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California Corporations Commissioner
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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,)
12 Complainant,)
13 v.)
14 NEW CENTURY CREDIT CORPORATION,)
15 Respondent.)
16)
17)
18)
19)

File No.: 413-0396

**ACCUSATION IN SUPPORT OF
REVOCATION OF CALIFORNIA
RESIDENTIAL MORTGAGE LENDER
LICENSE**

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

23 **I.**

24 Respondent is a residential mortgage lender licensed by the California Department of
25 Corporations ("Department") pursuant to the California Residential Mortgage Lending Act
26 ("CRMLA") (California Financial Code sections 50000 *et seq.*).
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28**II.**

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

On or about June 13, 2007, the Commissioner again notified Respondent in writing that it had failed to file its Audit Report and it was required to file the Audit Report within ten (10) days of the date of the letter. The Commissioner further notified Respondent that failure to file the report would result in administrative action. Respondent failed to file its 2006 Audit Report.

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

On or about June 2, 2008, the Commissioner again notified Respondent in writing that it had failed to file its Audit Report and it was required to file the Audit Report within ten (10) days of the date of the letter. Respondent failed to file its 2007 Audit Report.

Respondent did not file its 2006 and 2007 Audit Reports required by Financial Code section 50200.

III.

On March 27, 2007, the Commissioner was informed that Respondent's bond would expire effective April 30, 2007 and no replacement bond had been obtained. The Commissioner notified Respondent in writing that if the Commissioner did not receive Respondent's reinstatement or replacement bond, the Commissioner would issue an order to discontinue any new lending/brokering activities. The bond was not replaced or reinstated. Pursuant to Financial Code section 50319, the

1 Commissioner issued an Order to Discontinue Residential Mortgage Lending and/or Servicing
2 Activities to Respondent on April 30, 2007.

3 The Order to Discontinue Residential Mortgage Lending and/or Servicing Activities remains
4 in effect because Respondent did not replace or reinstate its bond.

5 **IV.**

6 Pursuant to Financial Code section 50307, 50401 and California Code of Regulations, title 10,
7 section 1950.314.8, all licensees under the CRMLA are required to file an annual Report of Principal
8 Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report") on or before March
9 1st of each year for the preceding 12-month period ended December 31.

10 On or about February 1, 2008, an Activity Report form was sent to all CRMLA licensees with
11 a notice that its Activity Report was due on or before March 1, 2008. Respondent did not submit the
12 Activity Report to the Commissioner.

13 **V.**

14 On September 28, 2008, the Commissioner notified Respondent, pursuant to Financial Code
15 section 50401, to pay its assessment fee for fiscal year 2007/2008; invoice number MB0300.
16 Respondent failed to pay its annual assessment in the amount of \$1,000.00.

17 **VI.**

18 On April 2, 2007, Respondent, as one of New Century Financial Corporation's entities,
19 voluntarily petitioned for Chapter 11 bankruptcy with the United States Bankruptcy Court for the
20 District of Delaware.

21 **VII.**

22 Financial Code section 50326 states:

23 If any licensee fails to do any of the following, the licensee shall forfeit to the
24 people of the state a sum of up to one hundred dollars (\$100) for every day up
25 to the 10th day: (a) to make any report required by law or by the commissioner
26 within 10 days from the day designated for the making of the report, or within
27 any extension of time granted by the commissioner, or (b) fails to include
28 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.

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Financial Code section 50327 provides in pertinent part:

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

Financial Code section 50311 states:

Nothing in this law shall preclude a person whose license has been suspended or revoked, summarily or otherwise, from making a 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 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.

VIII.

The Commissioner finds that, by reason of the foregoing, New Century Credit Corporation 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 New Century Credit Corporation.

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

DATED: October 28, 2008
San Diego, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
AFSANEH EGHBALDARI
Corporations Counsel