

1 PRESTON DuFAUCHARD
California Corporations Commissioner
2 ALAN S. WEINGER
Acting Deputy Commissioner
3 JOHN R. DREWS (CA Bar No. 69595)
Corporations Counsel
4 71 Stevenson Street, Suite 2100
5 San Francisco, California 94105-2980
6 Telephone: (415) 972-8570
7 Facsimile: (415) 972-8550
Attorneys for the Complainant

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

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

File No.: 413-0452

ACCUSATION

12 Complainant,

13 vs.
14

15 AMERICAN HOME EQUITY
CORPORATION

16 Respondent.

17
18 The Complainant is informed and believes and based upon such information and belief, alleges and
19 charges as follows:

20 I

21 Respondent American Home Equity Corporation (“American Home”) is a residential
22 mortgage lender licensed by the California Corporations Commissioner (“Commissioner”) pursuant
23 to the California Residential Mortgage Lending Act (California Financial Code, sections 50000 et
24 seq.) (“CRMLA”). American Home has its principal place of business located at 2677 N. Main
25 Street, Suite 225, Santa Ana, CA 92705.

26 II

27 Pursuant to California Financial Code Sections 50307 and 50401, all licensees under the
28 CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate Amount

1 of Loans Serviced (“Activity Report”) on or before March 1st of each year for the preceding 12-
2 month period ended December 31.

3 On or about February 1, 2008, An Activity Report form was sent to all CRMLA licensees
4 with a notice that the Activity Report was due on or before March 1, 2008. Also, pursuant to Title
5 10, section 1950.314.8 of the California Code of Regulations Respondent was to submit a Non-
6 traditional Report and Survey as an addendum to the Activity Report. American Home has yet to
7 submit the Activity Report or the Non-traditional Report and Survey, to the Commissioner despite
8 the fact that the Commissioner has sent it numerous reminders.

9 On or about May 15, 2008 a letter was sent to American Home demanding that the Activity
10 Report be filed no later than May 25, 2008 and assessing American Home a penalty of \$1,000.00
11 pursuant to California Financial Code section 50326. American Home was notified in the letter that
12 failure to file the Activity Report and/or pay the penalty by May 25, 2008 would result in an action
13 to either suspend or revoke its license.

14 American Home has yet to submit the Activity Report, the Non-traditional Report, or Survey
15 or pay the penalty as required by California Financial Code sections 50307, 50326, and 50401, and
16 Title 10, section 1950.314.8 of the California Code of Regulations.

17 III

18 Pursuant to California Financial Code sections 50200, subdivision (a), American Home was
19 required to submit its audited financial statement for its fiscal year ended December 31, 2007
20 (“Audit Report”) to the Commissioner on or before April 15, 2008, including a reconciliation of its
21 trust accounts. In addition, pursuant to the California Code of Regulations, Title 10, section
22 1950.200, American Home was required to submit an Independent Auditor’s Report on Internal
23 Controls (“Report on Internal Controls”) to the Commissioner on or before April 15, 2008.

24 American Home has yet to file its Audit Report, trust account reconciliation, or Report on Internal
25 Controls with the Commissioner despite having been sent numerous reminder letters.

26 On or about April 24, 2008 Complainant received a letter from American Home purporting
27 to surrender their Residential Mortgage License. The letter did not comply with the provisions set
28 out in Financial Code section 50123, and specifically failed to include a closing audit as required in

1 the statute.

2 On or about April 30, 2008 the Complainant sent to American Home a detailed letter setting
3 out the requirements for surrender of the license under the CRMLA. American Home was informed
4 that “The company’s license is not considered surrendered until all of the items required have been
5 received including the closing audit and the plan of surrender is accepted by the Commissioner...”
6 An additional letter was set to American Home on May 7, 2008, reiterating the requirements for
7 surrendering a license under the CRMLA as set out in Financial Code section 50123. To date no
8 response has been received from American Home.

9 American Home has yet to file its Audit Report, trust account reconciliation, Report on
10 Internal Controls as required by Financial Code sections 50200, subdivision (a), 50326, and Title 10,
11 section 1950.200 of the California Code of Regulations and has failed to comply with all of the
12 surrender provisions of Financial Code section 50123, including failure to provide a closing audit.

13 IV

14 On or about May 28, 2008, Fidelity and Deposit Company of Maryland (“Fidelity”) notified
15 the Commissioner that the bond that Fidelity had put in place in favor of the Principal, American
16 Home in the amount of \$50,000 would be terminated effective June 28, 2008. In response to said
17 bond termination notice, the Commissioner, pursuant to California Financial Code section 50319,
18 issued an Order to Discontinue Residential Mortgage Lending on June 30, 2008 for failure to comply
19 with the bonding requirements of the CRMLA. American Home was validly served with the above
20 captioned Order and never requested a hearing in the matter as provided for in Financial Code
21 section 50319. To date the Order remains in effect and the bond has not been reinstated.

22 V

23 California Financial Code section 50327 provides in pertinent part:

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

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

VI.

The Commissioner finds that, by reason of the foregoing, American Home Holding, Inc. dba Direct Funding, has violated Financial Code sections 50200(a), 50307, 50319, 50326, 50401 and California Code of Regulations, Title 10, sections 1950.200 and 1950.314.8 and based thereon, grounds exist to revoke the residential mortgage lender license of American Home Equity Corporation.

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

Dated: August 19, 2008
San Francisco, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
John R. Drews
Corporations Counsel
California Department of Corporations