

1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Acting Deputy Commissioner
3 AFSANEH EGHBALDARI (BAR NO. 250107)
Corporations Counsel
4 1350 Front Street, #2034
San Diego, California 92101
5 Telephone: (619) 645-3166

6 Attorneys for Complainant

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

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11 In the Matter of the Accusation of THE
CALIFORNIA CORPORATIONS
12 COMMISSIONER,

) File No.: 413-0471

13 Complainant,

) **ACCUSATION IN SUPPORT OF
REVOCATION OF CALIFORNIA
RESIDENTIAL MORTGAGE LENDING
LICENSE**

14 v.

15 FIDELITY MORTGAGE OF CALIFORNIA,
16 INC.,

17 Respondent.

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

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I.

23 Respondent, Fidelity Mortgage of California, Inc. ("Respondent") is a residential mortgage
24 lender licensed by the California Department of Corporations ("Department") pursuant to the
25 California Residential Mortgage Lending Act ("CRMLA") (California Financial Code sections 50000
26 *et seq.*). Respondent has its principal place of business located at 1000 Woodbury Road, Woodbury,
27 NY 11797-9003.

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II.

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2 On or about December 11, 2006, the Commissioner notified Respondent in writing that,
3 pursuant to Financial Code section 50200, it was required to submit an annual audit report ("Audit
4 Report") for its fiscal year ending on December 31, 2006 no later than April 15, 2007. Respondent
5 was notified in the letter that its failure to file the required reports may result in license revocation
6 and/or an assessment of fines pursuant to Financial Code section 50326, an immediate examination
7 by the Commissioner pursuant to Financial Code section 50307, and/or revocation of the license.

8 On or about June 12, 2007, the Commissioner again notified Respondent in writing that it had
9 failed to file its Audit Report and it was required to file the Audit Report within ten (10) days of the
10 date of the letter. The Commissioner further notified Respondent that its failure to file the 2006
11 Audit Report would result in administrative action that may result in a fine levied upon Respondent
12 pursuant to Financial Code section 50326. Respondent failed to file its 2006 Audit Report.

13 On or about August 2, 2007, the Commissioner notified Respondent in writing that, pursuant
14 to Financial Code section 50326, Respondent was required to pay \$1,000.00 penalty for failure to file
15 its 2006 Audit Report. The Commissioner further notified Respondent that failure to file the 2006
16 Audit Report or to pay the administrative penalty would result in suspension or revocation of its
17 license. On or about August 15, 2007, Respondent paid the penalty, but failed to file its 2006 Audit
18 Report.

19 On or about December 17, 2007, the Commissioner notified Respondent in writing that,
20 pursuant to Financial Code section 50200, Respondent was required to submit its Audit Report for its
21 fiscal year ending on December 31, 2007 no later than April 15, 2008. Respondent was notified in
22 the letter that its failure to file the required reports may result in license revocation and/or an
23 assessment of fines pursuant to Financial Code section 50326, an immediate examination by the
24 Commissioner pursuant to Financial Code section 50307, and/or revocation of the license.

25 On or about June 2, 2008, the Commissioner again notified Respondent in writing that it had
26 failed to file its 2007 Audit Report and it was required to file the 2007 Audit Report within ten (10)
27 days of the date of the letter.
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1 Respondent has yet to file its 2006 and 2007 Audit Reports required by Financial Code
2 section 50200.

3 **III.**

4 Pursuant to Financial Code section 50307, 50401 and California Code of Regulations, title 10,
5 section 1950.314.8, all licensees under the CRMLA are required to file an annual Report of Principal
6 Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report") on or before March
7 1st of each year for the preceding 12-month period ended December 31.

8 On or about February 1, 2008, an Activity Report form was sent to all CRMLA licensees with
9 a notice that its Activity Report was due on or before March 1, 2008. Respondent has yet to submit
10 the Activity Report to the Commissioner.

11 **IV.**

12 Financial Code section 50326 states:

13 If any licensee fails to do any of the following, the licensee shall forfeit to the
14 people of the state a sum of up to one hundred dollars (\$100) for every day up
15 to the 10th day: (a) to make any report required by law or by the commissioner
16 within 10 days from the day designated for the making of the report, or within
17 any extension of time granted by the commissioner, or (b) fails to include
18 therein any matter required by law or by the commissioner. Thereafter,
any failure shall constitute grounds for the suspension or revocation of the
license held by the residential mortgage lender or residential mortgage
loan servicer.

19 Financial Code section 50327 provides in pertinent part:

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

25 Financial Code section 50311 states:

26 Nothing in this law shall preclude a person whose license has been
27 suspended or revoked, summarily or otherwise, from making a
28 residential mortgage loan pursuant to a commitment issued by that
person prior to the suspension or revocation. A prospective borrower
who received a commitment issued by a person whose license has

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been suspended or revoked may, prior to the closing of the loan, terminate the commitment or receive a refund of all money paid to that person.

VI.

The Commissioner finds that, by reason of the foregoing, Fidelity Mortgage of California, Inc. has violated California Financial Code sections 50200, 50307, 50401 and California Code of Regulations, title 10, section 1950.314.8, and based thereon grounds exist to revoke the residential mortgage lender license of Fidelity Mortgage of California, Inc.

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

DATED: September 8, 2008
San Diego, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Afsaneh Eghbaldari
Corporations Counsel