

1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Acting Deputy Commissioner
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Senior Corporations Counsel
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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.: 413-0484
CALIFORNIA CORPORATIONS)
11 COMMISSIONER,)
12) **ACCUSATION**
Complainant,)
13)
v.)
14)
PINNACLE FINANCIAL CORPORATION,)
15 DBA TRISTAR LENDING GROUP, DBA)
PINNACLE MANUFACTURED FUNDING,)
16 DBA NETSTAR FUNDING,)
17 Respondent.)
18)
19)

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

22 **I**

23 Respondent Pinnacle Financial Corporation, dba Tristar Lending Group, dba Pinnacle
24 Manufactured Funding, dba Netstar Funding ("Pinnacle Financial") is a residential mortgage lender
25 and loan servicer licensed by the California Corporations Commissioner ("Commissioner") pursuant
26 to the California Residential Mortgage Lending Act (California Financial Code, § 50000 et seq.)
27 ("CRMLA"). Pinnacle Financial has its principal place of business located at 2611 Technology
28 Drive, Orlando, Florida 32804.

II

Pursuant to California Financial Code sections 50307 and 50401 and California Code of Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file an annual (1) Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report"), (2) Report on Non-traditional, Adjustable Rate and Mortgage Loan Products ("Non-traditional Report"), and (3) Non-traditional, Adjustable Rate and Mortgage Loan Survey ("Survey") on or before March 1st of each year for the preceding 12-month period ended December 31.

On or about February 1, 2008, an Activity Report form, Non-traditional Report form and Survey were sent to all CRMLA licensees with a notice that they were due on or before March 1, 2008. Pinnacle Financial has not yet submitted the Activity Report, the Non-traditional Report or the Survey to the Commissioner.

On or about May 15, 2008, a letter was sent to Pinnacle Financial demanding that the Activity Report and the Non-traditional Report be filed "no later than 10 days from the date of this letter," and assessing Pinnacle Financial a penalty of \$1,000.00, pursuant to California Financial Code section 50326. Pinnacle Financial was notified in the letter that failure to file the Activity Report, the Non-traditional Report or pay the penalty would result in an action to either suspend or revoke its license.

Pinnacle Financial has yet to submit the Activity Report, Non-traditional Report or pay the penalty as required by California Financial Code sections 50307, 50326, 50401 and California Code of Regulations, title 10, section 1950.314.8.

III

Pursuant to California Financial Code section 50200, Pinnacle Financial was required to submit its audited financial statement for its fiscal year ended December 31, 2007 ("Audit Report") to the Commissioner on or before April 15, 2008, including a reconciliation of its trust accounts and an Independent Auditor's Report on Internal Controls ("Report on Internal Controls") pursuant to the California Code of Regulations, title 10, section 1950.200. Pinnacle Financial has yet to file its Audit Report, trust account reconciliation, or Report on Internal Controls with the Commissioner despite having been sent numerous reminder letters.

On or about December 17, 2007, the Department notified Pinnacle Financial in writing that its

1 Audit Report, trust account reconciliation, and Report on Internal Controls were due on or before
2 April 15, 2008. Pinnacle Financial was advised in the letter that failure to file these reports might
3 “result in fines in accordance with Financial Code section 50326, an immediate examination by the
4 Commissioner in accordance with Financial Code section 50307, and/or revocation of the license.”

5 On or about June 4, 2008, a further letter was sent to Pinnacle Financial demanding that it file
6 the Audit Report, trust account reconciliation, and Report on Internal Controls “within ten (10) days
7 of the date of this letter.” Pinnacle Financial failed to submit the Audit Report, trust account
8 reconciliation, and Report on Internal Controls or respond to the letter.

9 On or about August 1, 2008, a final letter was sent to Pinnacle Financial demanding that the
10 Audit Report, trust account reconciliation, and Report on Internal Controls be filed “no later than 10
11 days from the date of this letter,” and assessing Pinnacle Financial a penalty of \$1,000.00 pursuant to
12 California Financial Code section 50326. Pinnacle Financial was notified in the letter that its failure
13 to file the Audit Report, trust account reconciliation, Report on Internal Controls and/or pay the
14 penalty would result in an action to either suspend or revoke its license pursuant to California
15 Financial Code section 50327.

16 Pinnacle Financial has yet to file its Audit Report, trust account reconciliation, Report on
17 Internal Controls, or pay the penalty as required by Financial Code sections 50200, 50326, and title
18 10, section 1950.200 of the California Code of Regulations.

19 IV

20 California Financial Code section 50205(a) states that “[a] licensee shall maintain a surety
21 bond in accordance with this subdivision.” Pinnacle Financial has failed to maintain its surety bond
22 as required by that section. On January 30, 2008, the Department received a Notice of Cancellation
23 of Pinnacle Financial’s surety bond from Westchester Fire Insurance Company. The date of
24 cancellation stated on the Notice of Cancellation was February 26, 2008.

25 California Financial Code section 50319 provides in pertinent part:

26 (a) If the commissioner, as a result of any examination or from any report
27 made to him or her, shall find that any person subject to this division....
28 has failed to comply with the bonding requirements of Section 50205, the
commissioner may, by an order addressed to and served by registered or

1 certified mail, or by personal service on that person...., direct
2 discontinuance of the disbursement, in whole or in part, of trust funds held
3 by the licensee and order the establishment of a separate trust account for
4 all subsequent trust funds received by the licensee.

5 On March 3, 2008, an Order was issued pursuant to section 50319. To date, the surety bond
6 has not been reinstated or replaced, and the order remains in effect.

7 **V**

8 California Financial Code section 50327 provides in pertinent part:

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

14 **VI**

15 The Commissioner finds that, by reason of the foregoing, Pinnacle Financial Corporation, dba
16 Tristar Lending Group, dba Pinnacle Manufactured Funding, dba Netstar Funding, has violated
17 California Financial Code sections 50200, 50307, 50326, 50401 and California Code of Regulations,
18 title 10, section 1950.200 and 1950.314.8, and based thereon, grounds exist to revoke the residential
19 mortgage lender and loan servicer license of Pinnacle Financial Corporation, dba Tristar Lending
20 Group, dba Pinnacle Manufactured Funding, dba Netstar Funding.

21 WHEREFORE, IT IS PRAYED that the residential mortgage lender and loan servicer license
22 of Pinnacle Financial Corporation, dba Tristar Lending Group, dba Pinnacle Manufactured Funding,
23 dba Netstar Funding, be revoked and pursuant to California Financial Code section 50311, Pinnacle
24 Financial Corporation, dba Tristar Lending Group, dba Pinnacle Manufactured Funding, dba Netstar

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1 Funding, be given a transition period of sixty (60) days within which to complete any loans for which
2 it had commitments.

3 DATED: October 9, 2008
4 Sacramento, CA

5 PRESTON DuFAUCHARD
6 California Corporations Commissioner

7 By _____
8 Brent Lindgren
9 Senior Corporations Counsel

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