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California Corporations Commissioner
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10 BEFORE THE DEPARTMENT OF CORPORATIONS
11 OF THE STATE OF CALIFORNIA

12 THE CALIFORNIA CORPORATIONS) File No.: 413-0044
COMMISSIONER,)
13)
14 Complainant,) **ORDER REVOKING RESIDENTIAL**
15 v.) **MORTGAGE LENDER AND MORTGAGE**
16 M & T Mortgage Corporation) **SERVICER LICENSE**
17 Respondent.)
18)
19)

20 The California Corporations Commissioner finds:

- 21 1. Respondent M & T Mortgage Corporation ("M&T") is a residential mortgage lender
22 and mortgage loan servicer licensed by the Commissioner pursuant to the California Residential
23 Mortgage Lending Act (California Financial Code, § 50000 *et seq.*) ("CRMLA"). M&T has its
24 principal place of business located at One Fountain Plaza, Buffalo, New York, 14203.
- 25 2. Pursuant to California Financial Code sections 50307 and 50401 and California Code
26 of Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file the
27 following annual reports with the Commissioner: (1) Report of Principal Amount of Loans and
28 Aggregate Amount of Loans Serviced ("Activity Report"); (2) Report on Non-traditional, Adjustable

1 Rate and Mortgage Loan Products (“Non-traditional Report”); and (3) Non-traditional, Adjustable
2 Rate and Mortgage Loan Survey (“Survey”). The Activity Report, Non-traditional Report, and
3 Survey must be filed with the Commissioner on or before March 1st of each year for the preceding
4 twelve (12) month period ending December 31.

5 3. On or about February 1, 2008, an Activity Report form, Non-traditional Report form
6 and Survey were sent to all CRMLA licensees, including M&T, with a notice stating that these
7 reports were due on or before March 1, 2008. The Commissioner assessed a penalty of \$1000.00 for
8 the failure to submit these reports on or about May 15, 2008.

9 4. To date, M&T has not submitted the Activity Report, the Non-traditional Report, and
10 the Survey to the Commissioner, and paid the assessed penalty.

11 5. Pursuant to California Financial Code section 50200, all licensees under the CRMLA
12 are required to file audited financial statements (“Audited Report”) with the Commissioner. M&T
13 was required to submit its Audited Report for its fiscal year ending December 31, 2007 to the
14 Commissioner on or before April 15, 2008.

15 6. On or about December 17, 2007, a reminder notice was issued to M&T reminding
16 M&T that this report was due to be filed with the Commissioner on or before April 15, 2008. M&T
17 did not submit the Audited Report to the Commissioner, despite this reminder notice. The
18 Commissioner assessed another penalty of \$1000.00 for the failure to submit these reports on or
19 about August 13, 2008, pursuant to California Financial Code section 50326.

20 7. To date, M&T has yet to file these reports or pay any of the assessed penalties.

21 8. Pursuant to California Financial Code section 50205(a), M&T must maintain a surety
22 bond. On or about October 5, 2007, the Commissioner received a Notice of Cancellation Non-
23 Renewal of M&T’s surety bond from Hartford Fire Insurance Company. The date of cancellation of
24 the surety bond was September 7, 2008.

25 9. To date, M&T has not reinstated or replaced their surety bond, as required by
26 California Financial Code section 50205(a).

27 10. On or about October 11, 2007, the Commissioner issued an Order To Discontinue
28 Residential Mortgage Lending And/Or Servicing Activities Pursuant California Financial Code

1 section 50319¹ to M&T.

2 11. To date, the Order To Discontinue Residential Mortgage Lending And/Or Servicing
3 Activities Pursuant California Financial Code section 50319 remains in effect.

4 12. Failure to file the Activity Report, Non-traditional Report, Survey and Audited Report,
5 failure to maintain a valid surety bond, and/or pay assessed penalties are grounds under California
6 Financial Code section 50327 for the revocation of a license issued under the CRMLA.

7 13. On December 10, 2008, the Commissioner issued a Notice of Intention to Issue Order
8 Revoking Residential Mortgage Lender License, Accusation and accompanying documents against
9 M&T based upon the above, and M&T was served with those documents on or about December 10,
10 2008, via certified mail, return receipt requested, at its licensed location on file with the California
11 Department of Corporations. The Department has not received a request for hearing from M&T and
12 the time to request a hearing has expired.

13 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the residential
14 mortgage lender and mortgage servicer license issued by the Commissioner to M&T Mortgage
15 Corporation, is hereby revoked. This order is effective as of the date hereof. Pursuant to California
16 Financial Code section 50311, M&T Mortgage Corporation, has sixty (60) days within which to
17 complete any loans for which it had commitments.

18 DATED: January 20, 2009
19 Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

22 By _____
23 Alan S. Weinger
24 Lead Corporations Counsel

25 _____
26 ¹ 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.