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8

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

11 In the Matter of the Accusation of THE ) File No.: 413-0565  
12 CALIFORNIA CORPORATIONS )  
13 COMMISSIONER, ) ACCUSATION  
)  
14 Complainant, )  
)  
15 v. )  
)  
16 ATLAS MORTGAGE FUNDING )  
17 CORPORATION dba WESTERN HORIZON )  
18 MORTGAGE, )  
)  
19 Respondent. )

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

22 I

23  
24 Atlas Mortgage Funding Corporation dba Western Horizon Mortgage (“Respondent”) is a  
25 residential mortgage lender licensed by the Commissioner of Corporations of the State of California  
26 (“Commissioner” or “Complainant”) pursuant to the California Residential Mortgage Lending Act  
27 (“CRMLA”), California Financial Code section 50000 *et seq.* Respondent’s main office is located  
28 at 15314 E. Sundown Drive, Fountain Hills, Arizona 85268.

## II

Pursuant to California Financial Code sections 50307 and 50401<sup>1</sup>, 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 May 7, 2007, the Commissioner sent a letter to Respondent notifying Respondent of its failure to file the Report, assessing a \$1,000 penalty pursuant to section 50326 and demanding that the Report be filed no later than May 17, 2007. The letter notified Respondent that failure to file the Report and/or pay the penalty by such date would result in an action to suspend or revoke its license.

On or about June 27, 2007, another letter was sent to Respondent demanding that it submit its Report and pay the assessed penalty on or before July 7, 2007, and notifying Respondent that the failure to file the Report and/or pay the penalty by such date would result in an action to suspend or revoke its license pursuant to section 50327.

To date, Respondent has failed to pay the penalty or file the Report as required by sections 50307, 50326 and 50401.

## III

Section 50123 requires that prior to surrendering a license, a licensee must file a plan for approval by the Commissioner. The plan must contain the licensee’s detailed proposal for orderly

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<sup>1</sup> All references are to the California Financial Code unless otherwise noted.

1 closing out of the residential mortgage lending business. In addition, the Commissioner must make  
2 a determination that there has been no violation of the CRMLA.

3 On or about August 25, 2007, Respondent notified the Commissioner by letter that it  
4 intended to surrender its residential mortgage lender license. However, Respondent failed to meet  
5 the requirements for surrender under section 50123.

6 IV

7 California Financial Code section 50327 provides in pertinent part:

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

15 V

16 The Commissioner finds that, by reason of the foregoing, Respondent Atlas Mortgage  
17 Funding Corporation dba Western Horizon Mortgage has violated California Financial Code  
18 sections 50307, 50326 and 50401, and based thereon, grounds exist to revoke Respondent's  
19 residential mortgage lender license.

20 WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Atlas  
21 Mortgage Funding Corporation dba Western Horizon Mortgage be revoked, and pursuant to  
22 California Financial Code section 50311, Atlas Mortgage Funding Corporation dba Western  
23 Horizon Mortgage be given a transition period of sixty (60) days within which to complete any  
24 loans for which it had commitments.

25 Dated: September 14, 2007  
26 Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

27 By \_\_\_\_\_  
28 Jennifer A. Granat  
Corporations Counsel