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8

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

12 In the Matter of the Accusation of THE) File No.: 413-0629
CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ORDER BARRING HEATHER WHITAKER
14) FROM ANY POSITION OF EMPLOYMENT,
Complainant,) MANAGEMENT OR CONTROL OF ANY
15) RESIDENTIAL MORTGAGE LENDER
vs.) AND/OR RESIDENTIAL MORTGAGE LOAN
16) SERVICER
17 HEATHER WHITAKER, KATRINA)
WHITAKER, and ANDREW WHITAKER,)
18)
Respondents.)
19)
20)

21 The California Corporations Commissioner finds that:

22 1. At all times relevant herein, Nationwide Discount Home Loans, Inc. (“Nationwide”)
23 was a residential mortgage lender licensed by the California Corporations Commissioner
24 (“Commissioner” or “Complainant”) pursuant to the California Residential Mortgage Lending Act
25 (“CRMLA”) (California Financial Code Section 50000 et seq.). Nationwide had its principal place
26 of business located at 10535 Foothill Boulevard, Suite 120, Rancho Cucamonga, California 91730.
27 The Commissioner revoked the residential mortgage lender license of Nationwide on December 6,
28 2007.

1 2. According to the records of the Department of Corporations (“Department”),
2 Respondent Heather Whitaker ("H. Whitaker") was secretary of Nationwide until August 27, 2007
3 when Nationwide reported H. Whitaker as the president, secretary, treasurer and principal officer.

4 3. According to the records of the Department, Respondent Katrina Whitaker ("K.
5 Whitaker") was the president, vice-president, treasurer, principal officer and a director of
6 Nationwide until August 27, 2007 when Nationwide reported H. Whitaker as president, secretary,
7 treasurer and principal officer.

8 4. Andrew Whitaker (“A. Whitaker”) is the father of H. Whitaker and K. Whitaker.

9 5. Preferred Metropolitan Escrow, Inc. (“Preferred”) is, and at all times was, an affiliate
10 of Nationwide. K. Whitaker is the president of Preferred.

11 6. Karren Grieco also known as Karren Whitaker is, and was at all times relevant herein,
12 married to A. Whitaker and the president of Pacific Coast Realty Appraisals, Inc. (“Pacific”).

13 7. California Financial Code section 50122 provides that an application for a residential
14 mortgage lender license shall be in the form prescribed by the Commissioner and further requires
15 applicants to disclose to the Commissioner in the application all officers, directors, stockholders
16 owning 10% or more, control persons, and/or any persons with significant influence and/or control
17 of management.

18 8. The residential mortgage lender license application filed with the Commissioner by
19 Nationwide on June 10, 2004, which application resulted in the issuance of the residential mortgage
20 lender license to Nationwide (license number 413-0629, hereinafter "application"), stated that H.
21 Whitaker was the secretary of Nationwide and that K. Whitaker was the president, vice-president,
22 treasurer, principal officer and a director of Nationwide. No other officers, directors, or shareholders
23 were noted in the application. K. Whitaker signed the application under penalty of perjury.

24 9. California Financial Code section 50122 further requires that an application for a
25 residential mortgage lender license contain a completed statement of identity and questionnaire
26 (“SIQ”) for all officers, directors, stockholders owning 10% or more, control persons, and/or any
27 persons with significant influence and/or control of management along with their fingerprints. The
28 application did not contain an SIQ for A. Whitaker.

1 10. The issuance of the residential mortgage lender license by the Commissioner to
2 Nationwide was based upon all the information submitted with the application.

3 11. Nationwide filed a post-license amendment with the Commissioner on August 27,
4 2007, changing the officer status as noted in Section I above, but also representing that Robert
5 Amatore (“Amatore”) was now a vice-president, director and person in charge of the licensed
6 location.

7 12. A regulatory examination of Nationwide commenced by the Commissioner on
8 August 3, 2007 (“regulatory examination”) revealed that A. Whitaker controlled 100% of the
9 operations of Nationwide. A. Whitaker had been convicted of grand theft involving real property
10 and sale subject to blanket encumbrance on December 5, 1990. Pursuant to California Financial
11 Code section 50318, subsection (a)(2), A. Whitaker is, and was, subject to an immediate action to
12 prohibit him from serving in any capacity with a residential mortgage lender and/or residential
13 mortgage loan servicer.

14 13. Pursuant to California Financial Code sections 50124, subsection (a)(6) and 50206,
15 residential mortgage lenders are required to amend their application(s) if there is any change in any
16 of the persons required to be identified in the application(s) and/or change of control. Nationwide
17 has not filed any application amendment with the Commissioner regarding A. Whitaker.

18 14. Respondents H. Whitaker and K. Whitaker, by allowing A. Whitaker to hold a
19 position with Nationwide and by further failing to inform the Commissioner of this information,
20 violated California Financial Code sections 50122, 50124, and 50206.

21 15. The regulatory examination of Nationwide revealed the following additional
22 violations:

23 A. Loan Numbers 163322163 & 163324675:

24 (1) On August 3, 2007, Nationwide failed to provide the files for the above
25 referenced loans in violations of California Financial Code section 50314.

26 (2) On July 11, 2007 and September 26, 2007, Respondents violated Financial
27 Code section 50204, subsections (j) and (k) by falsifying escrow records, or causing escrow records
28 to be falsified at Preferred, to reflect a deposit of \$59,500.00 into escrow by the buyer, including the

1 preparation of trust receipt no. 123125. An investigation into the deposit disclosed that no such
2 funds were deposited into escrow and that the copy of the cashier’s check, alleged to be the source of
3 the deposit, had been altered to change the amount from \$59.50 to \$59,500.00. The investigation
4 further disclosed that the alleged deposit was necessary to meet the consideration requirements of the
5 transaction when the title company learned about the \$59,500.00 seller carry back loan and refused
6 to issue title policy(s) without an executed third trust deed for recordation on the seller carry back or
7 the buyer’s deposit into escrow of the remaining required funds.

8 (3) Respondents violated Financial Code section 50505 by failing to provide the
9 affiliated business disclosures required by Section 3500.15 of the Real Estate Settlement Procedures
10 Act (“RESPA”)(24 C.F.R. §§ 3500.1 et seq.) in that Preferred was the original escrow agent in the
11 transaction and Pacific was the appraiser.

12 B. Loan Numbers 161852736 & 161852872:

13 (1) On June 4, 2007, Respondents violated Financial Code section 50204,
14 subsections (j) and (k) by falsifying escrow records, or causing escrow records to be falsified at
15 Preferred, to reflect a deposit of \$39,215.06 into escrow by the buyer, including the preparation of
16 trust receipt no. 123096. An investigation into the deposit disclosed that the funds were deposited
17 into escrow by Nationwide through a disbursement executed by H. Whitaker and that the copy of the
18 cashier’s check purchased by Nationwide, which was the source of the deposit, falsely named the
19 buyer as the remitter.

20 (2) Respondents violated Financial Code section 50505 by failing to provide the
21 affiliated business disclosures required by Section 3500.15 of RESPA in that Preferred was the
22 escrow agent in the transaction and Pacific was the appraiser.

23 C. Loan Numbers 159475859 & 159476091:

24 (1) On March 22, 2007, Respondents violated Financial Code section 50204,
25 subsections (j) and (k) by falsifying escrow records, or causing escrow records to be falsified at
26 Preferred, to reflect a deposit of \$6,981.35 into escrow by the buyer, including the preparation of
27 trust receipt no. 123012. An investigation into the deposit disclosed that the funds were deposited
28 into escrow by Nationwide through a disbursement executed by H. Whitaker and that the copy of the

1 cashier's check purchased by Nationwide, which was the source of the deposit, had the name of the
2 remitter altered to show the buyer instead of Nationwide.

3 (2) Respondents violated Financial Code section 50505 by failing to provide the
4 affiliated business disclosures required by Section 3500.15 of RESPA in that Preferred was the
5 escrow agent in the transaction.

6 16. On March 24, 2008, the Commissioner issued an accusation against Preferred, H.
7 Whitaker, K. Whitaker and A. Whitaker in connection with a Notice of Intention to Issue Order
8 Revoking Escrow Agent's License and To Issue Order Pursuant to California Financial Code
9 Section 17423 (Bar From Employment, Management, or Control of Any Escrow Agent). The
10 accusation alleged that Preferred, H. Whitaker, K. Whitaker and A. Whitaker had violated Financial
11 Code sections 17209, 17210, 17212.1, 17404, 17405, 17406, 17414 subsections (a)(1) and (a)(2),
12 17414.1 and 17419 and California Code of Regulations, title 10, sections 1732.2, 1732.3, 1737.3,
13 1740.1 and 1740.3. These violations are reasonably related to the qualifications, functions, or duties
14 of a person engaged in the business of a residential mortgage lender.

15 17. The accusation was personally served on Preferred, H. Whitaker, K. Whitaker and A.
16 Whitaker on April 4, 2008. There has been no request for a hearing received by the Commissioner
17 or any other response from Preferred, H. Whitaker, K. Whitaker and A. Whitaker and the time to
18 request a hearing has expired. Thus, the allegations have been deemed admitted, and based thereon,
19 the escrow agent's license of Preferred was revoked and H. Whitaker, K. Whitaker and A. Whitaker
20 were barred from any position of employment, management or control of any escrow agent as of
21 April 22, 2008.

22 18. Violations of Financial Code sections 50122, 50124, 50204, subsections (j) and (k),
23 50206, 50314 and 50505 and having been held liable in an administrative judgment by a public
24 agency involving offenses reasonably related to the qualifications, functions, or duties of a person
25 engaged in the business in accordance with the provisions of this division constitute grounds under
26 Financial Code section 50318 to bar a person from any position of employment, management or
27 control of any residential mortgage lender and/or residential mortgage loan servicer.

28 19. On May 7, 2008, the Commissioner issued a Notice of Intention to Issue Pursuant to

