

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

4 In the Matter of: ) O-94-0044  
5 HOME LENDING ASSOCIATES, INC. and )  
6 HOME LENDING MORTGAGE ASSOCIATES, INC. ) FINAL ORDER BY DEFAULT  
7 Respondent. )

8 On January 26, 1995 the Director of the Department of Consumer and  
9 Business Services for the state of Oregon issued an Order containing Findings of  
10 Fact and Conclusions of Law; Order to Cease and Desist; Order Assessing Civil  
11 Penalties; and Notice of Right of Hearing. In the Order, RESPONDENT HOME  
12 LENDING ASSOCIATES, INC. and HOME LENDING MORTGAGE ASSOCIATES, INC. was advised  
13 of their right to a hearing, and that such hearing would be held if written  
14 demand for such hearing was filed within 20 days after service of the Order.  
15 RESPONDENT was sent a certified true copy of the Order on January 27, 1995 by  
16 certified mail. The attorneys for RESPONDENT were also sent certified true  
17 copies of the Order on January 17, 1995 by certified mail. No request for  
18 hearing has ever been received.

19 NOW THEREFORE, after consideration of the Investigation Report and  
20 accompanying exhibits prepared by Patricia E. Russell in this matter, the  
21 Director hereby issues the following Final Order, Findings of Fact and  
22 Conclusions of Law:

23 FINDINGS OF FACT

24 The Director FINDS that:

25 1. HOME LENDING ASSOCIATES INC. is a Washington corporation filed on  
26 November 6, 1990 and currently inactive. David E. Zehm, 1319 Whitworth Street,

1 Renton, Washington 98055 is listed as the Registered Agent.

2 2. Oregon Corporation records show **HOME LENDING ASSOCIATES, INC.** filed on  
3 July 22, 1993 as a foreign corporation and voluntarily withdrew on February 24,  
4 1994. CT Corporation System, 800 Pacific Building, Portland, Oregon 97204 is  
5 listed as the registered agent. David E. Zehm, 950 Andover Park East, Suite 16,  
6 Tukwila, Washington 98188-7671 is listed as the president.

7 3. **HOME LENDING MORTGAGE ASSOCIATES, INC.** is a Washington corporation  
8 filed on February 25, 1992. It is currently active. The registered agent is  
9 listed as J. Grahame Bell, 800 Fifth Avenue, Suite 125, Seattle, Washington  
10 98104.

11 4. **HOME LENDING MORTGAGE ASSOCIATES, INC.** is an Oregon Corporation filed  
12 February 24, 1994. It is currently active. CT Corporation System, 800 Pacific  
13 Building, Portland, Oregon 97204 is listed as the registered agent.

14 5. On February 24, 1994 an application to become licensed as a mortgage  
15 broker was received in the office of the Division of Finance and Corporate  
16 Securities by **HOME LENDING MORTGAGE ASSOCIATES, INC.** located at 6655 SW Hampton,  
17 Suite 120, Portland, Oregon 97223. Michael D. Culver was listed as the contact  
18 person and president. Culver stated in the application that he was the vice  
19 president of **HOME LENDING ASSOCIATES, INC.** located at 950 Andover Park, East  
20 #16, Tukwila, Washington 98188. The \$500 check to cover the application fees  
21 was issued by **HOME LENDING ASSOCIATES, INC.** The application was incomplete in  
22 that it did not include the required \$10,000 Oregon surety bond, Client Trust  
23 Account, or financials.

24 6. **HOME LENDING MORTGAGE ASSOCIATES, INC. AND HOME LENDING ASSOCIATES,**  
25 **INC. (hereinafter RESPONDENT)** are known to conduct business as a mortgage broker  
26 at 950 Andover Park E., Suite 16, Tukwila, Washington 98188 and at 6655 SW

1 Hampton, Suite 120, Portland, Oregon 97223.

2 7. On June 23, 1994 information was received from Gary Fisher (Fisher), a  
3 certified appraiser, that he had been hired by RESPONDENT to appraise 32  
4 properties located in Oregon on behalf of RESPONDENT'S clients who had applied  
5 for home mortgage loans. Fisher states he was never paid for these appraisals  
6 and that RESPONDENT owes him \$13,000.

7 8. On June 24, 1994 information was received from Robin Buckles  
8 (Buckles), an Oregon certified appraiser, that during February, March and April  
9 of 1994 he had been hired by RESPONDENT to appraise properties on behalf of  
10 RESPONDENT'S clients who had applied for home mortgage loans. Buckles has not  
11 been paid by RESPONDENT for these appraisals. Buckles sent to the office of the  
12 Oregon Division of Finance and Corporate Securities, copies of 21 invoices  
13 showing the names of the borrowers, the property location of those appraisals  
14 ordered by RESPONDENT, and an outstanding balance totaling \$7,975 owed to  
15 Buckles by RESPONDENT. All the properties had Oregon addresses.

16 9. Documents received from Fidelity National Title Company (Fidelity)  
17 show 20 loans submitted by RESPONDENT for closure through Fidelity. Fidelity  
18 was instructed by RESPONDENT to charge RESPONDENT'S clients, \$400 for appraisal  
19 fees and \$85 for credit check fees at the time of closing. These fees were  
20 deducted from the total amount being loaned by the lender to the borrower.  
21 Fidelity drafted a check for these fees in the name of RESPONDENT with the  
22 notation on the check that they were for payment of appraisal and credit check  
23 fees.

24 10. On or about January 11, 1995 Standard Federal Bank submitted a list  
25 containing 233 names and loan amounts of Oregon residents who had received  
26 funding from Standard Federal Bank between January 1, 1994 and October 21,

1 1994. The mortgage loans were funded at the request of RESPONDENT based on loan  
2 documents submitted by RESPONDENT to Standard Federal Bank from January 1, 1994  
3 through October 21, 1994.

4 11. RESPONDENT is not now licensed, nor has ever been licensed as a  
5 mortgage banker or mortgage broker in the state of Oregon.

6 12. RESPONDENT accepted funds from the borrower's proceeds received at  
7 closing to pay for third party services previously done on behalf of the  
8 borrower. These funds were not used for the purpose intended by the borrower.

#### 9 CONCLUSIONS OF LAW

10 1. RESPONDENT, transacted business in this state as a mortgage broker  
11 between January 1, 1994 and October 21, 1994 by originating and negotiating  
12 mortgage loans for Oregon residents.

13 2. RESPONDENT transacted business in this state as a mortgage broker  
14 while unlicensed in violation of ORS 59.845.

15 3. RESPONDENT accepted client funds for third party services which were  
16 never placed in a Client Trust Account in violation of ORS 59.935.

17 4. In the conduct of a Mortgage Broker business, RESPONDENT employed a  
18 device, scheme or artifice to defraud by accepting funds at closing of mortgage  
19 loans for payment of appraisals and credit reports and used the funds for other  
20 purposes in violation of ORS 59.930(1).

#### 21 ORDER

22 THEREFORE pursuant to ORS 59.885(4), the Director hereby ORDERS:

23 RESPONDENT to CEASE AND DESIST violating any of the provisions of ORS  
24 59.840 through 59.960.

25 The Director, pursuant to the authority of ORS 59.996, ORDERS RESPONDENT  
26 to pay to the state of Oregon a civil penalty of \$30,000 consisting of \$5,000

1 for failure to license as an Oregon Mortgage Broker, \$5,000 for failure to  
2 maintain a client trust account, and \$20, 000 for continuing violations of ORS  
3 59.930(1).

4 The entry of this Order in no way limits further remedies which may be  
5 available to the Director under Oregon Law.

6 Dated this 16<sup>th</sup> day of March, 1995 at Salem, Oregon.

7  
8  
9 A handwritten signature in cursive script, reading "Kerry Barnett", followed by a circled "CMB" monogram. The signature is written over a horizontal line.

10 KERRY BARNETT, DIRECTOR

11 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES