

1 PRESTON DUFAUCHARD  
California Corporations Commissioner  
2 MICHAEL L. PINKERTON  
Deputy Commissioner  
3 ALAN S. WEINGER  
Lead Corporations Counsel  
4 MARISA I. URTEAGA-WATKINS (SBN236398)  
Corporations Counsel  
5 1515 K Street, Suite 200  
6 Sacramento, California 95814  
7 Telephone: (916) 445-9626  
8 Fax: (916) 445-6985

9 Attorneys for Complainant  
BEFORE THE DEPARTMENT OF CORPORATIONS  
10 OF THE STATE OF CALIFORNIA

11 THE CALIFORNIA CORPORATIONS ) File No.: 417-0016  
12 COMMISSIONER, )  
13 Complainant, ) **ACCUSATION**  
14 ) California Financial Code §50327  
15 v. )  
16 KH FINANCIAL, L.P. )  
17 Respondent. )  
18 )  
19 )

20 The Complainant, California Corporations Commissioner ("Commissioner"), is informed and  
21 believes, and based upon such information and belief, alleges and charges Respondent as follows:  
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23 **I.**

24 Respondent KH FINANCIAL, L.P. ("KH") is a residential mortgage lender and mortgage  
25 loan servicer licensed by the Commissioner pursuant to the California Residential Mortgage Lending  
26 Act (California Financial Code, § 50000 *et seq.*) ("CRMLA"). KH has its principal place of business  
27 located at 5999 New Wilke Road, Suite 203, Rolling Meadows, IL 60008.  
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**II.**

Pursuant to California Financial Code sections 50307 and 50401 and California Code of Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file the following annual reports with the Commissioner: (1) Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report"); (2) Report on Non-traditional, Adjustable Rate and Mortgage Loan Products ("Non-traditional Report"); and (3) Non-traditional, Adjustable Rate and Mortgage Loan Survey ("Survey"). The Activity Report, Non-traditional Report, and Survey must be filed with the Commissioner on or before March 1st of each year for the preceding twelve (12) month period ending December 31.

On or about February 1, 2008, an Activity Report form, Non-traditional Report form and Survey were sent to all CRMLA licensees, including KH, with a notice stating that these reports were due on or before March 1, 2008. The Commissioner assessed a penalty of \$1000.00 for the failure to submit these reports on or about May 15, 2008. To date, KH has not submitted the Activity Report, the Non-traditional Report or the Survey to the Commissioner and paid the assessed penalty.

**III.**

Pursuant to California Financial Code section 50200, all licensees under the CRMLA are required to file audited financial statements ("Audited Report") with the Commissioner. KH was required to submit its Audited Report for its fiscal year ending September 30, 2007 to the Commissioner.

On or about September 12, 2007 and January 16, 2008, a reminder notice was issued to KH reminding KH that these reports were due to be filed with the Commissioner on or before January 15, 2008. KH did not submit the Audited Report to the Commissioner, despite this reminder notice. On or about July 17, 2008, the Commissioner assessed a penalty of \$1000.00 for failure to submit the Audited Report pursuant to California Financial Code section 50326. To date, KH has not submitted the Audited Report to the Commissioner and paid the assessed penalty.

1 IV.

2 California Financial Code section 50205(a) states “[a] licensee shall maintain a surety bond in  
3 accordance with this subdivision.” KH has failed to maintain its surety bond as required by that  
4 section. On or about February 6, 2008, the Commissioner received a Notice of Cancellation Non-  
5 Renewal of KH’s surety bond from Arch Insurance Company. The date of cancellation of the surety  
6 bond was March 7, 2008.

7 On or about March 7, 2008, the Commissioner issued an Order To Discontinue Residential  
8 Mortgage Lending And/Or Servicing Activities Pursuant California Financial Code section 50319<sup>1</sup> to  
9 KH. To date, the surety bond has not been reinstated or replaced, and the Order To Discontinue  
10 Residential Mortgage Lending And/Or Servicing Activities Pursuant California Financial Code  
11 section 50319 remains in effect.

12 V.

13 California Financial Code section 50327 provides in pertinent part:

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

19 The Commissioner finds that, by reason of the foregoing, KH FINANCIAL, L.P. has violated  
20 California Financial Code sections 50200, 50205, 50307, 50326, 50401 and California Code of  
21 Regulations, title 10, section 1950.314.8, and based thereon, grounds exist to revoke KH  
22 FINANCIAL, L.P. license as a residential mortgage lender and mortgage loan servicer.

23 WHEREFORE, IT IS PRAYED that the residential mortgage lender and mortgage loan  
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26 <sup>1</sup> California Financial Code section 50319 provides in pertinent part: (a) If the commissioner, as a result of any  
27 examination or from any report made to him or her, shall find that any person subject to this division.... has  
28 failed to comply with the bonding requirements of Section 50205, the commissioner may, by an order  
addressed to and served by registered or certified mail, or by personal service on that person...., direct  
discontinuance of the disbursement, in whole or in part, of trust funds held by the licensee and order the  
establishment of a separate trust account for all subsequent trust funds received by the licensee.

1 servicer license of KH FINANCIAL, L.P. be revoked and, pursuant to Financial Code section 50311,  
2 KH FINANCIAL, L.P. be given a transition period of sixty (60) days within which to complete any  
3 loans for which it had prior commitments.

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DATED: November 19, 2008 PRESTON DuFAUCHARD  
Sacramento, CA California Corporations Commissioner

By \_\_\_\_\_  
Marisa I. Urteaga-Watkins  
Corporations Counsel