

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Deputy Commissioner
3 JENNIFER A. GRANAT (CA BAR NO. 199868)
Corporations Counsel
4 Department of Corporations
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
6 Telephone: (213) 576-7518 Fax: (213) 576-7181

7 Attorneys for Complainant

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

10 In the Matter of the Accusation of THE) File No.: 413-0268
11 CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION
13)
Complainant,)
14)
v.)
15)
SOUTHERN STAR MORTGAGE CORP.,)
16)
Respondent.)
17)
18)

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

21 I

22 Southern Star Mortgage Corp. (“Respondent”) is a residential mortgage lender licensed by
23 the Commissioner of Corporations of the State of California (“Commissioner” or “Complainant”)
24 pursuant to the California Residential Mortgage Lending Act (“CRMLA”), California Financial
25 Code section 50000 *et seq.* Respondent’s main office is located at 90 Merrick Avenue, Suite 204,
26 East Meadow, New York 11554.
27
28

II

Pursuant to California Financial Code section 50200,¹ Respondent was required to submit its audited financial statements for fiscal year ended December 31, 2007, including a reconciliation of trust accounts and an Independent Auditor's Report on Internal Controls pursuant to California Code of Regulations, Title 10, section 1950.200 (the "2007 Audit Report"), to the Commissioner on or before April 15, 2008. To date, Respondent has failed to file its 2007 Audit Report despite repeated, written demand.

On or about December 17, 2007, Complainant notified Respondent by letter that its 2007 Audit Report was due on or before April 15, 2008, and that the failure to file the report may result in fines pursuant to section 50326 and/or revocation of its license. Respondent failed to submit the 2007 Audit Report by such date.

On or about March 24, 2008, Respondent notified the Commissioner by letter that it had filed for bankruptcy on December 12, 2007, and that Respondent's year-end financials had not been completed. A penalty was not assessed due to this bankruptcy.

On or about June 2, 2008, a second letter was sent to Respondent demanding that Respondent file its 2007 Audit Report on or before June 12, 2008. Respondent failed to submit the 2007 Audit Report by such date.

To date, Respondent has failed to file its 2007 Audit Report for the fiscal year ended December 31, 2007, as required by section 50200.

III

Pursuant to section 50200, Respondent was required to submit its audited financial statements for fiscal year ended December 31, 2008, including a reconciliation of trust accounts and

¹ All references are to the California Financial Code unless otherwise noted.

1 an Independent Auditor’s Report on Internal Controls pursuant to California Code of Regulations,
2 Title 10, section 1950.200 (the “2008 Audit Report”), to the Commissioner on or before April 15,
3 2009. To date, Respondent has failed to file its 2008 Audit Report, despite repeated, written
4 demand.
5

6 On or about December 23, 2008, Complainant notified Respondent by letter that its 2008
7 Audit Report was due on or before April 15, 2009, and that the failure to file the report may result
8 in fines pursuant to section 50326 and/or revocation of its license. Respondent failed to submit the
9 2008 Audit Report by such date.
10

11 On or about April 20, 2009, a second letter was sent to Respondent demanding that
12 Respondent file its 2008 Audit Report on or before April 30, 2009. Respondent failed to submit the
13 2008 Audit Report by such date.

14 To date, Respondent has failed to file its 2008 Audit Report as required by section 50200.
15

16 IV

17 Pursuant to sections 50307 and 50401 and California Code of Regulations, Title 10, section
18 1950.314.8, all licensees under the CRMLA are required to file an annual Report of Principal
19 Amount of Loans Originated and Aggregate Amount of Loans Serviced, Report on Non-Traditional
20 Adjustable Rate and Mortgage Loan Products, and Non-Traditional, Adjustable Rate and Mortgage
21 Loan Survey (collectively, the “Report”) on or before March 1 of each year for the preceding 12-
22 month period ended December 31. Respondent failed to submit the Report for the 12-month period
23 ended December 31, 2008, despite written demand.
24

25 On or about January 23, 2009, a Report form was sent to all CRMLA licensees with a notice
26 that the Report was due on or before March 1, 2009.
27
28

1 To date, Respondent has failed to file the Report as required by sections 50307 and 50401
2 and California Code of Regulations, Title 10, section 1950.314.8.

3 V

4 Section 50205 requires all CRMLA licensees to maintain a surety bond in the minimum
5 amount of \$50,000.00. Respondent's surety bond expired effective September 19, 2007, and no
6 replacement bond has been obtained.

7
8 On or about September 19, 2007, the Commissioner issued an Order to Discontinue
9 Residential Mortgage Lending and/or Servicing Activities Pursuant to Section 50319, California
10 Financial Code, based on Respondent's failure to maintain the required surety bond. To date,
11 Respondent has failed to obtain a surety bond in violation of section 50205 and the Order remains
12 in effect.

13 VI

14
15 Section 50123 requires that prior to surrendering a license, a licensee must file a plan for
16 approval by the Commissioner. The plan must contain the licensee's detailed proposal for orderly
17 closing out of the residential mortgage lending business. In addition, the Commissioner must make
18 a determination that there has been no violation of the CRMLA.

19
20 On or about March 24, 2008, Respondent notified the Commissioner by letter that
21 Respondent filed for bankruptcy on December 12, 2007, and intended to surrender its residential
22 mortgage lender license. However, Respondent failed to meet the requirements for surrender under
23 section 50123.

24 VII

25 California Financial Code section 50327 provides in pertinent part:

- 26
27 (a) The commissioner may, after notice and a reasonable opportunity
28 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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

VIII

The Commissioner finds that, by reason of the foregoing, Respondent Southern Star Mortgage Corp. violated California Financial Code sections 50200, 50205, 50307 and 50401, and California Code of Regulations, Title 10, sections 1950.200 and 1950.314.8, and based thereon, grounds exist to revoke Respondent’s residential mortgage lender license.

WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Southern Star Mortgage Corp. be revoked.

Dated: June 23, 2009
Los Angeles, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Jennifer A. Granat
Corporations Counsel