

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Lead Corporations Counsel
4 JENNIFER A. GRANAT (CA BAR NO. 199868)
Corporations Counsel
5 Department of Corporations
320 West 4th Street, Ste. 750
6 Los Angeles, California 90013-2344
Telephone: (213) 576-7518 Fax: (213) 576-7181

7 Attorneys for Complainant
8

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

11 In the Matter of the Accusation of THE) File No.: 413-0493
12 CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ACCUSATION
14)
Complainant,)
15)
v.)
16)
KASTLEPOINT MORTGAGE, INC.,)
17)
Respondent.)
18)

19 Complainant is informed and believes, and based upon such information and belief alleges
20 and charges as follows:
21

22 I

23 Kastlepoint Mortgage, Inc. (“Respondent”) is a residential mortgage lender licensed by the
24 Commissioner of Corporations of the State of California (“Commissioner” or “Complainant”)
25 pursuant to the California Residential Mortgage Lending Act (“CRMLA”), California Financial
26 Code section 50000 *et seq.* Respondent’s main office is located at 23161 Lake Center Drive, Suite
27 100, Lake Forest, California 92630.
28

II

Pursuant to California Financial Code sections 50307 and 50401¹, 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

A. The 2004 Audit Report

Pursuant to section 50200, Respondent was required to submit its audited financial statements for fiscal year ended December 31, 2004 (“2004 Audit Report”) to the Commissioner on

¹ All references are to the California Financial Code unless otherwise noted.

1 or before April 15, 2005, 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.

4 On or about December 13, 2004, Complainant notified Respondent by letter that its 2004
5 Audit Report, trust account reconciliation, and Report on Internal Controls were due on or before
6 April 15, 2005. Respondent failed to submit the 2004 Audit Report, trust account reconciliation or
7 Report on Internal Controls by such date.

8 On or about July 7, 2005, Complainant sent a second letter to Respondent demanding that
9 Respondent file its 2004 Audit Report, trust account reconciliation, and Report on Internal Controls
10 on or before July 27, 2005 and assessing a \$1,000 penalty pursuant to section 50326. The notice
11 also advised Respondent that the failure to file the report or pay the penalty would result in an
12 action to suspend or revoke its license. Respondent filed its 2004 Audit Report, trust account
13 reconciliation, and Report on Internal Controls on or about July 27, 2005; however, Respondent
14 failed to pay the \$1000 penalty.

15 On or about October 5, 2005, Complainant sent a third letter to Respondent notifying
16 Respondent that the Commissioner had received its 2004 Audit Report, trust account reconciliation,
17 and Report on Internal Controls; however, Respondent had failed to pay the \$1000 penalty. A copy
18 of the July 7, 2005 letter was enclosed. To date, Respondent has failed to pay the penalty in
19 violation of section 50326.

20 B. The 2005 Audit Report

21 Pursuant to section 50200, Respondent was required to submit its audited financial
22 statements for fiscal year ended December 31, 2005 ("2005 Audit Report") to the Commissioner on
23 or before April 15, 2006, including a reconciliation of trust accounts, and an Independent Auditor's
24

1 Report on Internal Controls (“Report on Internal Controls”) pursuant to California Code of
2 Regulations, Title 10, section 1950.200.

3 On or about December 6, 2005, Complainant notified Respondent by letter that its 2005
4 Audit Report, trust account reconciliation, and Report on Internal Controls were due on or before
5 April 15, 2006. Respondent failed to submit the 2005 Audit Report, trust account reconciliation or
6 Report on Internal Controls by such date.
7

8 On or about August 10, 2006, Complainant sent a second letter to Respondent demanding
9 that Respondent file its 2005 Audit Report, trust account reconciliation, and Report on Internal
10 Controls on or before August 20, 2006, and assessing a \$1,000 penalty pursuant to section 50326.
11 The notice also advised Respondent that the failure to file the report or pay the penalty would result
12 in an action to suspend or revoke its license. Respondent filed its 2005 Audit Report, trust account
13 reconciliation, and Report on Internal Controls on or about September 5, 2006; however,
14 Respondent failed to pay the \$1000 penalty, which remains outstanding.
15
16

17 IV

18 On or about July 28, 2005, the Commissioner commenced a regulatory examination of the
19 books and records of Respondent through his examination staff pursuant to section 50302.

20 On or about January 10, 2006, the Commissioner issued a Report of Examination to
21 Respondent setting forth the results of the examination and requiring Respondent to submit a report
22 to Complainant within thirty (30) days describing in detail the corrective action taken by
23 Respondent in response to the exceptions set forth in the report. The Report of Examination further
24 notified Respondent that the failure to file the report within ten (10) days of the due date would
25 result in penalties under section 50326, and thereafter, any failure would constitute grounds for the
26
27
28

1 suspension or revocation of Respondent’s license. Respondent failed to respond to the Report of
2 Examination as required by section 50326.

3
4 V

5 California Financial Code section 50327 provides in pertinent part:

6 (a) The commissioner may, after notice and a reasonable opportunity
7 to be heard, suspend or revoke any license if the commissioner finds
8 that: (1) the licensee has violated any provision of this division or any
9 rule or order of the commissioner thereunder; or (2) any fact or
10 condition exists that, if it had existed at the time of the original
11 application for license, reasonably would have warranted the
12 commissioner in refusing to issue the license originally.

13 VII

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

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

22 Dated: September 13, 2007
23 Los Angeles, CA

24 PRESTON DuFAUCHARD
25 California Corporations Commissioner

26 By _____
27 Jennifer A. Granat
28 Corporations Counsel