

1 PRESTON DUFAUCHARD
California Corporations Commissioner
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8 Attorneys for Complainant

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

11 In the Matter of the Accusation of THE)File No.: 4130801
CALIFORNIA CORPORATIONS)
12 COMMISSIONER,)
)ACCUSATION
13 Complainant,)
)California Financial Code §50311
14)
15 v.)
)
16 FINANCIAL MORTGAGE USA, INC. d.b.a.)
FINANCIAL MORT. USA, INC.)
17 Respondent.)
18)

19 The Complainant, California Corporations Commissioner ("Commissioner"), is informed and
20 believes, and based upon such information and belief, alleges and charges Respondent as follows:

21 I.

22 Respondent FINANCIAL MORTGAGE USA, INC. d.b.a. FINANCIAL MORT. USA, INC.
23 ("FINANCIAL") is a residential mortgage lender and mortgage loan servicer licensed by the
24 Commissioner pursuant to the California Residential Mortgage Lending Act (California Financial
25 Code, § 50000 *et seq.*) ("CRMLA"). FINANCIAL has its principal place of business located at 711
26 Kapiolani Blvd., Suite 1600, Honolulu, HI 96813.
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II.

Pursuant to California Financial Code sections 50307 and 50401 and California Code of Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file the following annual reports with the Commissioner: (1) Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report"); (2) Report on Non-traditional, Adjustable Rate and Mortgage Loan Products ("Non-traditional Report"); and (3) Non-traditional, Adjustable Rate and Mortgage Loan Survey ("Survey"). The Activity Report, Non-traditional Report, and Survey must be filed with the Commissioner on or before March 1st of each year for the preceding twelve (12) month period ending December 31.

On or about February 1, 2008, an Activity Report form, Non-traditional Report form and Survey were sent to all CRMLA licensees, including FINANCIAL, with a notice stating that these reports were due on or before March 1, 2008. The Commissioner assessed a penalty of \$1000.00 for the failure to submit these reports on May 15, 2008. To date, FINANCIAL has not submitted the Activity Report, the Non-traditional Report or the Survey to the Commissioner and pay the assessed penalty.

III.

California Financial Code section 50205(a) states "[a] licensee shall maintain a surety bond in accordance with this subdivision."

FINANCIAL has failed to maintain its surety bond as required by that section. On April 16, 2008, the Commissioner received a Notice of Cancellation Non-Renewal of FINANCIAL's surety bond from Hartford Fire Insurance Company. The date of cancellation of the surety bond was June 27, 2008.

On or about June 30, 2008, the Commissioner issued an Order To Discontinue Residential Mortgage Lending And/Or Servicing Activities Pursuant California Financial Code section 50319¹ to

¹ California Financial Code section 50319 provides in pertinent part: (a) If the commissioner, as a result of any examination or from any report made to him or her, shall find that any person subject to this division.... has failed to comply with the bonding requirements of Section 50205, the commissioner may, by an order addressed to and served by registered or certified mail, or by personal service on that person...., direct discontinuance of the disbursement, in whole or in part, of trust funds held by the licensee and order the

1 FINANCIAL. To date, the surety bond has not been reinstated or replaced, and the Order To
2 Discontinue Residential Mortgage Lending And/Or Servicing Activities Pursuant California
3 Financial Code section 50319 remains in effect.

4 IV.

5 California Financial Code section 50327 provides in pertinent part:

6 (a) The commissioner may, after notice and a reasonable opportunity to
7 be heard, suspend or revoke any license if the commissioner finds that:
8 (1) the licensee has violated any provision of this division or any rule or
9 order of the commissioner thereunder; or (2) any fact or condition
10 exists that, if it had existed at the time of the original application for the
11 license, reasonably would have warranted the commissioner in refusing
12 to issue the license originally.

11 V.

12 The Commissioner finds that, by reason of the foregoing, FINANCIAL has violated
13 California Financial Code sections 50205(a), 50307, 50326, 50401 and California Code of
14 Regulations, title 10, section 1950.314.8, and based thereon, grounds exist to revoke FINANCIAL's
15 license as a residential mortgage lender and mortgage loan servicer.

16 WHEREFORE, IT IS PRAYED that the residential mortgage lender and mortgage loan
17 servicer license of FINANCIAL MORTGAGE USA, INC. d.b.a. FINANCIAL MORT. USA, INC.
18 be revoked and, pursuant to Financial Code section 50311, FINANCIAL MORTGAGE USA, INC.
19 d.b.a. FINANCIAL MORT. USA, INC. be given a transition period of sixty (60) days within which
20 to complete any loans for which it had prior commitments.

21
22 DATED: September 24, 2008 PRESTON DuFAUCHARD
23 Sacramento, CA California Corporations Commissioner

24
25 By _____
26 Marisa I. Urteaga-Watkins
27 Corporations Counsel

28 establishment of a separate trust account for all subsequent trust funds received by the licensee.