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Acting California Corporations Commissioner
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Acting Deputy Commissioner
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6 Attorneys for Complainant

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

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11 In the Matter of the Accusation of THE) Case No.: 413-0226
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION
13)
Complainant,)
14)
15 vs.)
16 STERLING CAPITAL MORTGAGE)
COMPANY,)
17)
18 Respondent.)
_____)

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 Sterling Capital Mortgage Company ("Sterling") is a residential mortgage lender
24 and loan servicer licensed by the California Corporations Commissioner ("Commissioner") pursuant
25 to the California Residential Mortgage Lending Act (California Financial Code § 50000 et seq.)
26 ("CRMLA"). Sterling has its principal place of business located at 13100 Northwest Freeway, Suite
27 200, Houston, Texas 77040.
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II

Pursuant to California Financial Code section 50200, Sterling was required to submit its audited financial statement for its fiscal year ended December 31, 2002 (“2002 audit report”) to the Commissioner by April 15, 2003. The yearly audit report is to include a reconciliation of trust account(s) as of the audit date or the Uniform Single Attestation Program for Mortgage Bankers (“USAP”). Sterling has yet to file a reconciliation of trust account(s) or USAP for its 2002 audit report despite numerous reminders.

On or about December 12, 2002, the Commissioner notified Sterling in writing that its 2002 audit report was due April 15, 2003. Sterling submitted its 2002 audit report on or about June 6, 2003. However, the 2002 audit report failed to include a reconciliation of trust account(s) or USAP.

On or about February 5, 2004, Sterling was sent a letter demanding that the reconciliation of trust account(s) or USAP be filed no later than February 15, 2004. Sterling was notified in the letter that failure to file the reconciliation of trust account(s) or USAP could result in an assessment of penalties.

On or about May 14, 2004, Sterling was sent a further letter demanding that the reconciliation of trust account(s) or USAP be filed no later than May 24, 2004, and assessing Sterling a penalty of \$1,000.00 pursuant to California Financial Code section 50326. Sterling was notified in the letter that failure to file the reconciliation of trust account(s) or USAP and/or pay the penalty by May 24, 2004 would result in an action to either suspend or revoke its license.

Sterling has yet to file the reconciliation of trust account(s) or USAP for its 2002 audit report or pay penalties as required by California Financial Code sections 50200 and 50326.

III

On or about November 20, 2003, Sterling notified the Commissioner that Sterling would merge with and into RBC Mortgage Company on January 1, 2004, with RBC Mortgage Company as the surviving entity, and that Sterling wished to surrender its CRMLA license. On or about December 4, 2003, a letter was sent to Sterling outlining the procedures for the surrender of Sterling’s residential mortgage lender and loan servicer license. To date there has been no response to this letter, and the residential mortgage lender and loan servicer license of Sterling remains in

1 effect.

2 IV

3 Pursuant to California Financial Code section 50200, Sterling was required to submit its
4 audited financial statement for its fiscal year ended December 31, 2003 (“2003 audit report”) to the
5 Commissioner by April 15, 2004. Sterling has yet to file its 2003 audit report with the
6 Commissioner despite numerous reminders.

7 On or about December 11, 2003, the Commissioner notified Sterling in writing that its 2003
8 audit report was due April 15, 2004. Sterling failed to submit the 2003 audit report by April 15,
9 2004.

10 On or about January 4, 2005, Sterling was sent a further letter demanding that the 2003 audit
11 report be filed no later than January 14, 2005, and assessing Sterling a penalty of \$1,000.00 pursuant
12 to California Financial Code section 50326. Sterling was notified in the letter that failure to file the
13 2003 audit report and/or pay the penalty by January 14, 2005 would result in an action to either
14 suspend or revoke its license.

15 Sterling has yet to file the 2003 audit report or pay penalties as required by California
16 Financial Code sections 50200 and 50326.

17 V

18 Pursuant to California Financial Code section 50200, Sterling was required to submit its
19 audited financial statement for its fiscal year ended December 31, 2004 (“2004 audit report”) to the
20 Commissioner by April 15, 2005. Sterling has yet to file its 2004 audit report with the
21 Commissioner despite numerous reminders.

22 On or about December 13, 2004, the Commissioner notified Sterling in writing that its 2004
23 audit report was due April 15, 2005. Sterling failed to submit the 2004 audit report by April 15,
24 2005.

25 On or about July 7, 2005, Sterling was sent a further letter demanding that the 2004 audit
26 report be filed no later than July 17, 2005, and assessing Sterling a penalty of \$1,000.00 pursuant to
27 California Financial Code section 50326. Sterling was notified in the letter that failure to file the
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1 2004 audit report and/or pay the penalty by July 17, 2005 would result in an action to either suspend
2 or revoke its license.

3 Sterling has yet to file the 2004 audit report or pay penalties as required by California
4 Financial Code sections 50200 and 50326.

5 VI

6 Pursuant to California Financial Code sections 50307 and 50401, all licensees under the
7 CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate Amount
8 of Loans Serviced (“loan report”) on or before March 1 of each year for the preceding 12 month
9 period ended December 31.

10 On or about January 18, 2005, a loan report form was sent to all CRMLA licensees with a
11 notice that the loan report was due on March 1, 2005. Sterling failed to submit the loan report by the
12 March 1, 2005 deadline.

13 On or about March 16, 2005, a follow up letter was sent to Sterling demanding the loan
14 report be filed no later than March 26, 2005, and assessing Sterling a penalty of \$1,000.00 pursuant
15 to California Financial Code section 50326. Sterling was notified in the letter that failure to file the
16 loan report and/or pay the penalty by March 26, 2005 would result in an action to either suspend or
17 revoke its license.

18 Sterling has yet to submit the loan report or pay the penalty as required by California
19 Financial Code sections 50307, 50401 and 50326.

20 VII

21 California Financial Code section 50326 provides in pertinent part as follows:

22 If any licensee fails to do any of the following, the licensee shall forfeit to
23 the people of the state a sum of up to one hundred dollars (\$100) for every
24 day up to the tenth day: (a) to make any report required by law or by the
25 commissioner within 10 days from the day designated for the making of the
26 report, or within any extension of time granted by the commissioner
27 Thereafter, any failure shall constitute grounds for the suspension or revocation
28 of the license held by the residential mortgage lender or residential
mortgage loan servicer.

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California Financial Code section 50327 provides in pertinent part:

(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 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.

VIII

The Commissioner finds that, by reason of the foregoing, Sterling has violated California Financial Code sections 50200, 50307, 50326 and 50401 and based thereon, grounds exist to revoke the residential mortgage lender and loan servicer license of Sterling.

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

Dated: August 3, 2005
Los Angeles, California

WAYNE STRUMPFER
Acting California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel