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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of THE CALIFORNIA CORPORATIONS COMMISSIONER, Complainant, vs. BRIGHTGREEN HOME LOANS, INC., Respondent.	)	ACCUSATION

The Complainant is informed and believes, and based upon such information and belief, alleges and finds as follows:

I

INTRODUCTION

Respondent Brightgreen Home Loans, Inc. ("Brightgreen") is a residential mortgage lender licensed by the California Corporations Commissioner ("Commissioner") of the Department of Corporations ("Department") pursuant to the California Residential Mortgage Lending Act (California Financial Code § 50000 et seq.)[1] ("CRMLA"). Brightgreen received its license from the Commissioner on February 7, 1996. Brightgreen has or had its principal place of business located at 4720 Piedmont Row Drive, Suite 2445, Charlotte, North Carolina 28210.

Brightgreen has failed to meet a number of its regulatory obligations, including failing to file with the Department audit reports for the years ended February 28, 2011 and February 29, 2012,

[1] All further statutory references are to the California Financial Code unless otherwise specified.

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maintain its surety bond, and pay its annual assessment for the 2011/2012 and 2012/2013 fiscal years. Additionally, Brightgreen failed to file by March 1, 2012, a Report of Principal Amount of Loans Originated and Aggregate Amounts of Loans Serviced for the 12 Month Period Ended December 31, 2011 ("Report"), a report on Nontraditional, Adjustable Rate and Mortgage Loan Products ("Nontraditional Report"), and Non-traditional, Adjustable Rate and Mortgage Loan Survey ("Survey") providing information as required under the CRMLA.

On September 30, 2011 and on September 30, 2012, invoices were issued to Brightgreen in the amount of $5,000 as its annual assessment for the 2011/2012 fiscal year and $1,000 for its 2012/2013 fiscal year. To date, Brightgreen has not paid its assessments. The Department has learned that on May 2, 2011, Brightgreen filed for Chapter 11 bankruptcy in Texas, case number 11-33050-sgj11, of which Brightgreen failed to notify the Department.

On January 31, 2012, the Department received a Notice of Cancellation of a Bond from Washington International Insurance Company notifying the Department that the surety bond maintained on behalf of Brightgreen would be cancelled effective February 21, 2012. The Department then mailed Brightgreen a certified letter on February 2, 2012 seeking a reinstatement or replacement bond to avoid an order to discontinue any new lending or brokering activities. On February 6, 2012, the Department also sent form copies of the Report, Nontraditional Report, and Survey to Brightgreen with instructions for completing and timely submitting them to the Department. Thereafter, the Department's certified letter regarding Brightgreen's bond status was returned by the United States Postal Service as "undeliverable" and "unable to forward". As a result of Brightgreen's failure to maintain a bond, an Order to Discontinue Residential Mortgage Lending and/or Servicing Activities Pursuant to Section 50319, California Financial Code was issued on March 1, 2012, but similarly was undeliverable as addressed and unable to be forwarded to a valid address by the United States Postal Service.

II

VIOLATIONS

A. Failure to File Audit Reports

Section 50200 requires a licensed residential mortgage lender or servicer to have its books

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and accounts audited by an independent certified public accountant, and under subsection (d), the "audit report shall be filed with the commissioner within 105 days of the end of the licensee's fiscal year." (§ 50200, subd. (d).)

Pursuant to section 50200, Brightgreen was required to submit its audited financial statements ("audit report") for its fiscal years ending February 28, 2011 and February 29, 2012 by June 13 for each year. Brightgreen has yet to file the audit reports with the Department.

B. Failure to Maintain Surety Bond

A residential mortgage lender or servicer is required to maintain a surety bond in accordance with section 50205. Despite notice of its impending bond cancellation from the Department, Brightgreen allowed its bond to be cancelled on February 21, 2012, per the Notice of Cancellation of a Bond from Washington International Insurance Company, without ever obtaining a reinstatement or replacement bond, making Brightgreen in violation of section 50205.

C. Failure to Pay the 2011/2012 and 2012/2013 Annual Assessments

Every residential mortgage lender or servicer is required to pay to the Commissioner an annual assessment as determined under section 50401. Under subsection (c), each licensee shall pay the amount assessed and levied against it within 20 days. (§ 50401, subd. (c).) On September 30, 2011 and on September 30, 2012, the Department issued Brightgreen invoices for its 2011/2012 and 2012/2013 fiscal years, which Brightgreen has yet to pay.

D. Failure to Notify Department of Chapter 11 Bankruptcy

Section 50124(a)(9) requires a mortgage lender or servicer to advise the Commissioner "…of any material judgment filed against, or bankruptcy petition filed by, the licensee within five days of the filing." Brightgreen never informed the Department of its filing for Chapter 11 bankruptcy in Texas, case number 11-33050-sgj11 in violation of section 50124(a)(9).

E. Failure to File Reports and Survey

The CRMLA requires mortgage lenders and servicers to make certain filings. Specifically, section 50307(a) requires a residential mortgage lender or servicer to file an annual report by March 1 giving relevant information reasonably required for the Commissioner to calculate a licensee's annual assessment imposed under section 50401(a). In addition, section 50129(a)(2) requires

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licensees to include in their annual report separate schedules of the number and principal amount of the loans processed and underwritten. On February 6, 2012, the Department mailed Brightgreen a form Report for filing the information sought under sections 50307(a), 50401(a) and 50129(a)(2).

Additionally, licensees are required, under section 50307(b), to file any other special reports that the Commissioner may require. Under California Code of Regulations Title 10, section 1950.314.8(b), a licensee must state in a separate written document to the Commissioner whether it made or arranged nontraditional mortgage products and adjustable rate mortgage products. In addition, if any such mortgage loans were made or arranged, section 1950.314.8(b) also requires licensees to file a survey. (Cal. Code Regs., tit. 10, § 1950.314.8(b).) On February 6, 2012, the Department also mailed Brightgreen a form Nontraditional Report and a form Survey for filing the information sought under 10 CCR section 1950.314.8(b).

Brightgreen has failed to file its Report, Nontraditional Report and Survey containing information as required under the CRMLA.

V

CONCLUSION

Based on the Commissioner's foregoing findings, Brightgreen's residential mortgage lender's license should be revoked for its violations under the CRMLA.

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 any 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 the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

Brightgreen's failure to file its audit reports for the years ending February 28, 2011 and February 29, 2012, and its failure maintain a surety bond, pay its annual assessment for the 2011/2012 and 2012/2013 fiscal years, its failure to notify the Department of its Chapter 11 bankruptcy, and to file its Report, Nontraditional Report and Survey are grounds under section 50307 to revoke its license.

The Commissioner further finds that, by reason of the foregoing, Brightgreen has violated

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California Financial Code section 50200 in failing to file its 2011/2012 audit reports, section 50205 in failing to maintain its surety bond, section 50401(c) in failing to pay its annual assessments, and section 50124(a)(9) in failing to notify the Department of its Chapter 11 bankruptcy filing. In addition, the Commissioner finds that Brightgreen has violated California Financial Code sections 50307(a), 50129(a)(2) and 50401(a) in failing to file its Report, section 50307(b) and California Code of Regulations section 1950.314.8(b) (10 CCR § 1950.314.8(b)) in failing to file its Nontraditional Report, and section 50307(b) and California Code of Regulations section 1950.314.8(b) (10 CCR 1950.314.8(b)) in failing to file its Survey.

WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Brightgreen Home Loans, Inc. be revoked.

Dated: November 21, 2012
Sacramento, California

JAN LYNN OWEN
California Corporations Commissioner

By: _____
Lindsay B. Herrick
Corporations Counsel

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