

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Lead Corporations Counsel
4 JENNIFER A. GRANAT (CA BAR NO. 199868)
Corporations Counsel
5 Department of Corporations
320 West 4th Street, Ste. 750
6 Los Angeles, California 90013-2344
Telephone: (213) 576-7518 Fax: (213) 576-7181

7 Attorneys for Complainant
8

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

11 In the Matter of the Accusation of THE) File No.: 413-0166
12 CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ACCUSATION
)
14 Complainant,)
)
15 v.)
)
16 OWNIT MORTGAGE SOLUTIONS, INC.,)
17)
18 Respondent.)
)

19 Complainant is informed and believes, and based upon such information and belief alleges
20 and charges as follows:
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22 I

23 Ownit Mortgage Solutions, Inc. (“Respondent”) is a residential mortgage lender and
24 residential mortgage loan servicer licensed by the Commissioner of Corporations of the State of
25 California (“Commissioner” or “Complainant”) pursuant to the California Residential Mortgage
26 Lending Act (“CRMLA”), California Financial Code section 50000 *et seq.* Respondent’s main
27 office is located at 27349 Agoura Road, Suite 100, Agoura Hills, California 91301.
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II

Pursuant to California Financial Code sections 50307 and 50401¹, all licensees under the CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced (“Report”) on or before March 1 of each year for the preceding 12-month period ended December 31. To date, Respondent has failed to submit the Report despite repeated, written demand.

On or about January 19, 2007, a Report form was sent to all CRMLA licensees with a notice that the Report was due on or before March 1, 2007.

On or about June 27, 2007, the Commissioner sent a letter to Respondent notifying Respondent of its failure to file the Report, demanding that Respondent file the report on or before July 7, 2007, and notifying Respondent that the failure to file the Report by such date would result in an action to suspend or revoke its license.

To date, Respondent has failed to file the Report as required by sections 50307 and 50401.

III

A. The 2005 Audit Report

Pursuant to section 50200, Respondent was required to submit its audited financial statements for fiscal year ended December 31, 2005 (“2005 Audit Report”) to the Commissioner on or before April 15, 2007, including a reconciliation of trust accounts, and an Independent Auditor’s Report on Internal Controls (“Report on Internal Controls”) pursuant to California Code of Regulations, Title 10, section 1950.200. To date, Respondent has failed to file its 2005 Audit Report, trust account reconciliation, or Report on Internal Controls despite repeated, written demand.

¹ All references are to the California Financial Code unless otherwise noted.

1 On or about December 6, 2005, Complainant notified Respondent by letter that its 2005
2 Audit Report, trust account reconciliation, and Report on Internal Controls were due on or before
3 April 15, 2006. Respondent failed to submit the 2005 Audit Report, trust account reconciliation or
4 Report on Internal Controls by such date.
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6 On or about August 10, 2006, a second letter was sent to Respondent demanding that its
7 2005 Audit Report, trust account reconciliation, and Report on Internal Controls be filed on or
8 before August 20, 2006, and assessing a \$1,000 penalty pursuant to section 50326. Respondent was
9 also notified that the failure to file the 2005 Audit Report, trust account reconciliation and Report
10 on Internal Controls and/or pay the penalty by such date would result in an action to suspend or
11 revoke its license.
12

13 To date, Respondent has failed to file its 2005 Audit Report, trust account reconciliation,
14 and Report on Internal Controls or pay the assessed penalty as required by sections 50200 and
15 50326 and section 1950.200, Title 10, California Code of Regulations.
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17 B. The 2006 Audit Report

18 Pursuant to section 50200, Respondent was required to submit its audited financial
19 statements for fiscal year ended December 31, 2006 (“2006 Audit Report”) to the Commissioner on
20 or before April 15, 2007, including a reconciliation of trust accounts, and an Independent Auditor’s
21 Report on Internal Controls (“Report on Internal Controls”) pursuant to California Code of
22 Regulations, Title 10, section 1950.200. To date, Respondent has failed to file its 2006 Audit
23 Report, trust account reconciliation, or Report on Internal Controls despite repeated, written
24 demand.
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26 On or about December 11, 2006, Complainant notified Respondent by letter that its 2006
27 Audit Report, trust account reconciliation, and Report on Internal Controls were due on or before
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1 April 15, 2007. Respondent failed to submit the 2006 Audit Report, trust account reconciliation or
2 Report on Internal Controls by such date.

3 On or about June 13, 2007, a second letter was sent to Respondent demanding that its 2006
4 Audit Report, trust account reconciliation, and Report on Internal Controls be filed on or before
5 June 23, 2007, and notifying Respondent that the failure to do so may result in administrative
6 action.
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8 To date, Respondent has failed to file its 2006 Audit Report, trust account reconciliation,
9 and Report on Internal Controls as required by section 50200 and section 1950.200, Title 10,
10 California Code of Regulations.
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12 IV

13 Section 50123 requires that prior to surrendering a license, a licensee must file a plan for
14 approval by the Commissioner. The plan must contain the licensee's detailed proposal for orderly
15 closing out of the residential mortgage lending business. In addition, the Commissioner must make
16 a determination that there has been no violation of the CRMLA.
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18 On or about December 14, 2006, Respondent notified the Commissioner by letter that as of
19 December 6, 2006, Respondent had ceased all mortgage lending activities. On or about December
20 20, 2006, the Commissioner sent Respondent a written response outlining the requirements for
21 surrender under section 50123 and notifying Respondent that its surrender would not be accepted
22 until such requirements were met. On or about December 28, 2006, Respondent filed a voluntary
23 petition for Chapter 11 bankruptcy protection. However, Respondent has yet to meet the
24 requirements of section 50123.
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26 V

27 California Financial Code section 50327 provides in pertinent part:
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(a) The commissioner may, after notice and a reasonable opportunity to be heard, suspend or revoke any license if the commissioner finds that: (1) the licensee has violated any provision of this division or any rule or order of the commissioner thereunder; or (2) any fact or condition exists that, if it had existed at the time of the original application for license, reasonably would have warranted the commissioner in refusing to issue the license originally.

VI

The Commissioner finds that, by reason of the foregoing, Respondent Ownit Mortgage Solutions, Inc. has violated California Financial Code sections 50200, 50307, 50326 and 50401, and California Code of Regulations, Title 10, section 1950.200, and based thereon, grounds exist to revoke Respondent’s residential mortgage lender and residential mortgage loan servicer license.

WHEREFORE, IT IS PRAYED that residential mortgage lender and residential mortgage loan servicer license of Ownit Mortgage Solutions, Inc. be revoked, and pursuant to California Financial Code sections 50310 and 50311, Ownit Mortgage Solutions, Inc. be given a transition period of sixty (60) days within which to transfer its existing service accounts and complete any loans for which it had commitments.

Dated: September 14, 2007
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Jennifer A. Granat
Corporations Counsel