

1 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
2 DIVISION OF FINANCE AND CORPORATE SECURITIES
3 SECURITIES SECTION
4 BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
5 STATE OF OREGON

6 In the Matter of:)
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0-94-0042
ORDER TO CEASE AND DESIST
SUSPENSION OF LICENSE
ASSESSMENT OF CIVIL PENALTIES
CONSENT TO ENTRY OF ORDER

8 WHEREAS the Director of the Department of Consumer and Business Services
9 has conducted an investigation of Pacific Cascade Investment, Inc. (hereinafter
10 "Respondent PCI"), and has determined that PCI engaged in activities
11 constituting violations of ORS 59.840 through 59.960 (hereinafter "the Mortgage
12 Lender Law"); and

13 WHEREAS Respondent PCI wishes to resolve and settle this matter with the
14 Director;

15 NOW THEREFORE, as evidenced by the authorized signature subscribed on this
16 Order, Respondent PCI hereby CONSENTS to entry of this Order upon the Director's
17 Findings of Facts and Conclusions of Law as stated hereinafter:

18 FINDINGS OF FACT

19 The Director FINDS that:

20 1. Respondent PCI is an Oregon corporation located at 4000 Kruse Way
21 Place, Bldg. 2, Ste. 200, Lake Oswego, OR 97035 whose agent for service of
22 process is Clifford B. Alterman, and who is engaged in the business of a
23 mortgage broker;

24 2. Thomas C. Goeken (hereinafter "Goeken") is President of Respondent
25 PCI. Goeken's business address is the same as that of Respondent PCI;

26 3. During the period commencing on or about January 1, 1994 and

1 continuing through June 30, 1994, Respondent PCI used clients' funds to pay
2 operating expenses, payroll, and draws at least 32 times by writing checks drawn
3 on the Client's Trust Account (hereinafter "CTA");

4 4. During the period commencing on or about January 1, 1994 and
5 continuing through June 30, 1994, Respondent PCI commingled operating funds with
6 CTA funds at least 14 times by depositing checks, received for payment of fees
7 earned from mortgage lenders, into the CTA:

8 5. Respondent PCI failed to reconcile the CTA every month.

9 CONCLUSIONS OF LAW

10 The Director **CONCLUDES** that at all times relevant to this order:

11 1. Respondent PCI transacted the business of a mortgage broker;

12 2. Respondents PCI violated the trust account provisions of ORS 59.935(1)
13 and OAR 441-875-030 by using CTA funds to pay operating expenses, payroll and
14 draws on at least 32 occasions;

15 3. Respondents PCI violated the trust account provisions of ORS 59.835(8)
16 at least 14 times by depositing into the CTA funds which were not clients' trust
17 funds; and,

18 4. Respondent PCI violated the provisions of ORS 59.860(1) and OAR
19 441-875-040 by failing to reconcile the CTA monthly.

20 ORDER

21 **NOW THEREFORE, THE DIRECTOR ORDERS:**

22 1. Pursuant to the authority of ORS 59.885, Respondent PCI shall **CEASE AND**
23 **DESIST** from participating in any violations of the Oregon Mortgage Lender Law,
24 ORS 59.840 through 59.960.

25 2. Pursuant to the authority of ORS 59.865 the Director **SUSPENDS** the
26 Mortgage Lender license of Respondent PCI for opening transaction for one week

1 commencing December 26, 1994 and ending December January 1, 1994.

2 3. Pursuant to the authority of ORS 59.996, the Director **HEREBY ASSESSES**
3 the following civil penalties:

4 a. Respondent PCI is **ORDERED** to pay the sum of \$250 for violations of ORS
5 59.860.

6 b. Respondent PCI is **ORDERED** to pay \$10,000 for continuing violations of
7 ORS 59.935 except that the Director suspends payment of \$9,000 provided
8 Respondent PCI comply with the following conditions:

9 (1) No later than 30 days from the date of this order, Respondent
10 PCI shall reconcile the CTA and deposit into the account all funds received from
11 clients which have not been paid to third party service providers.

12 (2) No later than December 1, 1994, Respondent PCI shall remit all
13 funds owed to third party service providers or have entered into agreements for
14 deferred payment.

15 (3) Respondent PCI shall maintain their CTA in compliance with the
16 provisions of Oregon's Mortgage Lending Law and OAR 441-875-010 to 441-875-040.
17 If in the period from the date of this Order to three years from the date of
18 this Order, Respondent PCI violates any of the three conditions enumerated above
19 or any other provision of Oregon's Mortgage Lending Law and administrative
20 rules, the \$9000 suspended civil penalty will become immediately due and
21 payable. If at the end of the three year period Respondent PCI has complied
22 with the conditions listed above, the suspended portion of the civil penalty
23 shall be waived.

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1 The entry of this Order in no way limits further remedies which may be available
2 to the Director under Oregon law.

3 Dated this 31ST day of OCTOBER, 1994 at Salem, Oregon.

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6 **KERRY BARNETT**
7 **DIRECTOR**
8 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

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10 **CONSENT TO ENTRY OF ORDER**

11 I, Thomas C Goeken, state that I am officer of Pacific Cascade Investment,
12 Inc. (PCI), and I am authorized to act on its behalf; that I have read the
13 foregoing Order and that I know and fully understand the contents hereof; that
14 the factual allegations stated herein are true and correct; that PCI has been
15 advised of its right to a hearing, and to be represented by counsel in this
16 matter; that PCI voluntarily consents to the entry of this Order without further
17 hearing without any force or duress, expressly waiving any right to a hearing in
18 this matter; that PCI understands that the Director reserves the right to take
19 further actions to enforce this Order or to take appropriate action upon
20 discovery of other violations of the Oregon Mortgage Lending Law; and that PCI
21 will fully comply with the terms and conditions stated herein.

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PCI further assures the Director that PCI will not transact business as a mortgage lender unless such activities are in full compliance with ORS 59.840 through 59.960.

I understand that this Consent Order is a public document.

Dated this 27 day of October ~~1997~~ ¹⁹⁹⁴ mn
By Thomas C. Goeken
Thomas C. Goeken, President

CORPORATE ACKNOWLEDGMENT

There appeared before me this 27 day of October, ~~1997~~ ¹⁹⁹⁴ mn Thomas C. Goeken, who was first duly sworn on oath, and stated that he was and is the President of Pacific Cascade Investment, Inc. and that he is authorized and empowered to sign this Consent to Entry of Order on behalf of Pacific Investment, Inc., and to bind Pacific Investment, Inc. to the terms hereof.

Michelle Nelson
Notary Public in and for the State of : Oregon

Michelle Nelson
Printed Name of Notary Public

My commission expires: Aug 01, 1997.

