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The Commissioner of Business Oversight
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10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) CRMLA LICENSE NO. 413-0552
13) CFL LICENSE NO. 603K845
14 ACCEPTANCE CAPITAL MORTGAGE)
CORPORATION) ACCUSATION IN SUPPORT OF ORDER TO
15 Respondent.) REVOKE LENDER LICENSES
16)
17)
18)
19)

20 The Complainant, Commissioner of Business Oversight (Commissioner), alleges and charges
21 Respondent Capital Mortgage Corporation (ACMC) as follows:

22 **I.**

23 **Introduction**

24 1. The Commissioner seeks to revoke the residential mortgage lender license and finance
25 lenders license issued to ACMC by the Commissioner pursuant to Financial Code sections 50327 and
26 22714 because ACMC failed to comply with the terms of the Consent Order issued by the
27 Commissioner to ACMC on November 26th, 2019 (Consent Order) with regard to the payment of
28 penalties and because of ACMCs history of violations of the Financial Code.

1 **II.**

2 **Facts**

3 A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities
4 engaged in the business of making and servicing residential mortgage loans pursuant to the
5 California Residential Mortgage Lending Act (CRMLA) (Fin. Code, § 50000 et seq.) and finance
6 lending pursuant to the California Finance Lender Law (CFL) (Fin. Code, § 22000 et seq.)

7 B. APMC is a residential mortgage lender and loan servicer licensed by the Commissioner
8 under the CRMLA since January 23, 2004 (master CRMLA license No. 413-0552 and branch
9 license numbers 41DBO-55082, 8139782, 813E747 and 41DBO-72832). APMC has also been
10 licensed by the Commissioner since February 24, 2015 as a finance lender and broker under the
11 California Finance Lenders Law (Fin. Code, § 22000 et seq.) (CFL license No. 603K854). APMC
12 has its principal place of business located at 113 East Magnesium Road, Unit D, Spokane,
13 Washington 99208.

14 C. During regulatory examinations of APMC commenced January 8, 2018 (Examination) the
15 Commissioner found numerous violations of the Financial Code, including 1) the comingling of
16 escrow funds in trust accounts with other assets in violation of Financial Code section 50202 and
17 California Code of Regulations, title 10, section 1950.314.1; 2) failure to provided borrowers with a
18 Fair Lending Notices that identified the Department of Business Oversight (DBO) as the agency
19 borrowers should contact to file complaints or ask questions in violation of Health and Safety Code
20 section 35830 and California Code of Regulations, title 10, section 7114; 3) failure to file 2017
21 annual report with the DBO in a timely manner in violation of Financial Code section 50307
22 subdivision (a) and 4) and failure to file 2017 audited financial statements with the DBO in a timely
23 manner in violation of Financial Code section 50200. The Commissioner noted in the examination
24 that these were repeat violations of these section by APMC.

25 D. In or about May of 2018, the case was referred to the DBO's Enforcement Division which
26 after an investigation, decided to bring an administrative action to enforce APMC's compliance
27 with the Financial Code and to seek remedies for past violations, including of the issuance of
28

1 administrative orders to discontinue violations, the payment of administrative penalties and the
2 suspension or revoking of ACMC's CRMLA and CFL licenses (collectively, Enforcement Action).

3 E. Upon being informed of the DBO's intent to bring the Enforcement Action, ACMC
4 responded by indicating that, in order to avoid the time, expense and disruption resulting from the
5 filing of the Enforcement Action by the DBO, it would cooperate fully with the Commissioner's
6 request to immediately correct any violations, and consent to the issuance of the Consent Order by
7 the Commissioner to pay penalties and discontinue violations.

8 F. Thereafter, ACMC entered into the Consent Order with the DBO on November 26th, 2018 in
9 which it agreed to desist and refrain from the violations and to pay an administrative penalty in the
10 amount of \$50,000 to the DBO for past violations. The order specified that ACMS pay
11 administrative penalties within 30 days of the date of service of the issued Consent Order on
12 ACMC. ACMC was served on November 26th, 2018 making the penalties due on December 26,
13 2018.

14 G. ACMC failed to pay the penalty specified on that date. When DBO contacted ACMC about
15 this failure to pay the agreed penalties, ACMC requested additional time due to "cash flow"
16 problems and requested several extensions of time to pay. DBO then granted an extension as
17 requested by ACMC. However, ACMC failed to pay the penalty on that date as well and eventually
18 stopped responding to DBO's repeated attempts to contact them regarding the overdue payments.
19 ACMC has therefor failed to comply with the terms of the Consent Order it agreed to with regard to
20 the payment of penalties and is in violation of an order of the Commissioner.

21 III.

22 Authority to Revoke CRMLA License

23 2. Financial Code section 50327 provides:

24 (a) The commissioner may, after notice and a reasonable opportunity to be
25 heard, suspend or revoke any license if the commissioner finds that:

26 (1) The licensee has violated any provision of this division or any rule
27 or order of the commissioner thereunder and within the authority of this
28 division.

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IV.

Authority to Revoke CFL License

- 3. Financial Code section 22714 provides:
 - (a) The commissioner shall suspend or revoke any license, upon notice and a reasonable opportunity to be heard, if the commissioner finds any of the following:
 - (1) The licensee has failed to comply with any demand, ruling or requirement of the commissioner made pursuant to and within the authority of this division.

V.

Conclusion

The Commissioner finds that, by reason of the foregoing, ACMC has violated an order of the Commissioner by failing to pay the penalties it agreed to in the Consent Order. This constitutes grounds for the revocation of its CRMLA license pursuant to Financial Code section 50327 and its CFL License pursuant to Financial Code section 22714.

VI.

Prayer

WHEREFORE, IT IS PRAYED that all master, subsidiary and branch CRMLA and CFL licenses of Acceptance Capital Mortgage Corporation be revoked pursuant to Financial Code sections 50327 and 22714.

Dated: April 5, 2019
San Francisco, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
KIRK WALLACE
Senior Counsel