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

11 In the Matter of the Accusation of THE )  
CALIFORNIA CORPORATIONS )  
12 COMMISSIONER, )  
13 Complainant, )  
14 v. )  
15 MONTGOMERY MORTGAGE CAPITAL )  
16 CORPORATION, )  
17 Respondent. )  
18 )  
19 )  
20 )

File No.: 413-0783

**ACCUSATION IN SUPPORT OF  
REVOCATION OF CALIFORNIA  
RESIDENTIAL MORTGAGE LENDER  
LICENSE**

21 The Complainant, California Corporations Commissioner ("Commissioner"), is informed and  
22 believes, and based upon such information and belief, alleges and charges Respondent, Montgomery  
23 Mortgage Capital Corporation ("Respondent") as follows:

24 **I.**

25 Respondent is a residential mortgage lender licensed by the California Department of  
26 Corporations ("Department") pursuant to the California Residential Mortgage Lending Act  
27 ("CRMLA") (California Financial Code sections 50000 *et seq.*).  
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**II.**

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2 On or about December 17, 2007, the Commissioner notified Respondent in writing that,  
3 pursuant to Financial Code section 50200, it was required to submit its 2007 Audit Report for its  
4 fiscal year ending on December 31, 2007 no later than April 15, 2008. Respondent was notified in  
5 the letter that its failure to file the required reports may result in license revocation and/or an  
6 assessment of fines pursuant to Financial Code section 50326, an immediate examination by the  
7 Commissioner pursuant to Financial Code section 50307, and/or revocation of the license. On or  
8 about June 4, 2008, the Commissioner again notified Respondent in writing that it had failed to file  
9 its Audit Report and it was required to file the Audit Report within ten (10) days of the date of the  
10 letter. Respondent failed to file its 2007 Audit Report.

11 On or about August 1, 2008, the Commissioner notified Respondent in writing that, pursuant  
12 to Financial Code section 50326, Respondent was required to pay \$1,000.00 penalty for failure to file  
13 its 2007 Audit Report. The Commissioner further notified Respondent that failure to file the 2007  
14 Audit Report or to pay the administrative penalty would result in suspension or revocation of its  
15 license. Respondent has yet to file its 2007 Audit Reports required by Financial Code section 50200.

**III.**

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17 Pursuant to Financial Code section 50307, 50401 and California Code of Regulations, title 10,  
18 section 1950.314.8, all licensees under the CRMLA are required to file an annual Report of Principal  
19 Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report") on or before March  
20 1st of each year for the preceding 12-month period ended December 31.

21 On or about February 1, 2008, an Activity Report form was sent to all CRMLA licensees with  
22 a notice that its Activity Report was due on or before March 1, 2008.

23 On or about May 15, 2008, the Commissioner notified Respondent in writing that, pursuant to  
24 Financial Code section 50326, Respondent was required to pay \$1,000.00 penalty for failure to file its  
25 Activity Report. The Commissioner further notified Respondent that, pursuant to Financial Code  
26 section 50327, failure to file the Activity Report or to pay the administrative penalty would result in  
27 suspension or revocation of its license. Respondent has yet to submit the Activity Report to the  
28 Commissioner.

1 **IV.**

2 On November 5, 2007, the Commissioner was informed that Respondent's bond would expire  
3 effective December 4, 2007 and no replacement bond had been obtained. On November 28, 2007,  
4 the Commissioner notified Respondent in writing that if the Commissioner did not receive  
5 Respondent's reinstatement or replacement bond, the Commissioner would issue an order to  
6 discontinue any new lending/brokering activities. The bond was not replaced or reinstated.

7 Pursuant to Financial Code section 50319, the Commissioner issued an Order to Discontinue  
8 Residential Mortgage Lending and/or Servicing Activities to Respondent on December 5, 2007. The  
9 Order to Discontinue Residential Mortgage Lending and/or Servicing Activities remains in effect  
10 because Respondent did not replace or reinstate its bond.

11 **V.**

12 Financial Code section 50326 states:

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

19 Financial Code section 50327 provides in pertinent part:

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

25 Financial Code section 50311 states:

26 Nothing in this law shall preclude a person whose license has been  
27 suspended or revoked, summarily or otherwise, from making a  
28 residential mortgage loan pursuant to a commitment issued by that  
person prior to the suspension or revocation. A prospective borrower  
who received a commitment issued by a person whose license has

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been suspended or revoked may, prior to the closing of the loan, terminate the commitment or receive a refund of all money paid to that person.

**VI.**

The Commissioner finds that, by reason of the foregoing, Montgomery Mortgage Capital Corporation has violated California Financial Code sections 50200, 50307, 50401 and California Code of Regulations, title 10, section 1950.314.8, and based thereon grounds exist to revoke the residential mortgage lender license of Montgomery Mortgage Capital Corporation.

WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Montgomery Mortgage Capital Corporation be revoked and, pursuant to Financial Code section 50311, Montgomery Mortgage Capital Corporation be given a transition period of sixty (60) days within which to complete any loans for which it had prior commitments.

DATED: November 4, 2008  
San Diego, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
AFSANEH EGHBALDARI  
Corporations Counsel