

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
2 ALAN S. WEINGER  
Acting Deputy Commissioner  
3 MARY ANN SMITH (CA BAR NO. 230943)  
Senior Corporations Counsel  
4 Department of Corporations  
1515 K Street, Suite 200  
5 Sacramento, California 95814  
Telephone: (916) 322-6067  
6 Facsimile: (916) 445-6985

7 Attorneys for Complainant

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

10	In the Matter of	)	CASE NO.
11	THE CALIFORNIA CORPORATIONS	)	FILE NO. 603-4020
12	COMMISSIONER,	)	
13	Complainant,	)	
14	v.	)	ACCUSATION
15	SEA VIEW INVESTMENTS (MARK ALAN	)	
16	HELISING, DBA),	)	
17	Respondent.	)	

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

21 I. FACTS

22 Respondent, Sea View Investments (Mark Alan Helising, DBA), (hereinafter referred to as  
23 “Helising” or “Respondent”) is a finance lender licensed by the California Corporations  
24 Commissioner (“Commissioner”) pursuant to the California Finance Lenders Law of the State of  
25 California (California Financial Code § 22000 et seq.) (“CFL”). Helising currently holds a license  
26 issued under the CFL for the location of 12341 Newport Avenue, #A-100, Santa Ana, California  
27 92705, and is owned and operated by Mark Alan Helising. The Department of Corporations issued  
28 Helising a license pursuant to the CFL on October 19, 2004. Pursuant to Financial Code section

1 22700, the license does not expire unless surrendered, revoked, or suspended.

2 Helsing offers two loan products, an open-end loan, and a closed-end loan. It is Helsing's  
3 practice to structure loans as open-end loans if the property used as collateral is owner-occupied.  
4 Loans are structured as closed-end loans if the property is not owner-occupied.

5 II. HELSING VIOLATED FINANCIAL CODE SECTION 22714(a)(4)

6 The Department of Corporations (the Department) conducted a regulatory examination of  
7 Helsing on May 28, 2008. During the examination the Department of Corporations examiner,  
8 reviewed both open-end loans and closed-end loans initiated by Helsing under the CFLL license.  
9 The Department found that the loans did not contain supporting documentation of the borrower's  
10 income. Additionally, the Department found that the application dates for the loans and signing of  
11 the closing documents for the loans were the same, indicating that Helsing relied on the income  
12 disclosed on the federal Fannie Mae Form 1003 ("Form 1003") used for determining the approval  
13 of the loans. Further, the Department found that most of the loan files reviewed had incomplete  
14 Forms 1003s.

15 Helsing repeatedly failed when making or negotiating loans, to take into consideration in  
16 determining the size and duration of loans, the financial ability of the borrower to repay the loan in  
17 violation of CFLL Section 22714(a)(4). CFLL Section 22714 provides in pertinent part that:

18 (a) The commissioner shall suspend or revoke any license, upon notice and reasonable  
19 opportunity to be heard, if the commissioner finds any of the following:

20 (4) There has been repeated failure by the finance lender, when making or negotiating  
21 loans, to take into consideration in determining the size and duration of loans, the  
22 financial ability of the borrower to repay the loan in the time and manner provided in  
the loan contract. . ."

23 III. HELSING VIOLATED CALIFORNIA CODE OF REGULATIONS SECTION 1452

24 California Code of Regulations, Title 10, Article 4, section 1452 states that "when making  
25 loans or negotiating loans, a finance company shall take into consideration, in determining the size  
26 and duration thereof, the financial ability of the borrowers to repay the same . . ."

27 Helsing violated this section by relying on income disclosed by borrowers on the Form 1003.  
28 The Form 1003s were typically incomplete, and did not contain supporting documentation of the

1 borrowers' income. In relying on incomplete Form 1003s, as well as allowing loans to close on the  
2 same day as the loan application forms are completed and not requiring supporting documentation  
3 of income, Helsing repeatedly failed to take into consideration the financial ability of the borrowers  
4 to repay the loans in violation of California Code of Regulations Section 1452.

5 IV. HELSING VIOLATED CFLL SECTION 22317.5(a)

6 The Department found that Helsing disbursed funds to borrowers in installments against the  
7 desires of the borrowers. Helsing failed to provide documentation showing that he disclosed to  
8 borrowers how loan proceeds would be disbursed and that the manner of disbursement was  
9 accepted by the borrowers, in violation of CFLL Section 22317.5(a) which states in part that “[o]n  
10 any loan secured by real property, a licensee may not do either of the following: (a) Fail to disburse  
11 funds in accordance with a commitment to make a loan that is accepted by the applicant . . .”

12 V. HELSING VIOLATED CFLL SECTION 22705.1

13 The California Department of Real Estate suspended Helsing's license on July 18, 2008,  
14 based on the Department of Real Estate paying two claims in the total amount of \$100,000.00, out  
15 of it's Real Estate Recovery Account. The two claimants received civil court judgments against  
16 Helsing for fraud in the sale of the notes. The judgments arose from Helsing failing to secure  
17 investors' money with mortgage assignments, and hiding loan payoffs to avoid repaying investors.  
18 The judgments were based on activity substantially related to the activity regulated by the  
19 Department pursuant to the CFLL.

20 The suspension by the Department of Real Estate is a disciplinary action providing grounds  
21 for the Department to take disciplinary action against Helsing pursuant to CFLL Section 22705.1  
22 which states in pertinent part that “[f]or any licensee, a disciplinary action taken by the State of  
23 California, another state, an agency of the federal government, or another country for an action  
24 substantially related to the activity regulated under this division may be grounds for disciplinary  
25 action by the commissioner.”

26 VI. HELSING VIOLATED CFLL SECTION 22107(d)

27 Helsing failed to pay his yearly assessment fee in violation of CFLL Section 22107(d) which  
28 provides in part that “. . .[i]f a licensee fails to pay the assessment on or before the 30<sup>th</sup> day of June

1 following the day upon which payment is due, the commissioner may by order summarily suspend  
2 or revoke the certificate issued to the licensee . . .”

3 VII. HELSING VIOLATED CFLL SECTION 22112(a)

4 On August 15, 2008 the surety bond for Helsing expired and was not maintained, in violation  
5 of CFLL Section 22112(a) which provides in pertinent part that “[a] licensee shall maintain a surety  
6 bond in accordance with this subdivision in the amount of twenty-five thousand dollars (\$25,000). .  
7 .”

8 VIII. GROUNDS FOR REVOCATION OF CFLL LICENSE

9 California Financial Code section 22714 provides in pertinent part:

10 (a) The commissioner shall suspend or revoke any license, upon notice and reasonable  
11 opportunity to be heard, if the commissioner finds any of the following:

- 12 (1) The licensee has failed to comply with any demand, ruling or requirement of the  
13 commissioner made pursuant to and within the authority of this division.
- 14 (2) The licensee has violated any provision of this division or any rule or regulation made  
15 by the commissioner under and within the authority of this division.
- 16 (4) There has been repeated failure by the finance lender, when making or negotiating  
17 loans, to take into consideration in determining the size and duration of loans, the  
18 financial ability of the borrower to repay the loan in the time and manner provided in  
the loan contract. . .”

19 IX. CONCLUSION

20 Complainant finds that Helsing committed numerous violations of the CFLL and the  
21 California Code of Regulations creating grounds to revoke the finance lenders license of Helsing.

22 WHEREFORE, IT IS PRAYED that the finance lenders license of Mark Alan Helsing DBA  
23 Sea View Investments be revoked.

24 Dated: October 28, 2008  
25 Sacramento, California

California Corporations Commissioner

26  
27 By \_\_\_\_\_  
28 Mary Ann Smith  
Senior Corporations Counsel