report on Internal Controls were due on or before
5 April 15, 2007. Respondent failed to submit the Audit Report, trust account reconciliation or
6 Report on Internal Controls by such date.
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8 9. On or about June 12, 2007, a second letter was sent to Respondent demanding that
9 Respondent file its Audit Report, trust account reconciliation, and Report on Internal Controls on or
10 before June 22, 2007 and notifying Respondent that the failure to do so would result in
11 administrative action under section 50326, including penalties. Respondent failed to submit the
12 Audit Report, trust account reconciliation, and Report on Internal Controls by such date.
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14 10. On or about August 2, 2007, a third letter was sent to Respondent demanding that its
15 Audit Report, trust account reconciliation, and Report on Internal Controls be filed on or before
16 August 12, 2007, and assessing a \$1,000 penalty pursuant to section 50326. Respondent was also
17 notified that the failure to file the Audit Report, trust account reconciliation and Report on Internal
18 Controls and/or pay the penalty by such date would result in an action to suspend or revoke its
19 license.
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21 11. To date, Respondent has failed to file its Audit Report, trust account reconciliation,
22 and Report on Internal Controls or pay the assessed penalty as required by sections 50200 and
23 50326 and section 1950.200, Title 10, California Code of Regulations.
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1 12. Section 50205 requires all CRMLA licensees to maintain a surety bond in the
2 minimum amount of \$50,000.00. Respondent’s surety bond expired effective March 14, 2007, and
3 no replacement bond has been obtained.

4 13. On or about March 16, 2007, the Commissioner issued an Order to Discontinue
5 Residential Mortgage Lending and/or Servicing Activities Pursuant to Section 50319, California
6 Financial Code, based on Respondent’s failure to maintain the required surety bond. This Order
7 was served on Respondent on or about March 26, 2007. To date, Respondent has failed to obtain a
8 surety bond in violation of section 50205 and the Order remains in effect.

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

13 15. On or about January 8, 2007, Respondent notified the Commissioner by letter that it
14 intended to surrender its residential mortgage lender license. On or about January 18, 2007, the
15 Commissioner sent Respondent a written response outlining the requirements for surrender under
16 section 50123.

17 16. On or about March 2, 2007, Respondent sent a second letter to the Commissioner
18 regarding surrender of its license. This second letter failed to meet the requirements for surrender
19 under section 50123. On or about March 16, 2007, the Commissioner notified Respondent by
20 letter that the requirements for surrender had still not been met, and thus its surrender was not
21 accepted.
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17. Failure to file the Report, file audited financial statements, maintain a surety bond and/or pay assessed penalties constitute grounds under California Financial Code section 50327 for the revocation of a license issued under the CRMLA.

18. On September 13, 2007, the Commissioner issued a Notice of Intention to Issue Order Revoking Residential Mortgage Lender License, Accusation and accompanying documents against Respondent based on the foregoing. Respondent was served with those documents on September 14, 2007 via certified mail, return-receipt requested, at its address of record on file with the California Department of Corporations. The Department has received no request for a hearing from Respondent.

NOW THEREFORE, GOOD CAUSE APPEARING, it is hereby ordered that the residential mortgage lender license issued by the Commissioner to Harbourton Mortgage Investment Corporation is hereby revoked. This Order is effective as of the date hereof. Pursuant to California Financial Code section 50311, Harbourton Mortgage Investment Corporation has sixty (60) days within which to complete any loans for which it had commitments.

Dated: October 17, 2007
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Lead Corporations Counsel
Enforcement Division