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8 **BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT**
9 **OF THE STATE OF CALIFORNIA**

10 In the Matter of:)	CFL FILE NO.: 60DBO-111188
11 THE COMMISSIONER OF BUSINESS)	
12 OVERSIGHT,)	STATEMENT OF ISSUES IN SUPPORT OF
)	DENIAL OF FINANCING LAW LICENSE
13 Complainant,)	APPLICATION PURSUANT TO FINANCIAL
)	CODE SECTION 22109
14 v.)	
15 SECURITY AMERICA MORTGAGE, INC.,)	
)	
17 Respondent.)	

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19 Manuel P. Alvarez, the Commissioner of Business Oversight (Commissioner), alleges and
20 charges as follows:

21 **I.**
22 **INTRODUCTION**

23 1. The Commissioner seeks to deny the issuance of a financing law lender license to
24 Security America Mortgage, Inc. (SAMI) pursuant to section 22109 of the Financing Law (CFL)
25 (Financial Code § 22000 et seq.). The Commissioner revoked SAMI's Residential Mortgage Lending
26 Act (CRMLA)¹ license on or around December 13, 2019 because SAMI violated multiple provisions

27
28 ¹ The Commissioner regulates both the Residential Mortgage Lending Act (Fin. Code, § 50000 et seq.) as well as the CFL.

1 of the CRMLA. Now, SAMI has applied for a CFL license. Because SAMI was not able to comply
2 with the law while it held a CRMLA license, the Commissioner has grounds to deny SAMI's CFL
3 license application, as both are similar regulatory schemes.

4 **II.**

5 **THE APPLICATION**

6 2. On February 29, 2020, SAMI, located at 7514 Shady Villa Lane, Suite A, Houston,
7 Texas 77055, filed an application for a financing law lender license with the Commissioner - File No.
8 60DBO-111188 (Application) through the Nationwide Multistate Licensing System & Registry
9 (NMLS). Jason Noble, (Noble) chief operating officer, verified the Application under penalty of
10 perjury.

11 3. In the process of reviewing the Application, the Department of Business Oversight
12 (Department) identified that on December 13, 2019, the Commissioner revoked SAMI's Department
13 CRMLA license number 413-1191 for the following reasons: (1) SAMI did not meet the tangible net
14 worth requirements in violation of Financial Code section 50201; (2) A control person named in
15 NMLS did not file fingerprints in violation of Financial Code section 50121 and Code of Regulations
16 section 1950.122.2; (3) SAMI provided borrowers with incorrect disclosures noting that loans were
17 made pursuant to the CFL in violation of Financial Code sections 50314 and 50503, subdivision
18 (a)(2), and Code of Regulations section 1950.314; (4) SAMI's website failed to state "Licensed by
19 the Department of Business Oversight under the California Residential Mortgage Lending Act" in
20 violation of Code of Regulation section 1950.204.3; (5) SAMI was to employ an independent auditor
21 to test the anti-fraud program but did not, in violation of Code of Federal Regulations section
22 1029.210; and (6) SAMI was not a federally approved lender in violation of Financial Code section
23 50003. SAMI disclosed the December 13, 2019 revocation on their Application.

24 **III.**

25 **CRMLA VIOLATIONS**

26 4. On December 13, 2019, the Commissioner revoked SAMI's CRMLA license for the
27 following violations:
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1 **A. Tangible Net Worth Requirements**

2 5. Pursuant to Financial Code section 50201, a licensee shall continuously maintain a
3 minimum tangible net worth at all times of \$250,000. (Fin. Code, § 50201.) The tangible net worth
4 requirement is important because it protects consumers by ensuring the licensee's ability to
5 underwrite loans and to be financially fit to do so.

6 6. The Department analyzed SAMI's monthly financial statements from
7 October 2018 to at least May 2019 and determined that SAMI did not meet the tangible net worth
8 requirements as set forth in Financial Code section 50201. SAMI was deficient in meeting the
9 tangible net worth requirements as follows:

Month	Tangible Net Worth	Net worth Deficiency
October 31, 2018	\$190,212.30	-\$59,787.70
November 30, 2018	\$78,248.23	-\$171,751.77
December 31, 2018	\$65,627.00	-\$184,373.00
January 31, 2019	-\$5,680.02	-\$255,680.02
February 28, 2019	-\$2,391.26	-\$252,391.26
March 31, 2019	-\$67,750.58	-\$317,750.58
April 30, 2019	-\$28,631.74	-\$278,631.74
May 21, 2019	-\$66,087.99	-\$316,087.99

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21 7. Not only has SAMI not met the tangible net worth requirements since October of
22 2018, its tangible net worth was steadily declining, and SAMI represented to the Department that it
23 *could not* meet these requirements in the foreseeable future. Of all the violations referenced herein,
24 this is the most egregious and would be grounds for revocation in and of itself.

25 **B. Federally Approved Lender Status**

26 8. Pursuant to Financial Code section 50003, subdivision (m), a CRMLA licensee
27 applicant who intends to engage in business as a lender or servicer of federally related mortgage
28 loans in California must provide evidence of federal agency approval during the CRMLA application

1 process as a prerequisite to obtain a license. A lender or servicer who provides evidence of federal
2 agency approval during the CRMLA application process must maintain its federal agency approval
3 while the CRMLA license is active. (Fin. Code, § 50003, subd. (m).) SAMI did not provide the
4 Department with evidence of federal agency approval during the time of their licensure. In May of
5 2019, SAMI informed the Department that SAMI will never secure federal agency approval because
6 SAMI does not meet the financial requirements to qualify for this approval. To date, SAMI has not
7 provided the Department with evidence of federal agency approval.

8 **C. Anti-Money Laundering Program**

9 9. Pursuant to Code of Federal Regulations section 1029.210, SAMI must employ an
10 independent auditor to test SAMI's anti-money laundering program, provide evidence to the
11 Department to establish that SAMI has employed an independent auditor, provide the Department
12 with procedures implemented by SAMI to comply with this law, and provide the Department with a
13 timeline regarding when the independent audit will be done. (31 C.F.R. § 1029.210.) SAMI did not
14 provide the required information to the Department regarding their anti-money laundering program or
15 any evidence that it secured an independent auditor, in violation of Code of Federal Regulations
16 section 1029.210.

17 **D. Fingerprints**

18 10. Pursuant to Financial Code section 50121 and Code of Regulations, title 10, section
19 1950.122.2, every control person named in NMLS must file their fingerprints with the Department.
20 (Fin. Code, § 50121; Cal. Code Regs., § 1950.122.2.) Noble was a control person named in NMLS
21 for SAMI. Noble did not file fingerprints and/or form MBL 1950.122.2 on a timely basis. SAMI
22 indicated that Noble submitted a signed exemption form through NMLS. However, the required
23 documents in the Form "MU2" in NMLS must be submitted to the Department separately. Noble
24 eventually submitted the Form "MU2" in NMLS to the Department.

25 **E. Disclosures**

26 11. Pursuant to Financial Code sections 50314, 50503, subdivision (a)(2) and Code of
27 Regulations, title 10, section 1950.314, SAMI must provide borrowers with disclosures which do not
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1 incorrectly state information. (Fin. Code, §§ 50314, 50503, subd. (a)(2); Cal. Code Regs.,
2 §1950.314.) Documentation must properly identify what authority any loans are made under.

3 12. SAMI disclosed to consumers in at least six transactions, that loans were made
4 pursuant to SAMI's CFL lender license. However, SAMI did not possess a CFL lender license.
5 Rather, SAMI had a CRMLA license with the Department. Since that time, SAMI represented to the
6 Department that SAMI's disclosure package was updated to disclose that loans were made pursuant
7 to SAMI's then active CRMLA license, not a CFL lender license.

8 **F. Reference to Licensure**

9 13. Pursuant to Code of Regulations, title 10, section 1950.204.3, SAMI must refer to its
10 licensure in any written or printed communication or any communication by means of recorded
11 telephone messages, telephonic or electronic media, or spoken on radio, television or similar
12 communications media, only by the following statement: "Licensed by the Department of Business
13 Oversight under the California Residential Mortgage Lending Act." (Cal. Code Regs., § 1950.204.3.)

14 14. SAMI's internet website, www.securityamericamortgage.com stated that SAMI was
15 "Licensed by the Department of Corporations under the California Residential Mortgage Act."
16 SAMI incorrectly used the term "Department of Corporations" instead of the required "Department
17 of Business Oversight." As of July 1, 2013, the Department of Corporations became the Department,
18 pursuant to the Governor's Reorganization Plan No. 2 (2012). (Gov. Code, § 8523.) SAMI's website
19 was then updated to properly disclose "Licensed by the Department of Corporations under the
20 California Residential Mortgage Act."

21 **III.**

22 **APPLICABLE STATUTE**

23 Financial Code section 22109(a)(3) provides in pertinent part:

24 (a) Upon reasonable notice and opportunity to be heard, the commissioner may deny
25 the application for a finance lender, broker, or program administrator license for any
26 of the following reasons: (3) The applicant... has violated any provision of this
27 division or the rules thereunder or any *similar regulatory scheme* of the State of
California or a foreign jurisdiction. (Emphasis added.)

28 15. The CRMLA and CFL are similar regulatory schemes. Both provide authority for a

1 licensee to originate residential mortgage loans in California as a mortgage lender. However, a CFL
2 license allows the licensee to also make other types of loans such as auto-secured loans, unsecured
3 installment loans, etc. As SAMI was unable to comply with the CRMLA while it held that license,
4 the Commissioner finds that it is not in the public interest to grant them a license under a similar
5 regulatory scheme that would actually allow them to make even more types of loans.

6 **IV.**

7 **CONCLUSION**

8 The Commissioner finds that because SAMI violated multiple CRMLA provisions including
9 (1) Not meeting the tangible net worth requirements; (2) Not filing the fingerprints of the control
10 person named in NMLS with the Department; (3) Providing borrowers with incorrect loan
11 disclosures; (4) Failing to state correct disclosures on a website; (5) Failing to employ an independent
12 auditor to test the anti-fraud program; and (6) Not being a federally approved lender; and because the
13 CRMLA is a regulatory scheme similar to the CFL, then the findings above constitute grounds under
14 Financial Code section 22109, subdivision (a), to deny SAMI's application for issuance of a
15 financing law lender license.

16 THEREFORE, the Commissioner asserts that he is justified under Financial Code section
17 22109 in denying the issuance of a financing law lender license application to Security America
18 Mortgage, Inc. WHEREFORE, IT IS PRAYED that the application for a financing law lender license
19 filed by Security America Mortgage, Inc. on February 29, 2020, be denied.

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21 Dated: June 2, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

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25 By: _____

26 Marisa I. Urteaga-Watkins
27 Counsel
28 Enforcement Division