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Acting California Corporations Commissioner  
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6 Attorneys for Complainant  
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8 BEFORE THE DEPARTMENT OF CORPORATIONS  
9 OF THE STATE OF CALIFORNIA

10  
11 In the Matter of the Accusation of THE ) Case No.: 413-0078  
CALIFORNIA CORPORATIONS )  
12 COMMISSIONER, ) ACCUSATION  
13 )  
Complainant, )  
14 )  
15 vs. )  
16 THE LEADER MORTGAGE COMPANY, )  
17 Respondent. )  
18 )  
19 )

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

22 I

23 Respondent The Leader Mortgage Company ("Leader") is a residential mortgage lender and  
24 residential mortgage loan servicer licensed by the California Corporations Commissioner  
25 ("Commissioner") pursuant to the California Residential Mortgage Lending Act (California  
26 Financial Code § 50000 et seq.) ("CRMLA"). Leader had its principal place of business located at  
27 The Sunamerica Building, 1015 Euclid Avenue, Cleveland, Ohio 44115.  
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II

1  
2 Leader is an Ohio corporation formed on February 13, 1960. It was issued a license by the  
3 California Corporations Commissioner as a residential mortgage lender and servicer on March 16,  
4 1998 (License No. 413 0078).

5 Pursuant to California Financial Code section 50200, Leader was required to submit its  
6 audited financial statement (“audit report”) for its fiscal year ended December 31, 2003 and  
7 December 31, 2004, to the Commissioner by April 15, 2004 and April 15, 2005 respectively. Leader  
8 has yet to file its 2003 and 2004 audit reports with the Commissioner despite reminders.

9 On or about June 12, 2000, Leader sent a letter to the Commissioner requesting that its  
10 license be canceled effective immediately. On or about June 19, 2000, the Commissioner sent a  
11 Leader a letter outlining the license surrender procedures including the filing of reports. Nothing  
12 further was received from Leader regarding the surrender of its license.

13 On or about March 12, 2002, Leader sent a letter to the Commissioner informing him that it  
14 was to be acquired by U.S. Bank effective April 1, 2002. On or about March 18, 2002, the  
15 Commissioner sent Leader a letter advising it of the Change of Control and Change of Officers  
16 procedures.

17 On or about October 8, 2002, Leader sent a letter notifying The Commissioner that it had  
18 merged into The Leader Mortgage Company, LLC, effective December 31, 1998. The Leader  
19 Mortgage Company, LLC had filed its Articles of Organization in the State of Ohio on December  
20 17, 1998. The Commissioner responded on October 17, 2002 in writing, stating that: (1) Leader  
21 must continue with the surrender process, including submission of a Plan of Approval (“Plan”) to the  
22 Commissioner and (2) Leader must be found to be in compliance with the CRMLA, including but  
23 not limited to the payment of assessments, the filing of required reports, and examinations until such  
24 time as the surrender of the license is accepted and the company is notified of such acceptance.

25 In response to the October 17, 2002 letter, Leader responded on or about September 25,  
26 2003, stating that it would continue the surrender process of the license.

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1           On or about October 8, 2003, Leader sent a letter to the Commissioner explaining that the  
2 merger of The Leader Mortgage Company into The Leader Mortgage Company, LLC, was simply a  
3 name change, not a merger of two separate companies. The Leader Compliance Officer who wrote  
4 the letter indicated there was some confusion with their having to comply with surrender  
5 requirements because there was no transfer of funds, accounts, servicing portfolio or anything else.

6           On or about December 11, 2003, a reminder letter was sent to Leader from the Commissioner  
7 notifying Leader that the 2003 audit report was due April 15, 2004. Leader failed to submit the 2003  
8 audit report.

9           On or about May 19, 2004, Leader sent the Commissioner a letter stating that effective June  
10 1, 2004, The Leader Mortgage Company, LLC would be merged into its parent company U.S. Bank,  
11 N.A. and that Leader would be using the dba of U.S. Bank Home Mortgage.

12           On or about November 23, 2004, U.S. Bank Home Mortgage wrote the Commissioner  
13 indicating that it did not have to comply with the requirement of filing a closing audit report because  
14 Leader was acquired by and transferred to U.S. Bank via merger on April 1, 2002 and operated as a  
15 subsidiary of U.S. Bancorp until it was merged into the bank on June 1, 2004. Leader also indicated  
16 that it did not have to submit a Plan regarding surrender of the license because it was not lending in  
17 the State of California prior to the merger date and all processes of the business were merged into the  
18 U.S. Bank, N.A. including the servicing of loans. Leader stated it could not find its original license  
19 but included a lost affidavit with the letter.

20           On or about December 8, 2004, the Commissioner wrote Leader stating that the Plan must be  
21 submitted to the Commissioner pursuant to Financial Code section 50123 prior to the surrender of  
22 the license. The Commissioner also informed Leader that the surrender of the license could not be  
23 accepted until a closing audit was received from Leader's independent certified public accountant.

24           On or about December 13, 2004, the Commissioner sent Leader a letter stating the audit  
25 report for the fiscal year end December 31, 2004, would be due no later than April 15, 2005. The  
26 letter also informed Leader that failure to file a timely audit report would result in fines, an  
27 immediate examination by the Commissioner and/or revocation of the license. No follow-up was  
28 done with regards to the 2004 audit report. To date, nothing has been filed by Leader.

1 On or about January 4, 2005, the Commissioner wrote Leader stating that pursuant to  
2 Financial Code section 50200 each licensed mortgage lender and/or servicer was required to submit  
3 an audit report on or before 105 days after the close of its fiscal year. Leader had not submitted an  
4 audit report for fiscal year ended December 31, 2003. The 2003 audit report was due April 15, 2004.  
5 A \$1,000 penalty was assessed. Leader was notified in the January 4, 2005 letter that failure to file  
6 to the 2003 audit report and/or pay the penalty within 10 days would result in an action to either  
7 suspend or revoke its license.

8 Leader has yet to submit the 2003 and 2004 audit reports or pay the penalty as required by  
9 California Financial Code sections 50200 and 50326.

### 10 III

11 Pursuant to California Financial Code sections 50307 and 50401, all licensees under the  
12 CRMLA are required to file an annual Report of Principal Amount of Loans and Aggregate Amount  
13 of Loans Serviced (“Activity Report”) on or before March 1 of each year for the preceding 12-month  
14 period ended December 31.

15 On or about January 8, 2004, an Activity Report form was sent to all CRMLA licensees with  
16 a notice that the Activity Report was due on March 1, 2004 for the 12-month period ended  
17 December 31, 2003. Pursuant to the CRMLA all California loans originated, serviced, processed,  
18 underwritten, and brokered were to be reported and an annual assessment for the fiscal year July 1,  
19 2004 through June 30, 2005 would be calculated from the information provided in the Activity  
20 Report. Leader failed to submit the Activity Report for fiscal year end 2003.

21 On or about January 18, 2005, the Commissioner sent Leader an Activity Report to complete  
22 for the 12-month period ended December 31, 2004. The annual assessment for the fiscal year July 1,  
23 2005 through June 30, 2006 would be calculated from the information provided in the Activity  
24 Report. The Activity Report was to be returned to the Commissioner by March 1, 2005.

25 On March 16, 2005, the Commissioner sent Leader a reminder letter indicating that the  
26 Activity Report for fiscal year end December 31, 2004 had been due on March 1, 2005. The  
27 Commissioner assessed a \$1,000 penalty and informed Leader that failure to file the Activity Report  
28 or remit the \$1,000 penalty would result in an action to suspend or revoke the license pursuant to

1 Financial Code section 50327. Leader failed to submit the Activity Report and/or pay the penalty  
2 assessed for fiscal year end 2004.

3 On March 17, 2005, Leader dba U.S. Bank Home Mortgage wrote the Commissioner stating  
4 it was exempt from California licensing requirements due to the purchase of Leader by U.S. Bank,  
5 N.A. in April 2002 and because it was an operating subsidiary of a national bank. In addition,  
6 Leader indicated that it was dissolved in June 2004 and therefore no longer existed.

7 On or about March 28, 2005, Leader sent the Commissioner a letter in response to his March  
8 16, 2005 letter stating that The Leader Mortgage Company was no longer in existence and therefore,  
9 there was no Activity Report to submit. Leader also indicated that it would not be forwarding any  
10 penalty monies to the Commissioner.

11 Leader has yet to submit the Activity Reports for 2003 and 2004 or pay the penalty as  
12 required by California Financial Code sections 50307, 50401 and 50326.

13 IV

14 California Financial Code section 50326 provides in pertinent part as follows:

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

21 California Financial Code section 50327 provides in pertinent part:

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

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The Commissioner finds that, by reason of the foregoing, Leader has violated California Financial Code sections 50200, 50307, 50326 and 50401 and based thereon, grounds exist to revoke the residential mortgage lender and loan servicer license issued to Leader.

WHEREFORE, IT IS PRAYED that the residential mortgage lender and loan servicer license of Leader be revoked.

Dated: August 3, 2005  
Los Angeles, California

WAYNE STRUMPFER  
Acting California Corporations Commissioner

By \_\_\_\_\_  
Ursula L. Clemons  
Corporations Counsel