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7 Attorneys for Complainant
8

9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of THE CALIFORNIA) File Nos.: 603-9862, 603-A869, et al.
CORPORATIONS COMMISSIONER,)
13)
14 Complainant,) DESIST AND REFRAIN ORDER PURSUANT
TO CALIFORNIA FINANCIAL CODE
15 vs.) SECTION 22712
16)
17 AMERICAN HOME MORTGAGE CORP.)
doing business as AMERICAN BROKERS)
18 CONDUIT, MORTGAGESELECT, MARINA)
MORTGAGE, and/or COLUMBIA)
19 NATIONAL, INC. and AMERICAN HOME)
MORTGAGE SERVICING, INC. doing)
20 business as AMERICAN HOME MTG)
SERVICING)
21)
22 Respondents.)

23 TO: AMERICAN HOME MORTGAGE CORP. doing business as
24 AMERICAN BROKERS CONDUIT, MORTGAGESELECT,
25 MARINA MORTGAGE, and/or COLUMBIA NATIONAL, INC.
538 Broadhollow Road
26 Melville, New York 11747

27 AMERICAN HOME MORTGAGE SERVICING, INC. doing business as
28 AMERICAN HOME MTG SERVICING
4600 Regent Boulevard
Irving, Texas 75063

1 in the business of finance lending and brokering, including residential mortgage lending and
2 brokering, on or about July 5, 2005, but is not currently engaged in either lending or brokering
3 residential mortgage loans.

4 6. American Home Mortgage and American Servicing are wholly owned subsidiaries of
5 American Home Mortgage Holdings, Inc., which, in turn, is a wholly owned subsidiary of American
6 Home Mortgage Investment Corp., a publicly traded company listed on the New York Stock
7 Exchange.

8 7. On or about July 31, 2007, counsel for American Home Mortgage informed the
9 Department by way of letter that American Home Mortgage had temporarily ceased funding loans
10 because it was unable to draw upon its warehouse lines.

11 8. On or about July 31, 2007, representatives for the Department, joined representatives
12 of other state banking and mortgage lending regulators, to contact American Home Mortgage to
13 schedule a telephone conference call to be held on August 1, 2007 with senior executives of
14 American Home Mortgage, to discuss concerns regarding the Company's financial condition and its
15 apparent inability to fund mortgage loans. Telephone conference calls were held on August 1 and 2,
16 2007 between the Department and other regulators and senior executives of American Home
17 Mortgage.

18 9. During the conference calls, the Department learned that as of July 30, 2007 there
19 were no warehouse lines of credit available to American Home Mortgage or its affiliates American
20 Home Mortgage Acceptance, Inc. and American Home Mortgage Ventures, which fund loans for
21 American Home Mortgage, resulting in an inability to fund any loans on or after July 30, 2007.
22 American Home Mortgage further informed the Department that it was no longer accepting
23 applications and that the application system had been shut down.

24 10. A line of credit used by a residential mortgage lender enables the entity to fund
25 residential mortgage loans prior to selling them to an investor. Without access to its lines of credit,
26 and in the absence of the residential mortgage lender independently maintaining sufficient reserves
27 and liquidity positions within the institution to fund such loans, the residential mortgage lender
28

1 would be unable to meet its funding commitments, negating its ability to meet contractual
2 obligations to fund residential mortgage loans.

3 11. During the August 1, 2007 conference call, the Department requested that American
4 Home Mortgage provide a pipeline report regarding mortgage loans involving residential property in
5 California (“pipeline report”). In response to that request, on August 2, 2007, American Home
6 Mortgage provided the Department with a pipeline report. However, the pipeline report was
7 incomplete. The pipeline report included loans, which had been approved, loans cleared to close and
8 “Close Docs”, but failed to include crucial information concerning pending applications which had
9 not yet been approved or loans which had been closed but not yet funded.

10 12. On August 3, 2007, American Home Mortgage provided the Department with a “pre-
11 commitment” report, which the Department believes contains the pipeline information concerning
12 pending applications. However, American Home Mortgage has yet to provide the Department with
13 information concerning loans, which had been closed, but not yet funded.

14 13. Pursuant to Financial Code section 22159(b), American Home Mortgage is required
15 to submit to the Commissioner any and all special reports the Commissioner from time to time may
16 require. The information described in paragraphs 11 and 12 was such a special report required by
17 the Commissioner under Section 22159(b).

18 14. As a result of American Home Mortgage’s failure to produce a complete pipeline
19 report, the Department is unable to determine the actual extent to which the funding problems at
20 American Home Mortgage will affect California borrowers.

21 15. The pipeline report provided by American Home Mortgage indicated though that, as
22 of August 1, 2007, American Home Mortgage failed to disburse loan proceeds, or was about to fail
23 to disburse loan proceeds, or otherwise fund, as many as two-hundred and fifty-three (253) mortgage
24 loan transactions involving residential property in California.

25 16. Financial Code section 22317.5 requires all finance lenders when engaged in
26 residential mortgage lending to disburse funds in accordance with its loan commitments and not to
27 intentionally delay loan closings.
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CONCLUSIONS OF LAW

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2 17. Based upon the information contained in Paragraphs 1 through 16, American Home
3 Mortgage has failed to submit a special report to the Commissioner in the form of a complete
4 pipeline report in violation of Financial Code section 22159(b).

5 18. Based upon the information contained in Paragraphs 1 through 16, American Home
6 Mortgage has failed to disburse funds in accordance with its commitments with its borrowers and to
7 make a good faith and reasonable effort to effect closing in a timely fashion in violation of Financial
8 Code section 22317.5.

9 19. Based upon the information contained in Paragraphs 1 through 16, American Home
10 Mortgage’s acts or practices of contracting with consumers for a purchase or refinance mortgage
11 loan, through the underwriting and subsequent execution of residential mortgage loan closing
12 documents relating to California residential property, and thereafter failing to fund the residential
13 mortgage loan(s), constitutes an unsafe and injurious practice.

14 20. Based upon the information contained in Paragraphs 1 through 16, American Home
15 Mortgage has failed to demonstrate the financial responsibility, character, and general fitness that
16 would support the belief that the business will be operated honestly, fairly, and in accordance with
17 the requirements of the CFLL.

18 21. Based upon the information contained in Paragraphs 1 through 16, and due to the
19 relationship of officers, directors, and principals of American Home Mortgage and American
20 Servicing, the Department is unable to conclude that American Servicing has demonstrated the
21 financial responsibility, character, and general fitness that would support the belief that the business
22 will be operated honestly, fairly, and in accordance with the requirements of the CFLL.

23 22. Based upon the information contained in Paragraphs 1 through 16, had the facts and
24 conditions found therein existed at the time of American Home Mortgage’s original finance lender
25 and broker license applications, the Commissioner would have been warranted in refusing to issue
26 such licenses. Further, the facts and conditions set forth in paragraphs 1 through 16 present
27 sufficient grounds for the revocation of finance lender and broker licenses of American Home
28 Mortgage pursuant to Financial Code section 22714.

DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby ORDERED that American Home Mortgage and American Servicing immediately desist and refrain from the violations described above as follows:

1. American Home Mortgage and American Servicing and any and all employees, and their successors or assigns, shall immediately cease soliciting or accepting, either directly or indirectly, any residential mortgage loan applications from consumers for residential property located in California, until further order of the Commissioner.

2. That American Home Mortgage, and if applicable, American Servicing, shall immediately place with one or more qualified broker(s) or lender(s), with applicants’ consent and at no loss to applicants, the following: (a) American Home Mortgage, and if applicable, American Servicing’s, entire portfolio of California residential mortgage loans which were closed by American Home Mortgage, or if applicable, American Servicing, as the case may be, and remain unfunded as of the issuance of this Order; and (b) American Home Mortgage, and if applicable, American Servicing’s, entire pending approved application list of California residential mortgage loans. The term “no loss to the applicant” shall mean that any loan, which was closed by American Home Mortgage, and if applicable, American Servicing, as well as any application which was approved by American Home Mortgage, and if applicable, American Servicing, shall be placed with a lender willing to fund, or close, the residential mortgage loan under the same terms and conditions extended by American Home Mortgage, and if applicable, American Servicing. In the event that no such placement can be made, American Home Mortgage, and if applicable, American Servicing shall either independently fund the residential mortgage loan under such terms and conditions or buy down the residential mortgage loan offered by the lender so that the applicant does not incur a loss as a result of such placement. American Home Mortgage, and if applicable, American Servicing shall obtain the prior approval of the Commissioner before placing such applications with qualified lender(s).

3. For those loan applications currently in the pipeline that have not been approved and/or closed as of the effective date of this Order, American Home Mortgage, and if applicable,

1 American Servicing shall, within three business days of the effective date of this Order, either (i)
2 obtain funding for and close the loans, (ii) place with other qualified broker(s) or lender(s) with
3 applicants' consent, or (iii) deny the applications for cause. The term "deny for cause" shall mean
4 that the underwriting guidelines of American Home Mortgage, and if applicable, American
5 Servicing in effect at the time of the application(s) would have provided grounds for American
6 Home Mortgage, and if applicable, American Servicing to deny the application(s) in the normal
7 course of business.

8 4. No later than one (1) business day after the effective date of this Order, American
9 Home Mortgage, and if applicable, American Servicing shall submit to the Commissioner a detailed
10 report, prepared as of the date of submission, of all of their residential mortgage loans that were
11 closed on property located in California prior to the effective date of this Order, but remain as yet
12 unfunded, including but not limited to: The names of all individuals from whom they processed an
13 application and closed the residential mortgage loan, but failed to fund; the applicants' addresses and
14 telephone numbers; the loan number; the amount of all prepaid loan fees submitted by the customer;
15 the amount of each loan; the loan terms; the current funding status; the actual closing dates; the
16 purpose of the loan (i.e. purchase or refinance); and identification of the applicable broker(s) or
17 lender(s) with who each application will be placed. The report should include telephone numbers of
18 contact persons at each broker or lender.

19 5. No later than five (5) days after the effective date of this Order, American Home
20 Mortgage, and if applicable, American Servicing shall submit to the Commissioner a detailed report,
21 prepared as of the date of submission, of all of their pending mortgage loan applications on property
22 located in California, including but not limited to: The names of all individuals from whom they
23 have accepted an application for a residential mortgage loan; the applicants' addresses and telephone
24 numbers; the loan number; the amount of all prepaid loan fees submitted by the customer; rate lock
25 status; the amount of each loan; application status (i.e. filed, cleared to close, etc.); loan terms, if
26 approved; scheduled closing dates; the loan purpose (i.e. purchase or refinance) and identification of
27 the applicable broker(s) or lender(s) with who each application will be placed. The report should
28 include telephone numbers of contact persons at each broker or lender.

1 6. On the last business day of each subsequent week after the effective date of this
2 Order, American Home Mortgage, and if applicable, American Servicing, shall provide the
3 Commissioner with an updated, written status report of the mortgage loan applications identified
4 above in paragraphs 4 and 5. The form of the status report shall follow the format of the initial
5 submission under paragraphs 4 and 5 and shall indicate the final disposition of the loan application
6 and include the final terms under which each approved loan is closed. The reporting requirement
7 shall continue until each of the approved applications is funded by American Home Mortgage, and if
8 applicable, American Servicing, or withdrawn by the applicant(s) or is placed and funded by another
9 lender.

10 7. No later than five (5) days after the effective date of this Order, American Home
11 Mortgage and American Servicing shall submit to the Commissioner a balance sheet and year-to-
12 date income statement, prepared as of the date of submission, and attested to by a duly authorized
13 officer of the company. The balance sheet should indicate the cash position of each company at each
14 of its depository banks as well the company’s bank account numbers.

15 8. The Department reserves all of its rights, duties and authority to enforce the CFLL
16 against American Home Mortgage and American Servicing in the future regarding all matters,
17 including but not limited to, those matters covered by this Order.

18 This Order shall become effective immediately and shall remain in effect unless set aside by
19 the Commissioner or by a court as provided in Financial Code section 22718.

20 A hearing will be scheduled on this matter only upon receipt of a written request for such a
21 hearing from American Home Mortgage and/or American Servicing, respectively, within thirty (30)
22 days of the effective date of this Order. If no hearing is requested within this thirty (30) day period,
23 this Order shall become final unless and until it is modified or vacated by the Commissioner.

24 Dated: August 3, 2007
25 Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

26
27 By _____
28 Alan S. Weinger
 Lead Corporations Counsel