

1 PRESTON DUFAUCHARD  
California Corporations Commissioner  
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Acting Deputy Commissioner  
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9  
10 BEFORE THE DEPARTMENT OF CORPORATIONS  
OF THE STATE OF CALIFORNIA

11 In the Matter of the Accusation of THE ) File No.: 417-0029  
12 CALIFORNIA CORPORATIONS )  
COMMISSIONER, )  
13 ) **ACCUSATION**  
Complainant, )  
14 )  
15 v. )  
16 Ameriwest Financial, Inc., )  
17 Respondent. )  
18 )  
19 )

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:

22 **I.**

23 Respondent Ameriwest Financial, Inc. ("Ameriwest") is a residential mortgage lender and  
24 mortgage loan servicer licensed by the Commissioner pursuant to the California Residential  
25 Mortgage Lending Act (California Financial Code, § 50000 *et seq.*) ("CRMLA"). Ameriwest has its  
26 principal place of business located at 3780 Rosin Court, Suite 240, Sacramento, California, 95834.

27 **II.**

28 Pursuant to California Financial Code sections 50307 and 50401 and California Code of

1 Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file the  
2 following annual reports with the Commissioner: (1) Report of Principal Amount of Loans and  
3 Aggregate Amount of Loans Serviced ("Activity Report"); (2) Report on Non-traditional, Adjustable  
4 Rate and Mortgage Loan Products ("Non-traditional Report"); and (3) Non-traditional, Adjustable  
5 Rate and Mortgage Loan Survey ("Survey"). The Activity Report, Non-traditional Report, and  
6 Survey must be filed with the Commissioner on or before March 1st of each year for the preceding  
7 twelve (12) month period ending December 31.

8 On or about February 1, 2008, an Activity Report form, Non-traditional Report form and  
9 Survey were sent to all CRMLA licensees, including Ameriwest, with a notice stating that these  
10 reports were due on or before March 1, 2008. The Commissioner assessed a penalty of one thousand  
11 dollars (\$1,000.00), pursuant to California Financial Code section 50326, for the failure to submit  
12 these reports on or about May 15, 2008. To date, Ameriwest has not submitted the Activity Report,  
13 the Non-traditional Report or the Survey to the Commissioner or paid the assessed penalty.

### 14 III.

15 Pursuant to California Financial Code section 50200, all licensees under the CRMLA are  
16 required to file audited financial statements ("Audited Report"), an Independent Auditor's Report on  
17 Internal Controls ("Report on Internal Controls"), and its Uniform Single Attestation Program for  
18 Mortgage Bankers ("USAP"), or its reconciliation of trust accounts, annually with the Commissioner.  
19 Ameriwest was required to submit its Audited Report, Report of Internal Controls, and USAP for its  
20 fiscal year ending June 30, 2007 to the Commissioner on or before October 15, 2007.

21 On or about June 4, 2007, a reminder notice was issued to Ameriwest reminding Ameriwest  
22 that these reports were due to be filed with the Commissioner on or before October 15, 2007.

23 Ameriwest did not submit these reports despite this reminder notice.

24 On or about July 17, 2008, a letter was sent to Ameriwest demanding that it file the Audit  
25 Report and Report on Internal Controls within ten (10) days and assessing a penalty of one thousand  
26 dollars (\$1,000.00) pursuant to California Financial Code section 50326. Ameriwest was notified  
27 that failure to file the reports would result in the referral for administrative action that may result  
28 revocation of Ameriwest's license pursuant to Financial Code section 50326 and 50327. To date,

1 Ameriwest has yet to file these reports or pay any of the assessed penalties.

2 **IV.**

3 California Financial Code section 50327 provides in pertinent part:

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

9 **V.**

10 The Commissioner finds that, by reason of the foregoing, Ameriwest has violated California  
11 Financial Code sections 50200, 50307, 50326, 50401 and California Code of Regulations, title 10,  
12 section 1950.314.8, and based thereon, grounds exist to revoke Ameriwest's license as a residential  
13 mortgage lender and mortgage loan servicer.

14 WHEREFORE, IT IS PRAYED that the residential mortgage lender and mortgage loan  
15 servicer license of Ameriwest Financial, Inc. be revoked and, pursuant to Financial Code section  
16 50311, Ameriwest Financial, Inc. be given a transition period of sixty (60) days within which to  
17 complete any loans for which it had prior commitments.

18 DATED: October 9, 2008  
19 Sacramento, CA

20 PRESTON DuFAUCHARD  
21 California Corporations Commissioner

22  
23 By \_\_\_\_\_  
24 Joanne Ross  
25 Corporations Counsel  
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