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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 Accusation of THE) File No.: 603-D477
CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ACCUSATION
14)
Complainant,)
15)
16 vs.)
17 A L G CAPITAL, INC.,)
18 Respondent.)
19 _____)

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

22 I

23 1. Respondent A L G Capital, Inc. ("ALG") is a broker licensed by the California
24 Corporations Commissioner ("Commissioner") pursuant to the California Finance Lenders Law of
25 the State of California (California Financial Code § 22000 et seq.) ("CFLL"). ALG currently holds
26 one broker license issued under the CFLL. The licensed location of ALG is at 15455 San Fernando
27 Mission Boulevard, Suite 307, Mission Hills, California 91345.

28 2. According to the records of the California Department of Corporations

1 (“Department”), Crystal Palomino (“Palomino”) is the president, treasurer, secretary, and sole
2 shareholder and director of ALG.

3 3. On or about March 26, 2008, the Commissioner commenced a regulatory
4 examination of the books and records of ALG by and through his examination staff. The
5 Commissioner commenced the regulatory examination in light of a rash of recent consumer
6 complaints received by the Department against ALG alleging fraud and other problems. The
7 regulatory examination has not yet been concluded because ALG has failed to provide all the
8 documentation requested as further described below.

9 4. On or about March 26, 2008, the Commissioner, by and through his staff, arrived at
10 the licensed location of ALG to commence the regulatory examination. There was no one at ALG.
11 An inquiry by the examiner regarding ALG with two of the building tenants only produced the
12 telephone number of Koll, the building management company. However, Koll would only disclose
13 that ALG is an active tenant. Neither ALG nor its Suite number was listed on the building directory
14 located in the lobby. The building parking attendant stated that he had not seen anyone from ALG
15 that day, but he had seen an associate of ALG the day before. A call to the telephone number for
16 ALG found on ALG letterhead submitted by a complainant resulted in a message stating that the
17 number was “temporarily unavailable”. The examiner prepared a standard Department “regulatory
18 examination notification” letter and placed that letter along with his business card under the door of
19 ALG.

20 5. The examiner, upon arriving back at the Department, received a telephone call from
21 an attorney identifying himself as legal counsel for ALG (“ALG Counsel”) stating he was calling
22 about the examiner’s visit to ALG. ALG Counsel mentioned that ALG was in or had filed for
23 bankruptcy and the records of ALG were in or will be in storage. The examiner informed ALG
24 Counsel that this was a regulatory examination and a list of initial items needed for the regulatory
25 examination would be forwarded to him on behalf of his client, at which time the examiner obtained
26 his contact information and email address.

27 6. On or about March 26, 2008, the examiner emailed an initial request to ALG Counsel
28 mainly seeking the current identification and contact information for all current shareholders,

1 officers, directors,, etc. in order to properly address future correspondence to ALG. The contact
2 information was to include the address, telephone number, email address, and fax number for ALG
3 and key personnel. ALG Counsel acknowledged receipt of the document demand and stated that he
4 would forward it to ALG. ALG Counsel was notified that a more detailed document demand would
5 be forthcoming shortly.

6 7. On or about March 27, 2008, a document demand letter was sent, certified, return-
7 receipt, to ALG at its licensed location to the attention of Palomino with a copy to ALG Counsel.
8 ALG was given only forty-eight (48) hours to respond to the document demand due to the nature of
9 the allegations of the complaints and concerns regarding the ability to access books and records in
10 light of the office closure on March 26, 2008. The demand letter was received by ALG at its
11 licensed location on March 28, 2008 according to the return receipt.

12 8. On or about March 27, 2008, at or about 3:38 p.m., ALG Counsel telephoned the
13 examiner and left a voicemail message stating that there is no current listing of owners, directors,
14 officers, or partners for ALG due to the bankruptcy filing.

15 9. On or about March 28, 2008 at or about 9:25 a.m., the Department’s senior examiner
16 for the CFLL received a telephone call from ALG Counsel. During this telephone conversation,
17 ALG Counsel was informed that the Department must receive ALG’s loan register by April 1, 2008.
18 ALG Counsel was further informed that the Department’s examiner must be present when loan files
19 are pulled from storage.

20 10. On or about March 28, 2008, at or about 10:20 a.m., the examiner attempted calling
21 ALG at the two telephone numbers listed in its license application with the Department. There was
22 no answer at either telephone number nor did an answering machine or voicemail system pick up.

23 11. According to complaints filed with the Department, a Sean and Michael McConville
24 are alleged to be primary individuals of ALG. The application filed by ALG disclosed no one other
25 than Palomino as an officer, director, or shareholder.

26 12. On or about April 1, 2008, the examiner was contacted by telephone by another
27 counsel for ALG (ALG Counsel II”). ALG Counsel II explained that ALG Counsel was mainly
28 bankruptcy counsel for ALG, which had never previously been disclosed to the Department, and that

1 ALG Counsel II had been retained to handle Department inquiries. ALG Counsel II was
2 immediately informed of the outstanding document demand that had been served on ALG as well as
3 ALG Counsel. During the conversation, the examiner requested ALG Counsel II's contact
4 information, which was provided later that day.

5 13. On or about April 1, 2008, at or about 9:58 p.m., the examiner emailed the March 27,
6 2008 document demand to ALG Counsel II. The examiner further advised ALG Counsel II that the
7 document demand was urgent, past due and was also not all-inclusive.

8 14. On or about April 2, 2008, at or about 10:04 a.m., ALG Counsel II emailed the
9 examiner explaining that the request was fairly extensive, and that as she had just been retained, she
10 was requesting until April 14, 2008 to respond. ALG Counsel II was immediately notified that at
11 least the loan register, which is required to be maintained current at all times under the CFLL, and
12 the previously demanded contact information must be provided immediately.

13 15. On or about April 3, 2008, ALG, by and through ALG Counsel II, informed the
14 Department that Palomino was the sole shareholder, officer and director of ALG, but provided no
15 contact information other than the address of ALG Counsel II. ALG Counsel II never responded to
16 the Department request to explain the positions of Sean and Michael McConville and had yet to
17 provide a loan register.

18 16. On or about April 7, 2008, ALG Counsel II was again notified in writing that the loan
19 register had not been provided and again demanding submission of the loan register no later than
20 close of business April 7, 2008.

21 17. On or about April 7, 2008, at or about close of business, the Department received a
22 package from ALG Counsel II on behalf of ALG. The package consisted of a cover letter and 2 sets
23 of registers. The first set was marked as pages ALG00001 – ALG00056 and the second set was
24 marked as pages ALG00057 – ALG00139. The two sets were not contiguous in layout. The column
25 headings were not the same, in terms of sort order and quantity of columns. In regards to the sorting
26 order of the loans, the first set was sorted by lender name while the sorting for the second set was
27 unidentifiable. Furthermore, the requested content was not adhered to. Information regarding
28 application date, source of business, type of loan-variable/fixed, appraisal fee, and whether the

1 transaction was conducted under the purview of the CFLL or the Department of Real Estate was
2 missing or not clearly provided. ALG Counsel II was telephoned immediately and a message was
3 left to telephone the Department regarding the loan registers.

4 18. On or about April 9, 2008, ALG Counsel II acknowledged to the Department that an
5 electronic version of the loan register (Microsoft Excel) existed, but that ALG would not provide
6 such an electronic version to the Department.

7 19. On or about April 10, 2008, the Department sent a letter to ALG demanding that
8 ALG provide the loan register in Microsoft Excel by close of business April 11, 2008. The demand
9 letter informed ALG of the provisions of Financial Code section 22156 and 22701, and further
10 notified ALG of the Department's authority to demand special reports under the provisions of
11 Financial Code section 22159(b). The April 10, 2008 demand letter was sent to ALG via facsimile
12 to ALG Counsel II at or about 2:53 p.m. and also certified, return-receipt mail to ALG at its licensed
13 location.

14 20. On or about April 10, 2008, at or about 4:00 p.m., the Department received a further
15 package from ALG Counsel II on behalf of ALG. The package consisted of a cover letter from ALG
16 Counsel II and an alphabetized loan register. This loan register was numbered pages ALG00140
17 thru ALG00196, i.e., 57 pages. However, the previous loan register submitted on April 7, 2008 was
18 139 pages. The font size was similar in both loan registers, yet there was no explanation as to why
19 this loan register was only 57 pages. Notwithstanding, the report did not comply with the specifics
20 stated in the April 10, 2008 demand letter that a Microsoft Excel version be provided.

21 21. As of April 15, 2008, ALG has failed to provide the information and documentation
22 to the Commissioner as required by Financial Code sections 22156, 22159(b), and 22701. Thus, the
23 Commissioner has been unable to perform the regulatory examination authorized under Financial
24 Section 22701.

25 II

26 California Financial Code section 22156 provides:

27 Licensees shall keep and use in their business, books, accounts,
28 and records which will enable the commissioner to determine
if the licensee is complying with the provisions of this division
and with the rules and regulations made by the commissioner. On any

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loan secured by real property in which loan proceeds were disbursed to an independent escrowholder, the licensee shall retain records and documents as set forth by rules of the commissioner adopted pursuant to Section 22150. Upon request of the commissioner, licensees shall file an authorization for disclosure to the commissioner of financial records of the licensed business pursuant to Section 7473 of the Government Code.

California Financial Code section 22159(b) provides:

A licensee shall make other special reports that may be required by the commissioner.

California Financial Code section 22701 provides in relevant part:

For the purpose of discovering violations of this division or securing information required by him or her in the administration and enforcement of this division, the commissioner may at any time investigate the loans and business, and examine the books, accounts, records, and files used in the business, of every person engaged in the business of a finance lender or broker, whether the person acts or claims to act as principal or agent, or under or without the authority of this division. For the purpose of examination, the commissioner and his or her representatives shall have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons. (emphasis added).

III

California Financial Code section 22714 provides in pertinent part:

(a) The commissioner shall suspend or revoke any license, upon notice and 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.

(2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division. . . .

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IV

The Commissioner finds that, by reason of the foregoing, Respondent has violated California Financial Code sections 22156, 22159(b), and 22701 and failed to comply with demands of the Commissioner, and it is in the best interests of the public to revoke the broker license of Respondent A L G Capital, Inc.

WHEREFORE, IT IS PRAYED that the broker license of Respondent A L G Capital, Inc. be revoked.

Dated: April 16, 2008
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel