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California Corporations Commissioner
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8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

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

) File No.: 413-0892

12

Complainant,

) **ORDER REVOKING RESIDENTIAL
MORTGAGE LENDER LICENSE**

13

14

v.

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BERGIN FINANCIAL, INC., dba PERFECT
16 MORTGAGE,

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Respondent.

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The California Corporations Commissioner finds:

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1. Respondent Bergin Financial, Inc., dba Perfect Mortgage ("Bergin Financial") is a residential mortgage lender licensed by the California Corporations Commissioner ("Commissioner") pursuant to the California Residential Mortgage Lending Act (California Financial Code, § 50000, *et seq.*) ("CRMLA"). Bergin Financial had its principal places of business located at 29200 Northwestern Highway, #350, Southfield, MI 48034.

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2. Pursuant to California Financial Code sections 50307 and 50401 and California Code of Regulations, title 10, section 1950.314.8, Bergin Financial is required to file an annual (1) Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report"), (2)

1 Report on Non-traditional, Adjustable Rate and Mortgage Loan Products (“Non-traditional Report”),
2 and (3) Non-traditional, Adjustable Rate and Mortgage Loan Survey (“Survey”) on or before March
3 1st of each year for the preceding 12-month period ended December 31.

4 3. On January 23, 2009, an Activity Report form, Non-traditional Report form and
5 Survey were sent to Bergin Financial with a notice that the Report was due on or before March 1,
6 2009. Bergin Financial has not yet submitted the Activity Report, the Non-traditional Report or the
7 Survey to the Commissioner.

8 4. On May 22, 2009, a letter was sent to Bergin Financial demanding that the Activity
9 Report be filed “no later than 10 days from the date of this letter,” and assessing Bergin Financial a
10 penalty of \$1,000 pursuant to California Financial Code section 50326. Bergin Financial was
11 notified in the letter that failure to file the Activity Report, the Non-traditional Report or pay the
12 penalty would result in an action to either suspend or revoke its license.

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

16 6. Pursuant to California Financial Code section 50200, Bergin Financial was required to
17 submit its audited financial statement for fiscal year ended December 31, 2008 ("Audit Report") to
18 the Commissioner by April 15, 2009, including a reconciliation of its trust accounts and an
19 Independent Auditor's Report on Internal Controls ("Report on Internal Controls") pursuant to the
20 California Code of Regulations, title 10, section 1950.200.

21 7. On December 23, 2008, the Commissioner notified Bergin Financial in writing that its
22 Audit Report, trust account reconciliation, and Report on Internal Controls were due on or before
23 April 15, 2009. Bergin Financial was advised in the letter that failure to timely file these reports
24 might “result in fines in accordance with Financial Code section 50326, an immediate examination by
25 the Commissioner in accordance with Financial Code section 50307, and/or revocation of the
26 license.”

27 8. On April 17, 2009, a further letter was sent to Bergin Financial demanding that it file
28 the Audit Report, trust account reconciliation, and Report on Internal Controls “within ten (10) days

1 of the date of this letter.” Bergin Financial has failed to submit the Audit Report, trust account
2 reconciliation, Report on Internal Controls, or respond to the letter.

3 9. On June 10, 2009, a final letter was sent to Bergin Financial demanding that it file the
4 Audit Report, trust account reconciliation, and Report on Internal Controls “no later than 10 days
5 from the date of this letter,” and assessing Bergin Financial a penalty of \$1,000 pursuant to California
6 Financial Code section 50326. Bergin Financial was notified in the letter that failure to file the Audit
7 Report, trust account reconciliation, Report on Internal Controls and/or pay the penalty would result
8 in an action to either suspend or revoke its license pursuant to California Financial Code section
9 50327.

10 10. Bergin Financial has yet to file the Audit Report, trust account reconciliation, Report
11 on Internal Controls or pay the penalty as required by California Financial Code sections 50200,
12 50326, and California Code of Regulations, title 10, section 1950.200.

13 11. California Financial Code section 50205(a) states that “[a] licensee shall maintain a
14 surety bond in accordance with this subdivision.” Bergin Financial has failed to maintain its surety
15 bond as required. On May 5, 2009, the Department received a Notice of Cancellation of Bergin
16 Financial’s surety bond from Hartford Fire Insurance Company. The date of cancellation stated on
17 the Notice of Cancellation was June 8, 2009.

18 12. California Financial Code section 50319 provides in pertinent part:

19 (a) If the commissioner, as a result of any examination or from any report
20 made to him or her, shall find that any person subject to this division....
21 has failed to comply with the bonding requirements of Section 50205, the
22 commissioner may, by an order addressed to and served by registered or
23 certified mail, or by personal service on that person...., direct
24 discontinuance of the disbursement, in whole or in part, of trust funds held
25 by the licensee and order the establishment of a separate trust account for
26 all subsequent trust funds received by the licensee.

27 On June 8, 2009, an Order was issued pursuant to section 50319. To date, the surety bond has
28 not been reinstated or replaced, and the order remains in effect.

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