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2 CALIFORNIA CORPORATIONS COMMISSIONER
3 ALAN S. WEINGER (CA BAR NO. 86717)
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5 320 WEST 4th Street, Ste. 750
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7 Attorneys for Complainant

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BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Order of THE) File No. 413 0252
COMMISSIONER OF CORPORATIONS OF)
THE STATE OF CALIFORNIA,)
Complainant,)
vs.)
MOUNTAIN STATES MORTGAGE)
CENTERS, INC.,)
Respondent.)

ORDER SETTING ASIDE ORDER TO DISCONTINUE RESIDENTIAL MORTGAGE
LENDING AND/OR SERVICING ACTIVITIES PURSUANT TO
SECTION 50319, CALIFORNIA FINANCIAL CODE

TO: MOUNTAIN STATES MORTGAGE CENTERS, INC.
1333 EAST 9400 SOUTH
SANDY, UT 84093

NOW, THEREFORE, the Commissioner having found that MOUNTAIN STATES MORTGAGE CENTERS, INC. has complied with the bonding requirements of the California Residential Mortgage Lending Act (California Financial Code Section 50000 et seq.) of the Financial Code as of January 17, 2008 the Order to Discontinue Residential Mortgage Lending and/or Servicing Activities Pursuant to Section 50319, California Financial Code is hereby set aside as of January 17, 2008.

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Dated: Los Angeles, California
January 18, 2008
Effective January 17, 2008

Preston DuFauchard
California Corporations Commissioner

By _____
DiAun M. Burns
Special Administrator
California Residential Mortgage Lending Act

1 PRESTON DUFAUCHARD
2 CALIFORNIA CORPORATIONS COMMISSIONER
3 ALAN S. WEINGER (CA BAR NO. 86717)
4 DEPUTY COMMISSIONER
5 320 WEST 4th Street, Ste. 750
6 LOS ANGELES, CALIFORNIA 90013-1105

7 Attorneys for Complainant

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BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE) File No. 413 0252
COMMISSIONER OF CORPORATIONS OF)
THE STATE OF CALIFORNIA,)
Complainant,)
vs.)
MOUNTAIN STATES MORTGAGE)
CENTERS, INC.,)
Respondent.)

ORDER TO DISCONTINUE RESIDENTIAL MORTGAGE LENDING
AND/OR SERVICING ACTIVITIES PURSUANT TO
SECTION 50319, CALIFORNIA FINANCIAL CODE

TO: MOUNTAIN STATES MORTGAGE CENTERS, INC.
1333 EAST 9400 SOUTH
SANDY, UT 84093

THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA
FINDS THAT:

MOUNTAIN STATES MORTGAGE CENTERS, INC. has failed to comply with the
bonding requirements of the California Residential Mortgage Lending Act (California Financial
Code Section 50000 et seq.) in that effective March 16, 2011 Bond No. 285033691 issued by

1 LIBERTY MUTUAL INSURANCE COMPANY in favor of MOUNTAIN STATES
2 MORTGAGE CENTERS, INC. expired and no replacement bond has been obtained.

3
4 Based on the foregoing, Respondent is conducting residential mortgage lending
5 and/or servicing business in violation of Section 50205 of the Financial Code and is conducting
6 business in such an unsafe and injurious manner as to render further operations hazardous to the
7 public or to customers.

8 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING
9 THEREFORE, it is hereby ORDERED, under the provisions of Section 50319 of the California
10 Financial Code, MOUNTAIN STATES MORTGAGE CENTERS, INC. immediately discontinue
11 the disbursement, in whole or in part, of trust funds held by the licensee and establish a separate
12 trust account for all subsequent trust funds received by the licensee.
13

14
15 THIS ORDER is to remain in full force and effect until further order of the Commissioner.

16 Section 50319 of the Financial Code provides as follows:

17 (a) If the commissioner, as a result of any examination or from any report
18 made to him or her, shall find that any person subject to this division is in an
19 insolvent condition, is conducting business in an unsafe or injurious manner that
20 renders further operations hazardous to the public or to customers, has failed to
21 comply with the provision of Section 50317, has permitted its tangible net worth to
22 be lower than the minimum required by law, or has failed to comply with the
23 bonding requirements of Section 50205, the commissioner may, by an order
24 addressed to and served by registered or certified mail, or by personal service on that
25 person, and on any other person having in his or her possession or control any trust
26 funds or other property deposited in escrow with 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. No person having in his or her possession any of these funds or
documents shall be liable for failure to comply with the order unless he or she has
received written notice of the order. Subject to subdivision (b), the order shall
remain in effect until set aside by the commissioner, or the person has been adjudged
bankrupt.

27 (b) Within 15 days from the date of an order pursuant to subdivision (a), the
28 person may request a hearing under the Administrative Procedure Act (Chapter 5
(commencing with Section 11500) of Part 2 of Division 3 of Title 2 of the
Government Code). Upon receiving a request, the matter shall be set for hearing to
commence within 30 days after the receipt unless the person subject to this division
consents to a later date. If no hearing is requested within 15 days after the mailing or

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service of the notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

DATED: March 16, 2011
Los Angeles, California

Preston DuFauchard
California Corporations Commissioner

By _____
DiAun M. Burns
Special Administrator
California Residential Mortgage Lending Act

1 WILLIAM P. WOOD
California Corporations Commissioner
2 VIRGINIA JO DUNLAP (CA BAR NO. 142221)
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Supervising Counsel
4 JUDY L. HARTLEY (CA BAR NO. 110628)
Senior Corporations Counsel
5 Department of Corporations
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6 Los Angeles, California 90013-2344
Telephone: (213) 576-7604 Fax: (213) 576-7181

7 Attorneys for Complainant
8

9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of THE CALIFORNIA) Case No.: 413-0252
CORPORATIONS COMMISSIONER,)
13)
14 Complainant,) AMENDED STATEMENT OF FACTS IN
15 vs.) SUPPORT OF ORDER TO DISCONTINUE
16 MOUNTAIN STATES MORTGAGE) VIOLATIONS PURSUANT TO CALIFORNIA
CENTERS, INC.,) FINANCIAL CODE SECTION 50321
17)
18 Respondent.)
19 _____)

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

22 1. Mountain States Mortgage Centers, Inc. ("Mountain") is a residential mortgage lender
23 and loan servicer licensed by the California Corporations Commissioner ("Commissioner" or
24 "Complainant") pursuant to the California Residential Mortgage Lending Act ("CRMLA")
25 (California Financial Code Section 50000 et seq.).

26 2. On or about August 15, 2001, the Commissioner commenced a regulatory
27 examination of the books and records of Mountain. The regulatory examination disclosed that in
28 7 of 9 (78%) of the loan files reviewed for credit reporting fees, Mountain charged the borrower

1 credit report fees which were greater than the actual charges incurred by Mountain for these third
2 party services (“greater credit report fees”). Mountain has been unable to substantiate that it
3 performed any services in relation to the credit reports, and as such the greater credit report fees
4 constituted a violation of California Financial Code section 50505 and also constituted an unfair
5 practice in violation of California Financial Code section 50204(i). The amount of such greater
6 credit report fees averaged \$17.43 per loan. Moreover, in 3 of the 7 (43%) loans in which greater
7 credit report fees were found, the borrowers had been required to pay the credit report fees prior to
8 loan closing in violation of California Financial Code section 50203(a)(1), which specifically allows
9 only actual charges incurred by the lender for third party services if the fees are required to be paid
10 prior to loan closing.

11 3. The regulatory examination further disclosed that in all the loans in which the greater
12 credit report fees were found, the Settlement Statement prepared and delivered to the borrower failed
13 to disclose the payment to the actual service provider, and that the remainder of the credit report fee
14 charged was retained by Mountain, a violation of California Financial Code section 50505.

15 4. In the prior regulatory examination commenced in November 1999, the
16 Commissioner found that Mountain had charged the borrower greater credit report fees in 5 of 10
17 (50%) of the loans reviewed. Based upon the findings of the 1999 regulatory examination, the
18 Commissioner instructed Mountain to perform an internal audit of all the loans it had originated
19 since licensure on February 1, 1999, and make refunds where appropriate. Mountain was further
20 requested by the Commissioner to implement such procedures as necessary to ensure that greater
21 credit report fees were not charged in the future.

22 5. Mountain was unable at the time of the 2001 regulatory examination to evidence that
23 it conducted the review and made appropriate refunds as previously instructed by the Commissioner
24 concerning the 1999 regulatory examination findings. Mountain was also unable to substantiate that
25 it had made refunds on the greater credit report fees specifically found by the Commissioner during
26 the 1999 regulatory examination. The specific greater credit report fees found by the Commissioner
27 in 1999 were refunded by Mountain in February 2002.

28

1 6. The findings of the 2001 regulatory examination disclose that Mountain failed to
2 implement adequate procedures to ensure that greater credit report fees would not be charged in the
3 future.

4 7. By reason of the foregoing, Mountain has violated California Financial Code sections
5 50203(a)(1), 50204(i) and 50505.

6 8. Financial Code section 50321 provides in pertinent part:

7 If, after investigation, the commissioner has reasonable grounds
8 to believe that any licensee has violated its articles of incorporation or
9 any law or rule binding upon it, the commissioner shall, by written order
10 addressed to the licensee, direct the discontinuance of the violation. The
order shall be effective immediately, but shall not become final except
in accordance with the provisions of Section 50323.

11 9. Section 50323 of the Financial Code provides:

12 (a) No order issued pursuant to Section 50321 or 50322 may become
13 final except after notice to the affected licensee of the commissioner's
14 intention to make the order final and of the reasons for the finding. The
15 commissioner shall also notify the licensee that upon receiving a
16 request the matter will be set for hearing to commence within 15 business
17 days after receipt. The licensee may consent to have the hearing
18 commenced at a later date. If no hearing is requested within 30 days
19 after the mailing or service of the required notice, and none is ordered
20 by the commissioner, the order may become final without hearing and
21 the licensee shall immediately discontinue the practices named in the
22 order. If a hearing is requested or ordered, it shall be held in accordance
23 with the provisions of the administrative Procedure Act (Chapter 5
24 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of
the Government Code), and the commissioner shall have all the powers
granted under that act. If, upon the hearing, it appears to the commissioner
that the licensee is conducting business in an unsafe and injurious manner
or is violating its articles of incorporation or any law of this state, or any
rule binding upon it, the commissioner shall make the order of discontinuance
final and the licensee shall immediately discontinue the practices named
in the order.

25 (b) The licensee has 10 days after an order is made final to commence to
26 restrain enforcement of the order. If enforcement of the order is not
27 enjoined within 10 days by the court in which the action is brought,
28 the licensee shall comply with the order.

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WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to Financial Code Section 50321 and notifying Mountain of his intention to make the order final.

Dated: July 22, 2004
Los Angeles, California

WILLIAM P. WOOD
California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel

1 WILLIAM P. WOOD
California Corporations Commissioner
2 VIRGINIA JO DUNLAP (CA BAR NO. 142221)
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Supervising Counsel
4 JUDY L. HARTLEY (CA BAR NO. 110628)
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7 Attorneys for Complainant
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9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of THE CALIFORNIA) Case No.: 413-0252
CORPORATIONS COMMISSIONER,)
13) AMENDED ORDER TO DISCONTINUE
Complainant,) VIOLATIONS PURSUANT TO
14) CALIFORNIA FINANCIAL CODE SECTION
vs.) 50321
15)
16 MOUNTAIN STATES MORTGAGE)
CENTERS, INC.,)
17)
18 Respondent.)
19 _____)

20 TO: MOUNTAIN STATES MORTGAGE CENTERS, INC.
21 1333 East 9400 South
22 Sandy, Utah 84093

23 The California Corporations Commissioner finds that:

24 Mountain States Mortgage Centers, Inc. (“Mountain”) has with respect to residential
25 mortgage loans subject to the California Residential Mortgage Lending Act (i) charged and received
26 from borrowers, prior to loan closing, credit report fees which were greater than the actual charges
27 incurred by Mountain for these third party services in violation of California Financial Code section
28 50203(a)(1), (ii) otherwise charged and received from borrowers credit report fees which were
greater than the actual charges incurred by Mountain for these third party services, an unfair practice

1 in violation of California Financial Code section 50204(i) and also a violation of California Financial
2 Code section 50505, and (iii) failed to properly disclose to whom it paid such credit report fees on
3 the Settlement Statement prepared and provided to the borrowers, in violation of California Financial
4 Code section 50505.

5 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING, it is hereby
6 ORDERED under the provisions of California Financial Code section 50321, that Mountain
7 immediately discontinue the violations set forth above.

8 Dated: July 22, 2004
9 Los Angeles, CA

WILLIAM P. WOOD
California Corporations Commissioner

10
11 By _____
12 DiAun M. Burns
13 Special Administrator
14 California Residential Mortgage Lending Act
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1 WILLIAM P. WOOD
California Corporations Commissioner
2 VIRGINIA JO DUNLAP (CA BAR NO. 142221)
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
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9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of THE CALIFORNIA) Case No.: 413-0252
CORPORATIONS COMMISSIONER,)
13) AMENDED ORDER TO REFUND CREDIT
Complainant,) REPORT FEES PURSUANT TO
14) CALIFORNIA FINANCIAL CODE SECTION
vs.) 50504(a)
15)
16 MOUNTAIN STATES MORTGAGE)
CENTERS, INC.,)
17)
18 Respondent.)
19)

20 TO: MOUNTAIN STATES MORTGAGE CENTERS, INC.
21 1333 East 9400 South
22 Sandy, Utah 84093

23 The California Corporations Commissioner finds that:

24 In connection with residential mortgage loans subject to the California Residential Mortgage
25 Lending Act, Mountain States Mortgage Centers, Inc. (“Mountain”) has charged and received from
26 borrowers credit report fees which were greater than the actual charges incurred by Mountain for
27 these third party services, an unfair practice in violation of California Financial Code section
28 50204(i) and also a violation of California Financial Code sections 50203(a)(1) and 50505.

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NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING, it is hereby ORDERED under the provisions of California Financial Code section 50504(a), that Mountain immediately refund to all affected borrowers, the entire credit report fee along with interest at the rate of ten percent per annum, calculated from the date such credit report fee was received by Mountain.

Dated: July 22, 2004
Los Angeles, CA

WILLIAM P. WOOD
California Corporations Commissioner

By _____
DiAun M. Burns
Special Administrator
California Residential Mortgage Lending Act

1 WILLIAM P. WOOD
California Corporations Commissioner
2 VIRGINIA JO DUNLAP (CA BAR NO. 142221)
Deputy Commissioner
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4 JUDY L. HARTLEY (CA BAR NO. 110628)
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9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of THE CALIFORNIA) Case No.: 413-0252
CORPORATIONS COMMISSIONER,)
13)
14 Complainant,) STIPULATION TO AMEND ORDER TO
15 vs.) REFUND CREDIT REPORT FEES AND
16 MOUNTAIN STATES MORTGAGE) ORDER TO DISCONTINUE VIOLATIONS
CENTERS, INC.,)
17)
18 Respondent.)
19

20 This Stipulation is entered into between Mountain States Mortgage Centers, Inc.
21 (“Mountain”) and the California Corporations Commissioner (“Commissioner”), and is made with
22 respect to the following facts:

23 **RECITALS**

24 A. Mountain is a corporation in good standing, duly formed and existing pursuant to the
25 laws of the State of Utah, and authorized to conduct business in the State of California.

26 B. Jerilyn R. Greene is the President of Mountain and is authorized to enter into this
27 Stipulation on behalf of Mountain.
28

1 C. Mountain is a residential mortgage lender and servicer licensed by the Commissioner
2 under the provisions of the California Residential Mortgage Lending Act (California Financial Code
3 §§ 50000 et seq.) (“CRMLA”).

4 D. On August 28, 2002, Mountain was served by the Commissioner with a Notice of
5 Intent To Make Order Final, Order to Discontinue Violations Pursuant to Financial Code Section
6 50321, Statement of Facts and accompanying documents issued by the Commissioner on August 28,
7 2002. Mountain has filed a Notice of Defense with the Commissioner.

8 E. On August 28, 2002, Mountain was also served with an Order to Refund Credit
9 Report Fees issued by the Commissioner on August 28, 2002. Mountain has filed a Notice of
10 Defense with the Commissioner.

11 F. An administrative hearing is currently scheduled for July 27 and 28, 2004.

12 G. It is the intention and desire of the parties to resolve this matter without the necessity
13 of a hearing and/or other litigation.

14 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
15 forth herein, the parties stipulate as follows:

16 **TERMS AND CONDITIONS**

17 1. This Stipulation is entered into for the purpose of judicial economy and expediency,
18 and to avoid the expense of a hearing, and possible further court proceedings.

19 2. Mountain admits that in connection with one or more residential mortgage loans
20 subject to the CRMLA, Mountain (i) charged and received from the borrowers, prior to loan closing,
21 fees designated as “credit report fees” which were greater than the actual charges incurred by
22 Mountain for these third party services; (ii) charged and received from the borrowers fees designated
23 as “credit report fees” which were greater than the actual charges incurred by Mountain for these
24 third party services; and (iii) failed to disclose to whom it paid credit report fees on the Settlement
25 Statement prepared and provided to borrowers. The admissions of Mountain are solely for the
26 limited purposes of these proceedings and any future proceeding(s) that may be initiated by or
27 brought before the Commissioner against Mountain under the CRMLA or any other law regulated by
28 the Commissioner. It is the intent and understanding between the parties that this Stipulation and

1 particularly the admissions of Mountain herein, shall not be binding or admissible against Mountain
2 in any action(s) brought against Mountain by third parties.

3 3. Notwithstanding its admissions herein, Mountain contends that charging borrowers
4 credit report fees greater than the amount incurred by Mountain to the third party vendor does not
5 violate any provision of the CRMLA.

6 4. The Commissioner contends that Mountain's activities with respect to charging and
7 receiving credit report fees in an amount greater than the amount incurred by Mountain to the third
8 party vendor violates California Financial Code sections 50203(a), 50204(i) and 50505.

9 5. Mountain has made appropriate refunds with interest at 10% per annum to each
10 affected borrower.

11 6. Mountain consents to the immediate issuance by the Commissioner of an Amended
12 Order To Discontinue Violations Pursuant to California Financial Code Section 50321, a copy of
13 which is attached and incorporated as Exhibit A, and which the parties agree shall be the final order
14 to discontinue violations in this matter pursuant to California Financial Code section 50323.

15 7.. The Commissioner hereby agrees to amend the Statement of Facts In Support of the
16 Order to Discontinue Violations as set forth in the Amended Statement of Facts attached and
17 incorporated as Exhibit B.

18 8. The Commissioner hereby agrees to amend the Order to Refund Credit Report Fees
19 as set forth in the Amended Order to Refund Credit Report Fees attached and incorporated as
20 Exhibit C.

21 9. Mountain acknowledges its right to a hearing under the CRMLA in connection with
22 these matters and hereby waives that right to a hearing, and to any reconsideration, appeal, or other
23 right to review which may be afforded pursuant to the CRMLA, the California Administrative
24 Procedure Act, the California Code of Civil Procedure, or any other provision of law.

25 10. Mountain agrees to pay the sum of \$5,824.03 to the Commissioner for its costs and
26 expenses in this matter. Mountain agrees to pay this sum along with the outstanding invoice balance
27 of \$9,837.94 on its most recent regulatory examination to the Commissioner in three equal monthly
28 installments of \$5,220.66 commencing July 26, 2004 and ending September 26, 2004.

1 11. The parties hereby acknowledge that this Stipulation is intended to constitute a full,
2 final and complete resolution of the matters described in paragraphs D and E above. However, the
3 Commissioner reserves the right to initiate further action and/or prosecute Mountain, its officers,
4 directors, employees, agents, and/or its affiliates for any other violations of the CRMLA relating to
5 the 2001 regulatory examination, if such action is based upon facts not presently known to the
6 Commissioner. The parties further acknowledge and agree that nothing contained in this Stipulation
7 shall operate to limit the Commissioner's ability to assist any other agency, (county, state or federal)
8 with any prosecution, administrative, civil or criminal, brought by any such agency against Mountain
9 or its officers, directors, employees, agents, and/or its affiliates based upon any of the activities
10 alleged in the orders described herein or otherwise.

11 12. Each of the parties represents, warrants, and agrees that it has received independent
12 advice from its attorney(s) and/or representatives with respect to the advisability of executing this
13 Stipulation.

14 13. Each of the parties represents, warrants, and agrees that in executing this Stipulation
15 it has relied solely on the statements set forth herein and the advice of its own counsel and/or
16 representative. Each of the parties further represents, warrants, and agrees that in executing this
17 Stipulation it has placed no reliance on any statement, representation, or promise of any other party,
18 or any other person or entity not expressly set forth herein, or upon the failure of any party or any
19 other person or entity to make any statement, representation or disclosure of anything whatsoever.
20 The parties have included this clause: (1) to preclude any claim that any party was in any way
21 fraudulently induced to execute this Stipulation; and (2) to preclude the introduction of parol
22 evidence to vary, interpret, supplement, or contradict the terms of this Stipulation.

23 14. This Stipulation is the final written expression and the complete and exclusive
24 statement of all the agreements, conditions, promises, representations, and covenants between the
25 parties with respect to the subject matter hereof, and supercedes all prior or contemporaneous
26 agreements, negotiations, representations, understandings, and discussions between and among the
27 parties, their respective representatives, and any other person or entity, with respect to the subject
28 matter covered hereby.

1 15. In that the parties have had the opportunity to draft, review and edit the language of
2 this Stipulation, no presumption for or against any party arising out of drafting all or any part of this
3 Stipulation will be applied in any action relating to, connected, to, or involving this Stipulation.
4 Accordingly, the parties waive the benefit of California Civil Code section 1654 and any successor
5 or amended statute, providing that in cases of uncertainty, language of a contract should be
6 interpreted most strongly against the party who caused the uncertainty to exist.

7 16. This Stipulation may be executed in one or more counterparts, each of which shall be
8 an original but all of which, together, shall be deemed to constitute a single document.

9 17. Each signator hereto covenants that he/she possesses all necessary capacity and
10 authority to sign and enter into this Stipulation.

11 Dated: July 22, 2004

WILLIAM P. WOOD

California Corporations Commissioner

By _____
ALAN S. WEINGER
Supervising Counsel

16 Dated: _____

MOUNTAIN STATES MORTGAGE CENTERS, INC.

By _____
JERILYN R. GREENE, President

19 APPROVED AS TO FORM:

20 TROY & GOULD PC

21 By _____
22 ALAN B. SPATZ, Attorneys for MOUNTAIN
23 STATES MORTGAGE CENTERS, INC.

24 WILLIAM P. WOOD
25 California Corporations Commissioner

26 By _____
27 JUDY L. HARTLEY, Senior Corporations Counsel

28

1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 MIRANDA LEKANDER (BAR NO. 210082)
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6 Attorneys for Complainant

7

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

10	In the Matter of the Accusation of THE	)	OAH NO: UNASSIGNED
	CALIFORNIA CORPORATIONS)	
11	COMMISSIONER,	)	File No.: 413-0252
)	
12	Complainant,)	
		)	ACCUSATION IN SUPPORT OF
13		)	REVOCAION OF CALIFORNIA
	v.	)	RESIDENTIAL MORTGAGE LENDER AND
14		)	SERVICER LICENSE
)	
15	MOUNTAIN STATES MORTGAGE)	
	CENTERS, INC.,)	
16)	
	Respondent.)	
17)	
18)	

19
20 The California Corporations Commissioner ("Commissioner" or "Complainant") is informed
21 and believes, and based upon such information and belief, alleges and charges as follows:

22 I.
23 Mountain States Mortgage Centers, Inc. (hereafter "Mountain States" or "Respondent") is a
24 residential mortgage lender and servicer licensed by the California Department of Corporations
25 ("Department") pursuant to the California Residential Mortgage Lending Act ("CRMLA")
26 (California Financial Code section 50000 *et seq.*¹). Respondent last reported to the Commissioner

27 _____

28 ¹ All code references are to the California Financial Code unless otherwise indicated.

1 that its principal place of business is located at 1333 E. 9400 South, Sandy, Utah, 84093.

2 On or about February 1, 1999, the Department first issued a CRMLA license to Respondent.

3 At the section marked "Exhibit M" of the CRMLA license application, Respondent averred under
4 penalty of perjury that the licensee:

5 15. Hereby attests that the applicant has acted with due care and competence in
6 performing any act for which it is required to hold a license under the California
7 Residential Mortgage Lending Act.

8 16. Hereby attests that the applicant will comply with all applicable requirements
9 of California and federal law. . . when servicing residential mortgage loans.

10 II.

11 Despite the Respondent's sworn acknowledgment of the CRMLA licensing requirements,
12 Respondent has committed multiple violations of the CRMLA during its tenure of licensure,
13 including the following:

14 i. Failure to File 2010 Activity Report

15 Pursuant to Financial Code sections 50307 and 50401 and California Code of Regulations,
16 title 10, section 1950.314.8, on or before March 1st of each year all licensees under the CRMLA are
17 required to file an annual Report of Principal Amount of Loans Originated and Aggregate Amount of
18 Loans Serviced for the preceding 12-month period ended December 31, the Report on Non-
19 Traditional, Adjustable Rate and Mortgage Loan Products, and, the Non-Traditional, Adjustable Rate
20 and Mortgage Loan Survey (hereafter collectively referred to as the "Activity Report").
21

22 On or about January 27, 2011, forms for the Activity Report preprinted with the licensee's
23 name, address and Department file number were sent to each CRMLA licensee along with filing
24 instructions and notice that the enclosed reports were due on or before March 1, 2011.

25 Respondent failed to timely file its 2010 Activity Report by the March 1, 2011 deadline.

26 On or about June 17, 2011, the Commissioner assessed a \$1,000.00 penalty against
27 Respondent pursuant to Financial Code section 50326 for failure to timely submit its 2010 Activity
28 Report to the Department in compliance with the provisions of the CRMLA. To date, Respondent's

1 2010 Activity Report has not been filed with the Commissioner nor has the \$1,000.00 penalty been
2 paid.

3 ii. Failure to Maintain Surety Bond

4 Financial Code section 50205 requires each CRMLA licensee to maintain a surety bond to be
5 used for the recovery of expenses, fines, or fees levied by the Commissioner for losses or damages
6 incurred by borrowers or consumers as a result of a licensee's noncompliance with the requirements
7 of the CRMLA.

8 On February 18, 2011, the Commissioner informed Respondent that on February 14, 2011 the
9 Department was notified by Liberty Mutual Insurance Company that it was canceling Respondent's
10 surety bond number 285033691 effective March 16, 2011. The February 18, 2011 letter advised that
11 if a new replacement bond was not obtained prior to the cancellation date it would be necessary for
12 the Commissioner to issue an order for Respondent to discontinue mortgage lending and/or servicing
13 activities.

14 On March 16, 2011, the surety bond issued to Respondent expired, and no replacement bond
15 was obtained.

16 On March 16, 2011, the Commissioner issued an order under the authority of Financial Code
17 section 50319 requiring Respondent to discontinue conducting residential mortgage lending and/or
18 servicing activities in an unsafe and injurious manner as to render further operations hazardous to the
19 public or to customers. As no hearing was timely requested by Respondent pursuant to the provisions
20 of section 50319, this order is final and remains in effect.

21 iii. Failure to Comply with License-Surrender Requirements

22 On or about July 5, 2011, Respondent submitted an electronic request through the Nationwide
23 Mortgage Licensing System and Registry ("NMLS") to surrender its California residential mortgage
24 lender license.

25 On July 6, 2011, the Department provided Respondent instructions through the NMLS
26 outlining how to comply with the "Jurisdiction-Specific Requirements" for surrender of its California
27 residential mortgage lender license as set forth in Financial Code section 50123. This
28

1 jurisdiction-specific list (“Surrender Checklist”) informs that surrender of a California residential
2 mortgage lender license cannot be completed unless the licensee, among other things, files with the
3 Commissioner a withdrawal plan setting forth a timetable for the orderly disposition of its California
4 residential mortgage lender business. The Surrender Checklist itemizes documents that the licensee
5 must submit to the Commissioner in connection with the proposed closure. To date, Respondent has
6 not submitted the information and closing documents necessary to effectuate the surrender of its
7 California residential mortgage lender license, as required by section 50123.

8 III.

9 Financial Code section 50326 provides:

10 If any licensee fails to do any of the following, the licensee shall forfeit to the people of the
11 state a sum of up to one hundred dollars (\$100) for every day up to the 10th day: (a) to make
12 any report required by law or by the commissioner within 10 days from the day designated for
13 the making of the report, or within any extension of time granted by the commissioner, or (b)
14 fails to include therein any matter required by law or by the commissioner. Thereafter, any
15 failure shall constitute grounds for the suspension or revocation of the license held by the
16 residential mortgage lender or residential mortgage loan servicer.

15 IV.

16 Financial Code section 50205 provides in pertinent part:

17 (a) A residential mortgage lender or servicer licensee shall maintain a surety bond in
18 accordance with this subdivision. The bond shall be used for the recovery of expenses,
19 fines, and fees levied by the commissioner in accordance with this division or for losses or
20 damages incurred by borrowers or consumers as the result of a licensee's noncompliance
21 with the requirements of this division.

21 V.

22 Financial Code section 50123 provides in relevant part:

23 (a) A license shall remain in effect until suspended, surrendered, or revoked.

24 (b) A licensee that ceases to engage in the business regulated by this division and desires
25 to no longer be licensed shall inform the commissioner in writing and, at that time, surrender
26 the license and all other indicia of licensure to the commissioner. The licensee shall file a
27 plan for the withdrawal from regulated business, and the plan shall include a timetable for the
28 disposition of the business. The plan shall also include a closing audit, review, or other agreed
upon procedures performed by an independent certified public accountant prescribed by rule
or order of the commissioner. Upon receipt of the written notice and plan, the commissioner
shall review the plan and, if satisfactory to the commissioner, shall accept the surrender of the

1 license. A license is not surrendered until its tender is accepted in writing by the commissioner
2 after a review, and a finding has been made on the licensee's plan required to be filed by this
3 section, and a determination has been made that there is no violation of this law

4 VI.

5 Financial Code section 50327 provides in pertinent part:

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

12 VII.

13 Financial Code section 50311 provides in pertinent part:

14 Nothing in this law shall preclude a person whose license has been suspended or
15 revoked, summarily or otherwise, from making a residential mortgage loan pursuant to
16 a commitment issued by that person prior to the suspension or revocation.
17 A prospective borrower who received a commitment issued by a person whose license
18 has been suspended or revoked may, prior to the closing of the loan, terminate the
19 commitment or receive a refund of all money paid to that person.

20 VIII.

21 A CRMLA applicant is required pursuant to Financial Code section 50124, as a condition of
22 receiving a license, to agree in writing to, among other things, comply with the provisions of the
23 CRMLA and any rule or order of the Commissioner and file with the Commissioner all reports
24 required under law or by rule or order of the Commissioner. Failure to comply with the provisions of
25 section 50124 constitutes grounds under Financial Code section 50125 for the Commissioner to
26 refuse to issue a license.

27 Pursuant to Financial Code section 50327, the Commissioner can revoke a CRMLA license if
28 a fact or condition now exists, that if it existed at the time of original licensure, would reasonably
have warranted the Commissioner in refusing to issue the license originally. Had the facts and
conditions alleged herein existed at the time Respondent applied for its residential mortgage lender
license, the Commissioner would have been warranted in refusing to issue such license. Further, the
present facts set forth herein constitute sufficient grounds for the revocation of the residential

1 mortgage lender license of Respondent pursuant to section 50327.

2 The Commissioner finds that, by reason of the foregoing, Respondent Mountain States
3 Mortgage Centers, Inc. is in violation of Financial Code sections 50123, 50205, 50307, 50326, 50401
4 and section 1950.314.8 of title 10 of the California Code of Regulations, and based thereon grounds
5 exist under Financial Code section 50327 to revoke Respondent's residential mortgage lender and
6 servicer license.

7 WHEREFORE, IT IS PRAYED that the residential mortgage lender and servicer license of
8 Mountain States Mortgage Centers, Inc. be revoked pursuant to Financial Code section 50327 and
9 that Respondent be given a transition period of sixty (60) days within which to complete any loans
10 for which it had prior commitments pursuant to Financial Code section 50311.

11 DATED: August 29, 2011
12 Sacramento, CA

PRESTON DUFAUCHARD
California Corporations Commissioner

13
14
15 By _____
16 Miranda LeKander
17 Senior Corporations Counsel
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1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 MIRANDA LEKANDER (BAR NO. 210082)
Senior Corporations Counsel
4 1515 K Street, Suite 200
Sacramento, California 95814
5 Telephone: (916) 322-8730 Fax: (916) 445-6985
6 Attorneys for Complainant

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

10	In the Matter of the Accusation of THE	)	File No.: 413-0252
	CALIFORNIA CORPORATIONS)	
11	COMMISSIONER,)	
		)	ORDER REVOKING CALIFORNIA
12	Complainant,	)	RESIDENTIAL MORTGAGE LENDER AND
		)	SERVICER LICENSE
13)	
	v.)	
14)	
15	MOUNTAIN STATES MORTGAGE)	
	CENTERS, INC.,)	
16)	
	Respondent.)	
17)	
18)	

19
20 On August 29, 2011, the Commissioner issued a Notice of Intention to Issue Order Revoking
21 Residential Mortgage Lender and Servicer License, Accusation, and accompanying documents
22 (hereafter collectively referred to as "Accusation") against Mountain States Mortgage Centers, Inc.
23 ("Mountain States"), and Mountain States was served with those documents on September 15, 2011
24 via certified mail, return receipt requested, at its licensed location on file with the California
25 Department of Corporations. A timely hearing request was not received by the Department.

26 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the residential
27 mortgage lender and servicer license issued by the Commissioner to Mountain States Mortgage
28 Centers, Inc. is hereby revoked. This order is effective as of the date hereof. Pursuant to California

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Financial Code section 50311, Mountain States Mortgage Centers, Inc. has sixty (60) days within which to complete any loans for which it had commitments.

DATED: October 4, 2011
Los Angeles, CA

California Corporations Commissioner

By _____
ALAN S. WEINGER
Deputy Commissioner

1 PRESTON DUFAUCHARD
2 CALIFORNIA CORPORATIONS COMMISSIONER
3 ALAN S. WEINGER (CA BAR NO. 86717)
4 SUPERVISING COUNSEL
5 320 WEST 4th Street, Ste. 750
6 LOS ANGELES, CALIFORNIA 90013-1105

7 Attorneys for Complainant

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BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Order of THE) File No. 413 0252
COMMISSIONER OF CORPORATIONS)
OF THE STATE OF CALIFORNIA,)
Complainant,)
vs.)
MOUNTAIN STATES MORTGAGE)
CENTERS, INC.,)
Respondent.)

ORDER TO DISCONTINUE RESIDENTIAL MORTGAGE LENDING
AND/OR SERVICING ACTIVITIES PURSUANT TO
SECTION 50319, CALIFORNIA FINANCIAL CODE

TO: MOUNTAIN STATES MORTGAGE CENTERS, INC.
1333 EAST 9400 SOUTH
SANDY, UT 84093

THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA
FINDS THAT:

MOUNTAIN STATES MORTGAGE CENTERS, INC. has failed to comply with the
bonding requirements of the California Residential Mortgage Lending Act (California Financial
Code Section 50000 et seq.) in that effective December 5, 2007 Bond No. 965000491 issued by

1 LIBERTY MUTUAL INSURANCE COMPANY in favor of MOUNTAIN STATES
2 MORTGAGE CENTERS, INC. expired and no replacement bond has been obtained.

3
4 Based on the foregoing, Respondent is conducting residential mortgage lending
5 and/or servicing business in violation of Section 50205 of the Financial Code and is conducting
6 business in such an unsafe and injurious manner as to render further operations hazardous to the
7 public or to customers.

8 NOW, BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING
9 THEREFORE, it is hereby ORDERED, under the provisions of Section 50319 of the California
10 Financial Code, MOUNTAIN STATES MORTGAGE CENTERS, INC. immediately discontinue
11 the disbursement, in whole or in part, of trust funds held by the licensee and establish a separate
12 trust account for all subsequent trust funds received by the licensee.
13

14
15 THIS ORDER is to remain in full force and effect until further order of the Commissioner.

16 Section 50319 of the Financial Code provides as follows:

17 (a) If the commissioner, as a result of any examination or from any report
18 made to him or her, shall find that any person subject to this division is in an
19 insolvent condition, is conducting business in an unsafe or injurious manner that
20 renders further operations hazardous to the public or to customers, has failed to
21 comply with the provision of Section 50317, has permitted its tangible net worth to
22 be lower than the minimum required by law, or has failed to comply with the
23 bonding requirements of Section 50205, the commissioner may, by an order
24 addressed to and served by registered or certified mail, or by personal service on that
25 person, and on any other person having in his or her possession or control any trust
26 funds or other property deposited in escrow with 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. No person having in his or her possession any of these funds or
documents shall be liable for failure to comply with the order unless he or she has
received written notice of the order. Subject to subdivision (b), the order shall
remain in effect until set aside by the commissioner, or the person has been adjudged
bankrupt.

27 (b) Within 15 days from the date of an order pursuant to subdivision (a), the
28 person may request a hearing under the Administrative Procedure Act (Chapter 5
(commencing with Section 11500) of Part 2 of Division 3 of Title 2 of the
Government Code). Upon receiving a request, the matter shall be set for hearing to
commence within 30 days after the receipt unless the person subject to this division
consents to a later date. If no hearing is requested within 15 days after the mailing or

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service of the notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

DATED: December 5, 2007
Los Angeles, California

Preston DuFauchard
California Corporations Commissioner

By _____
DiAun M. Burns
Special Administrator
California Residential Mortgage Lending Act