

DEPARTMENT OF CORPORATIONS

www.corp.ca.govLos Angeles, California
November 2, 2007IN REPLY REFER TO:
FILE NO: 603-A365BACKBAY MORTGAGE COMPANY
(BACKBAY HOLDING COMPANY, LLC, DBA)
5835 POST ROAD, SUITE 216
E. GREENWICH, RI 02818

Dear Licensee:

Attached are the following:

1. Notice of Intention to Issue Order Revoking California Finance Lenders License;
2. Accusation;
3. Statement to Respondent;
4. Government Code Sections 11507.5, 11507.6 and 11507.7 relating to discovery; and
5. Notice of Defense.

If you have any questions, please contact the undersigned at the telephone number listed below.

Sincerely,

PRESTON DuFAUCHARD
California Corporations CommissionerBy _____
PATRICIA R. SPEIGHT
Special Administrator, CPLL
Financial Services Division
(213) 576-7614

Enclosures

♦ Securities ♦ Franchises ♦ Off-Exchange Commodities ♦ Investment and Financial Services ♦
♦ Independent Escrows ♦ Consumer and Commercial Finance Lending ♦ Residential Mortgage Lending ♦LOS ANGELES 90013-2344
320 WEST 4TH STREET, SUITE 750
(213) 576-7500SACRAMENTO 95814-4052
1515 K STREET, SUITE 200
(916) 445-7205SAN DIEGO 92101-3697
1350 FRONT STREET, ROOM 2034
(619) 525-4233SAN FRANCISCO 94105-2980
71 STEVENSON STREET, SUITE 2100
(415) 972-8559

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
~~Lead Corporations Counsel~~
4 Department of Corporations
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344
Telephone: (213)576-6205 Fax: (213)576-7181

6 Attorneys for Complainant
7

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

10	In the Matter of the Accusation of)	File No. 603-A365
)	
11	THE CALIFORNIA CORPORATIONS)	NOTICE OF INTENTION
	COMMISSIONER,)	TO ISSUE ORDER
12)	REVOKING CALIFORNIA
	Complainant,)	FINANCE LENDERS
13)	LICENSE
	vs.)	
14	BACKBAY MORTGAGE COMPANY (BACKBAY)	
	HOLDING COMPANY, LLC, DBA),)	
15)	
16)	
	Respondent.)	
17)	

18 Pursuant to section 22714 of the California Finance Lenders
19 Law (California Financial Code), notice is hereby given of the
20 intention of the California Corporations Commissioner to enter
21 his Order pursuant to section 22714 of the California Finance
22 Lenders Law to revoke Respondent's finance lenders license.

23 The attached Accusation, which is incorporated by
24 this reference, states the reasons for the intended Order.

25
26 Unless a request for hearing, as evidenced by the
27 mailing or delivery of the Notice of Defense, is received within
28

1 15 days after the Accusation was personally served upon you or
2 mailed to you, such Order may be entered at any time thereafter
3 without a hearing.

4 Dated: ~~November 2, 2007~~
Los Angeles, California

5
6 PRESTON DuFAUCHARD
California Corporations Commissioner

7
8 By _____
PATRICIA R. SPEIGHT
9 Special Administrator
California Finance Lenders Law

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1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Accusation of) File No. 603-A365
11 THE CALIFORNIA CORPORATIONS)
COMMISSIONER,) ACCUSATION
12 Complainant,)
13 vs.)
14 BACKBAY MORTGAGE COMPANY (BACKBAY)
HOLDING COMPANY, LLC, DBA),)
15 Respondent.)
16)
17)

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

21 I

22 Respondent is a finance lender and/or broker licensed
23 by the California Corporations Commissioner ("Commissioner")
24 pursuant to the California Finance Lenders Law (California
25 Financial Code § 22000 et seq.) ("CFL"). Respondent has its
26 principal place of business located at:
27
28

1
2 5835 POST ROAD, SUITE 216
3 E. GREENWICH, RI 02818

4 II

5 Pursuant to California Financial Code section 22112, all
6 CFL licensees are required to maintain a surety bond in the
7 minimum amount of \$25,000.00. The surety bond of respondent
8 expired 10/17/07. On or about 09/25/07 the Commissioner
9 notified respondent that a replacement surety bond had to be
10 filed immediately, but no later than the expiration date to
11 avoid suspension or revocation of its CFL license.

12 Respondent has yet to obtain a replacement surty bond in
13 violation of California Financial Code section 22112.

14 III

15 California Financial Code section 22112 provides in
16 pertinent part:

17 A licensee shall maintain a surety bond in accordance
18 with this subdivision in the amount of twenty-five
19 thousand dollars (\$25,000). The bond shall be payable
20 to the commissioner and issued by an insurer authorized
21 to do business in this state. A copy of the bond,
22 including any and all riders and endorsements executed
23 subsequent to the effective date of the bond, shall be
24 filed with the commissioner for review and approval
25 within 10 days of execution. For licensees with
26 multiple licensed locations, only one surety bond in
27 the amount of twenty-five thousand dollars (\$25,000)
28 is required. The bond shall be used for the recovery
of expenses, fines, and fees levied by the commissioner
in accordance with this division or losses or for
damages incurred by consumers as the result of a
licensee's noncompliance with the requirements of this
division.

1 California Financial Code section 22714 provides in
2 pertinent part:

3 The commissioner may suspend or revoke any license,
4 upon notice and reasonable opportunity to be heard, if
5 the commissioner finds any of the following:

6 (a) The licensee has failed to comply with any demand,
7 ruling, or requirement of the commissioner made
8 pursuant to and within the authority of this division.

9 (b) The licensee has violated any provision of this
10 division or any rule or regulation made by the
11 commissioner under and within the authority of this
12 division.

13 (c) A fact or condition exists that, if it had existed
14 at the time of the original application for the
15 license, reasonably would have warranted the
16 commissioner in refusing to issue the license
17 originally.

18 IV

19 The Commissioner finds that, by reason of the foregoing,
20 Respondent has violated California Financial Code section 22112,
21 and based thereon, grounds exist to revoke the California
22 Finance Lender license of Respondent.

23 WHEREFORE, IT IS PRAYED that the California finance lender
24 license of Respondent be revoked.

25 Dated: November 2, 2007
26 Los Angeles, California

27 PRESTON DuFAUCHARD
28 California Corporations Commissioner

By _____
PATRICIA R. SPEIGHT
Special Administrator
California Finance Lenders Law

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Lead Corporations Counsel
4 Department of Corporations
320 West 4th Street, Ste. 750
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Telephone: (213)576-6205 Fax: (213)576-7181

6 Attorneys for Complainant
7

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

10 In the Matter of the Accusation of) File No. 603-A365
11 THE CALIFORNIA CORPORATIONS) STATEMENT TO RESPONDENT
12 COMMISSIONER,)
13 Complainant,)
14 vs.)
15 BACKBAY MORTGAGE COMPANY (BACKBAY)
HOLDING COMPANY, LLC, DBA),)
16 Respondent.)
17

18 TO: BACKBAY MORTGAGE COMPANY (BACKBAY HOLDING COMPANY, LLC,
5835 POST ROAD, SUITE 216
19 E. GREENWICH, RI 02818

20 Attached is a copy of the Accusation issued in the above
21 matter, which is hereby served upon you in accordance with the
22 provisions of Section 11505(c) of the Government Code.

23 Unless a written request for a hearing signed by or on
24 behalf of the person named as respondent(s) in the accompanying
25 Accusation is delivered or mailed to the agency within 15 days
26 after the Accusation was personally served upon you or mailed to
27 you, the California Corporations Commissioner may proceed upon
28

1 the Accusation without a hearing. The request for a hearing may
2 be made by delivering or mailing the enclosed form entitled
3 Notice of Defense, or by delivering or mailing a Notice of
4 Defense as provided by Section 11506 of the Government Code to:

5 PATRICIA R. SPEIGHT
6 Special Administrator
7 Department of Corporations
8 320 West Fourth Street, Suite 750
9 Los Angeles, California 90013-2344

10 You may, but need not, be represented by counsel at any or
11 all steps of these proceedings.

12 If you desire the names and addresses of witnesses or an
13 opportunity to inspect and copy the items mentioned in Section
14 11507.6 in the possession, custody or control of the agency, you
15 may contact:

16 PATRICIA R. SPEIGHT
17 Special Administrator
18 Department of Corporations
19 320 West Fourth Street, Suite 750
20 Los Angeles, California 90013-2344

21 The hearing may be postponed for good cause. If you have
22 good cause, you are obliged to notify the agency or, if an
23 administrative law judge has been assigned to the hearing, the
24 Office of Administrative Hearings, within 10 working days after
25 you discover the good cause. Failure to give notice within 10
26 days will deprive you of a postponement.

27 In accordance with the provisions of Section 11505 of the
28 Government Code, attached are copies of 11507.5, 11507.6 and
11507.7 of the Government Code.

1 Dated: November 2, 2007
2 Los Angeles, California

3 PRESTON DuFAUCHARD
4 California Corporations Commissioner

5 By _____
6 PATRICIA R. SPEIGHT
7 Special Administrator
8 California Finance Lenders Law
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11507.5 The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

11507.6 After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof:

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing on this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

11507.7 (a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made

and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

In the Matter of the Accusation of) File No. 603-A365
THE CALIFORNIA CORPORATIONS)
COMMISSIONER,) NOTICE OF DEFENSE
Complainant,)
vs.)
BACKBAY MORTGAGE COMPANY (BACKBAY)
HOLDING COMPANY, LLC, DBA),)
Respondent.)

TO: DEPARTMENT OF CORPORATIONS

PATRICIA R. SPEIGHT
SPECIAL ADMINISTRATOR
California Finance Lenders Law
320 West Fourth Street, Suite 750
Los Angeles, California 90013-2344

I, the undersigned and the respondent named in this proceeding, hereby acknowledge receipt of a copy of the Notice of Intention, Accusation, Statement to Respondent, a copy of Government Code sections 11507.5, 11507.6 and 11507.7, and a blank form of notice of defense.

You are hereby notified that I request a hearing in the above-entitled matter.

(Signature)

(Name)

(Street Address)

(City, State, Zip Code)

(Telephone Number)