

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

5 In the matter of:) O-97-0018
6 AMERICAN PROFESSIONALS FINANCE) ORDER ASSESSING CIVIL PENALTY
7) AND CONSENT OF
8) AMERICAN PROFESSIONALS FINANCE
9) MORTGAGE
10) TO ENTRY OF ORDER

9 WHEREAS the Director of the Department of Consumer and Business Services has
10 conducted an investigation of AMERICAN PROFESSIONALS FINANCE, and has
11 determined that AMERICAN PROFESSIONALS FINANCE engaged in activities
12 constituting violations of ORS 59.840 through 59.965 (hereinafter "the Oregon Mortgage
13 Lender Law"); and

14 WHEREAS AMERICAN PROFESSIONALS FINANCE wishes to resolve and settle
15 this matter with the Director;

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

19 **FINDINGS OF FACT**

20 The Director **FINDS** that:

21 1. AMERICAN PROFESSIONALS FINANCE, hereinafter RESPONDENT, is located
22 at 6950 SW Hampton, Tigard, Oregon 97224 and is engaged in the business of a
23 mortgage broker;

24 2. RESPONDENT was originally licensed as a mortgage broker on January 1, 1994
25 and is still actively licensed.

26 3. On March 26, 1997 Patricia Russell (Russell), Examiner, conducted a routine
27 office examination of RESPONDENT's books and records. At that time the Client Trust

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1 Account records were being audited by RESPONDENT'S Accountant and were not
2 available for review. Russell returned to the office of RESPONDENT on June 8, 1997.

3 4. Review of Individual Client records showed that RESPONDENT was not
4 accurately recording the date money was received, the date of deposit and the date of
5 disbursal. No copies of client checks were attached to the deposit slips nor were there any
6 written notations on the deposit slips of the file identification assigned to the transaction on
7 whose behalf the deposit was made.

8 5. Review of individual borrower account cards showed that incorrect amounts were
9 being deducted from individuals' deposits for third party services. For example: on one
10 client's account card \$350 had been deducted from the clients total deposit for appraisal
11 cost when the invoice and canceled check showed the amount paid to the appraiser was
12 really \$300.

13 6. RESPONDENT has been in the practice of depositing funds from their General
14 Account into the Client Trust Account to cover deficits caused by paying multiple third party
15 servicing bills when monies for these services had not been previously collected from each
16 billed borrower.

18 CONCLUSIONS OF LAW

19 The Director **CONCLUDES** that:

20 1. RESPONDENTS failed to notate on the deposit slips for the client trust account
21 the file identification assigned to the transaction on whose behalf the deposit was made as
22 required under OAR 441.875.030(4).

23 2. RESPONDENTS failed to reconcile the Client Trust Account on a monthly basis
24 as required under OAR 441-875-040(1)(a)(A)(B).

25 3. RESPONDENTS have commingled funds by depositing funds from the General
26 Account into the Client Trust Account to cover deficits caused by paying multiple third party
27 service bills when monies for these services had not been collected from each billed

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1 borrower in violation of ORS 59.935(8).

2 **ORDER**

3 The Director, pursuant to ORS 59.885(4) hereby **ORDERS** that RESPONDENT
4 shall **CEASE AND DESIST** from:

- 5 1. Violating any provisions of ORS 59.840 through 59.960;
6 2. Failing to notate on the deposit slips for the client trust account the file
7 identification assigned to the transaction on whose behalf the deposit was made;
8 3. Failing to reconcile the Client Trust Account on a monthly basis; and
9 4. Commingling RESPONDENT'S General Account funds with the Client Trust
10 Account funds.

11 The Director, pursuant to ORS 59.996 hereby **ORDERS** RESPONDENT to pay to
12 the state of Oregon a civil penalty of \$1,500.

13 The Director further **SUSPENDS PAYMENT** of \$1,000 of the civil penalty for a
14 period of three years under the following conditions:

- 15 1. RESPONDENT immediately contracts with an independent accountant to set up
16 American Professionals Finance's Client Trust Account; and
17 2. RESPONDENT compares all client accounts from January 1, 1996 to date with
18 the corresponding invoices from third party services and refunds any monies for which the
19 client was inadvertently over charged.
20 3. If RESPONDENT violates any provision of Oregon's Mortgage Lender Law or
21 applicable Administrative Rules within the three-year suspension period, the suspended
22 penalty of \$1,000 will be immediately due and payable.

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

25 Dated this 10th day of September, 1997 at Salem, Oregon.
26

1 KERRY BARNETT, DIRECTOR
2 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

RECEIVED

3 SEP - 8 1997

4 by 
5 R. M. NOCKELBY, ADMINISTRATOR
6 DIVISION OF FINANCE AND CORPORATE SECURITIES

FISCAL SECTION

7
8 **CONSENT TO ENTRY OF ORDER**

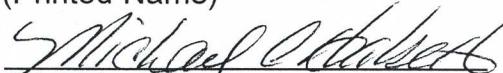
9 I, Mike Halseth, state that I am an officer of AMERICAN PROFESSIONALS FINANCE, and
10 I am authorized to act on its behalf; that I have read the foregoing Order and that I know
11 and fully understand the contents hereof; that the factual allegations stated herein are true
12 and correct; that AMERICAN PROFESSIONALS FINANCE has been advised of its right to
13 be represented by counsel; that AMERICAN PROFESSIONALS FINANCE has been
14 advised of its right to a hearing; that AMERICAN PROFESSIONALS FINANCE voluntarily
15 consents to the entry of this Order without further hearing without any force of duress,
16 expressly waiving any right to a hearing in this matter; that AMERICAN PROFESSIONALS
17 FINANCE understands that the director reserves the right to take further actions to enforce
18 this Order or to take appropriate action upon discovery of other violations of Oregon's
19 Mortgage Lender Law; and that AMERICAN PROFESSIONALS FINANCE will fully comply
20 with Chapter 59 of Oregon's Mortgage Lender Law.

21 I understand that this Consent Order is a public document.

22 Dated this 5th day of SEPT, 1997.

23 By Michael C. Halseth
(Printed Name)

OWNER MANAGER
(Office held)

24 
25 (Signature)

26 There appeared before me this 5th day of September, 1997, Michael C. Halseth
27

1 who was first duly sworn on oath, and stated that he was and is the Owner of
2 AMERICAN PROFESSIONALS FINANCE and he is authorized and empowered to sign
3 this Consent to Entry of Order on behalf of AMERICAN PROFESSIONALS FINANCE and
4 to bind AMERICAN PROFESSIONALS FINANCE to the terms hereof.

5
6 Notary Public in and for the State of: Oregon, Washington County

7 Brett A. Searcy
8 Signature of Notary Public:

9
10 My Commission expires: 12-19-2000

