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California Corporations Commissioner
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7 Attorneys for Complainant
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9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of the Accusation of THE) File No.: 415-0015
CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ACCUSATION
14)
Complainant,)
15)
16 vs.)
17 WAUSAU MORTGAGE CORPORATION,)
18 Respondent.)
19)
20)

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

23 I

24 Respondent Wausau Mortgage Corporation ("Wausau") is a residential mortgage lender
25 licensed by the California Corporations Commissioner ("Commissioner") pursuant to the California
26 Residential Mortgage Lending Act (California Financial Code § 50000 et seq.) ("CRMLA").
27 Wausau has its principal place of business located at 6700 Koll Center Parkway, Suite 100,
28 Pleasanton, California 92566.

1 Commissioner by April 15, 2007. Wausau has yet to file its audit report with the Commissioner
2 despite numerous reminders.

3 On or about December 11, 2006, the Commissioner notified Wausau in writing that its audit
4 report was due April 15, 2007. Wausau failed to submit the audit report by April 15, 2007.

5 On or about April 12, 2007, Wausau submitted an un-audited financial statement for its
6 parent Sunset Mortgage Company, L.P. On or about June 13, 2007, a further letter was sent to
7 Wausau notifying Wausau that the financial statement submitted on April 12, 2007 was
8 unacceptable. The June 13, 2007 letter demanded that the audit report be filed no later than June 23,
9 2007. Wausau was notified in the letter that failure to file the audit report by June 23, 2007 would
10 result in an action to either suspend or revoke its license. The June 13, 2007 letter further instructed
11 Wausau regarding the requirements of filing its Report on Internal Controls and its Uniform Single
12 Attestation Program for Mortgage Bankers (“USAP”) and reconciliations of its trust accounts for the
13 year ending December 31, 2006 with the annual audit report.

14 On or about August 2, 2007, a further letter was sent to Wausau demanding the audit report
15 be filed no later than August 12, 2007, and assessing Wausau a penalty of \$1,000.00 pursuant to
16 California Financial Code section 50326. Wausau was notified in the letter that failure to file the
17 activity report and/or pay the penalty by August 12, 2007 would result in an action to either suspend
18 or revoke its license.

19 Wausau has yet to file the audit report, USAP, and trust account reconciliations or pay the
20 penalty as required by California Financial Code sections 50200 and 50326.

21 IV

22 On or about March 27, 2006, the Commissioner commenced a regulatory examination of the
23 books and records of Wausau. The March 27, 2006 regulatory examination (“regulatory
24 examination”), disclosed that as of January 31, 2006, Wausau had a debit balance (shortage) in the
25 amount of \$178,850.68 in its trust account in violation of California Code of Regulations, title 10,
26 section 1950.314.6. Section 1950.314.6 prohibits debit balances in any loan or servicing account
27 maintained by CRMLA licensees. Wausau caused the debit balance to exist by depositing trust
28 monies (interim tax and insurance payments received in loan transactions) into its operating accounts

1 and then using such funds to pay for operating expenses in violation of Financial Code section
2 50202(a) and 50202(b), which prohibit commingling of trust funds with the funds of the licensee and
3 misuse of trust funds.

4 On or about April 12, 2007, the Commissioner made demand upon Wausau to correct the
5 trust account shortage. Wausau appears to have cured the trust account shortage on or about April
6 26, 2007. However, Wausau has failed to produce complete documentation to the Commissioner
7 regarding the cure.

8 V

9 The regulatory examination further revealed that Wausau had failed to reconcile its escrow
10 liability ledgers to its control account at least once a week and to the bank statement balance at least
11 once each month in violation of California Code of Regulations, Title 10, section 1950.314.1.
12 Wausau also consistently failed to timely provide documents necessary for purposes of conducting
13 the regulatory examination and never did provide evidence of disbursements dates for loan files
14 requested for review in violation of Financial Code section 50314.

15 VI

16 California Financial Code section 50327 provides in pertinent part:

- 17 (a) The commissioner may, after notice and a reasonable opportunity to
18 be heard, suspend or revoke any license if the commissioner finds that:
19 (1) the licensee has violated any provision of this division or rule or order
20 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.

21 VII

22 The Commissioner finds that, by reason of the foregoing, Wausau has violated Financial
23 Code sections 50200, 50202(a), 50202(b), 50307, 50314, 50326, and 50401 and California Code of
24 Regulations, title 10, sections 1950.314.1 and 1950.314.6, and based thereon, grounds exist to
25 revoke the residential mortgage lender license of Wausau.

26 WHEREFORE, IT IS PRAYED that the residential mortgage lender license of Wausau be
27 revoked and that pursuant to Financial Code section 50311, Wausau be given a transition period of
28 sixty (60) days within which to complete any loans for which it had commitments.

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Dated: August 29, 2007
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel