

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 SERVICES
5 STATE OF OREGON

6 In the Matter of) O-00-0004
7 CAPITAL MORTGAGE BANKING)
8 CORPORATION) CEASE AND DESIST ORDER AND
9 and) CONSENT TO REVOCATION OF
10 S. ALAN SASAKI) MORTGAGE BANKER/BROKER
11) LICENSE AND IMPOSITION OF CIVIL
12) PENALTIES

13 To: Capital Mortgage Banking Corporation and S. Alan Sasaki
14 704 Main Street, Suite 304
15 Oregon City, Oregon 97045

16 WHEREAS the Director of the Department of Consumer and Business Services
17 for the State of Oregon has conducted an investigation of Capital Mortgage Banking
18 Corporation and S. Alan Sasaki, and has determined that Capital Mortgage Banking
19 Corporation and S. Alan Sasaki engaged in activities constituting violations of ORS
20 Chapter 59; and

21 WHEREAS Capital Mortgage Banking Corporation and S. Alan Sasaki wishes
22 to resolve and settle this matter with the Director;

23 NOW THEREFORE, as evidenced by the authorized signatures subscribed on
24 this Order, Capital Mortgage Banking Corporation and S. Alan Sasaki hereby
25 CONSENTS to entry of this order upon the Director's Findings of Fact and Conclusions
26 of Law as stated hereinafter:

FINDINGS OF FACT

The Director FINDS that:

1. Capital Mortgage Banking Corporation (hereinafter "CMBC") is an Oregon Corporation formed on September 3, 1997. S. Alan Sasaki is the sole owner and

1 director of CMBC. The Division of Finance and Corporate Securities (hereinafter
2 "Division") first issued a mortgage banker/broker license to CMBC on January 5, 1995
3 to the company as S. A. Sasaki doing business as S. A. Sasaki and Company. On July
4 21, 1999, the licensed name was changed to Capital Mortgage Banking Corporation.
5 CMBC's current license is due to expire on January 4, 2002.

6 2. On or about May 31, 1999, Ceotis and Estella Rhodes made application for a
7 mortgage loan with CMBC.

8 3. Between May 31, 1999 and December 2, 1999, the Rhodes went to 8748 N. Endicott
9 Avenue in Portland (hereinafter "Endicott Branch") to meet with their loan officer from
10 CMBC, Richard Gill.

11 4. The Endicott Branch is not a licensed location of CMBC.

12 5. On or about December 2, 1999, Estella Rhodes filed a complaint with the Division
13 regarding their mortgage loan handled by CMBC.

14 6. In reviewing the complaint documents, the Division discovered the unlicensed activity
15 occurring at Endicott Branch.

16 7. On January 3, 2000, the Division informed CMBC that it must cease and desist such
17 unlicensed activity and requested a list of loan activity generated from the Endicott
18 Branch.

19 8. Frank Forkes, the President of CMBC, wrote a letter to the Division on January 12,
20 2000 indicating that no pipeline was available for the Endicott Branch.

21 9. On January 28, 2000, the Division sent a letter to Alan Sasaki, the owner of CMBC,
22 requesting a list of all transactions in which the consumer went to the Endicott Branch.

23 10. On February 8, 2000, the Division received a fax from Frank Forkes indicating that
24 CMBC was not aware that applications had been taken at the Endicott Branch and that
25 CMBC would be unlikely to provide the requested list of transactions.

26 11. On February 9, 2000, the Division sent a letter to CMBC requesting a list of all loan

1 applications submitted by loan officer Richard Gill.

2 12. On February 17, 2000, Mr. Alan Sasaki appeared at the offices of the Division.
3 During an interview with Kirsten Jepsen, the compliance officer for the Mortgage Lender
4 Section, Mr. Sasaki indicated that they did not yet have the items requested on February
5 9, 2000.

6 13. On March 3, 2000, James Flaherty, an examiner with the Mortgage Lender Section
7 of the Division, and Kirsten Jepsen met with Alan Sasaki and Frank Forkes as part of
8 an examination of the books and records of CMBC. During that meeting, Kirsten
9 Jepsen asked about the items requested on February 9, 2000. Frank Forkes indicated
10 that he still did not have a list available.

11 14. The Rhodes application became a funded mortgage loan through CMBC.

12 15. CMBC did not have the loan files for the loan applications taken by Richard Gill
13 containing the executed application and the HUD-1 stored at the principal location on
14 704 Main Street in Oregon City, Oregon.

15 16. On October 20, 1999, Frank Forkes sent a letter to James Flaherty listing the open
16 branch locations of CMBC.

17 17. On that list, there was a branch located at 161 High Street NE, Suite 243 in Salem,
18 Oregon (hereinafter "Salem Branch").

19 18. The Salem Branch was not a licensed branch of CMBC until January 6, 2000.

20 19. On January 3, 2000, the Division requested a pipeline of activity for the whole
21 company in addition to the start date of the Salem Branch.

22 20. In a January 4, 2000 letter, CMBC indicated that the starting date of the Salem
23 Branch would be January 5, 2000.

24 21. On January 5, 2000, CMBC provided a pipeline for the Salem Branch that indicated
25 that there were five loans in progress at that branch.

26 22. On January 17, 2000, CMBC provided a pipeline for the fourth quarter of 1999 for

1 the Salem Branch that showed that nine loans had funded, eleven other applications
2 had been taken but had not yet funded, and one application had been canceled.

3 23. On January 28, 2000, the Division requested from CMBC a complete list of all loan
4 applications taken prior to January 6, 2000 when the Salem Branch became licensed.

5 24. On February 8, 2000, the Division received a fax from CMBC indicating that the
6 Salem Branch was preparing a complete matrix.

7 25. On February 17, 2000, Kirsten Jepsen asked Alan Sasaki about the status of the
8 list. CMBC did not have the list for the Salem Branch ready.

9 26. On March 3, 2000, Kirsten Jepsen asked Frank Forkes and Alan Sasaki about this
10 list. CMBC did not have the list for the Salem Branch ready.

11 27. The Division had not yet received the list for the Salem Branch as of April 25, 2000..

12 28. CMBC knew that the Salem Branch was open prior to January 5, 2000.

13 29. On the October 20, 1999 letter from CMBC listing the open branch locations of
14 CMBC, there was a branch located at 565 W. Arlington Street in Gladstone, Oregon
15 (hereinafter "Gladstone Branch").

16 30. The Gladstone Branch was not licensed until January 6, 2000.

17 31. On January 3, 2000, the Division requested a pipeline of activity for the whole
18 company in addition to the start date of the Gladstone Branch.

19 32. On January 5, 2000, CMBC provided a pipeline for the Gladstone Branch that
20 indicated there were two applications in December 1999.

21 33. On January 17, 2000, CMBC provided a pipeline for the fourth quarter of 1999 for
22 the Gladstone Branch that showed that four applications were funded in December
23 1999. These loans were not included on the previous pipeline.

24 34. On January 28, 2000, the Division requested from CMBC a complete list of all loan
25 applications taken prior to January 6, 2000 when the Gladstone Branch became
26 licensed.

1 35. On February 8, 2000, the Division received a fax from CMBC indicating that the
2 Gladstone Branch had a "short list."

3 36. On February 17, 2000, Kirsten Jepsen asked Alan Sasaki about the status of the
4 list. CMBC did not have the list for the Gladstone Branch ready.

5 37. On March 3, 2000, Kirsten Jepsen asked Frank Forkes and Alan Sasaki about this
6 list. CMBC did not have the list for the Gladstone Branch ready.

7 38. The Division had not yet received the list for the Gladstone Branch as of April 25,
8 2000.

9 39. On the October 20, 1999 letter from CMBC listing the open branch locations of
10 CMBC, there was a branch located at 5323 NE Mallory Street in Portland, Oregon
11 (hereinafter "Mallory Branch").

12 40. The Mallory Branch has never been licensed.

13 41. On January 3, 2000, the Division requested a pipeline of activity for the whole
14 company including the Mallory Branch and explanation of why the Mallory Branch was
15 not included on the renewal application for a mortgage lender license.

16 42. In a January 4, 2000 letter, CMBC indicated that the Mallory Branch had merged
17 with a branch located on 82nd Street in Portland.

18 43. On January 28, 2000, the Division requested from CMBC a complete list of all loan
19 applications taken at the Mallory Branch including the start and ending date of the
20 branch.

21 44. On January 31, 2000, the Division received a faxed pipeline for the Mallory Branch
22 that indicated that two loans had funded, two applications were still in process, and that
23 four loans were cancelled.

24 45. On February 17, 2000, the Division received a hand delivered list of the loans taken
25 in August and September with three funded loans listed. These loan were not included
26 on the January 31, 2000 pipeline.

1 46. On February 3, 1999, the Division received a request to license a branch of CMBC
2 at 23094 S. Staben Lane in Beavercreek, Oregon. (Beavercreek Branch)

3 47. The Beavercreek Branch was never licensed.

4 48. On January 28, 2000, the Division requested from CMBC a complete list of all loan
5 applications taken at the Beavercreek Branch including the start and ending date of the
6 branch.

7 49. On February 8, 2000, the Division received a fax from CMBC indicating that Laura
8 Frost would be supplying the information for the Beavercreek Branch.

9 50. On February 17, 2000, the Division received a listing of loan activity for the
10 Beavercreek Branch showing at least one loan application taken prior to February 3,
11 1999.

12 51. On January 28, 2000, the Division requested from CMBC a complete list of all loan
13 applications taken at a possible unlicensed branch location at 19210 SW Iowa Dr in
14 Tualatin, Oregon, (Iowa Drive Branch) including the start and ending date of the branch.

15 52. On February 8, 2000, the Division received a fax from CMBC indicating the
16 information about the unlicensed branch locations would be answered by the parties
17 themselves.

18 53. On February 17, 2000, Kirsten Jepsen asked Mr. Sasaki about the status of the
19 information requested in the January 28, 2000 letter but CMBC did not have the
20 information for the Iowa Drive Branch ready.

21 54. On March 3, 2000, Kirsten Jepsen asked Frank Forkes and Alan Sasaki about this
22 information, but CMBC did not have the information for the Iowa Drive Branch ready.

23 55. As of April 25, 2000, CMBC had failed to provide any further information regarding
24 the Iowa Drive Branch.

25 56. On January 28, 2000, the Division requested from CMBC a complete list of all loan
26 applications taken at a possible unlicensed branch location at 10778 SE Highway 212

1 in Clackamas, Oregon, (Highway 212 Branch) including the start and ending date of the
2 branch.

3 57. On February 8, 2000, the Division received a fax from CMBC indicating the
4 information about the unlicensed branch locations would be answered by the parties
5 themselves.

6 58. On February 17, 2000, Kirsten Jepsen asked Mr. Sasaki about the status of the
7 information requested in the January 28, 2000 letter but CMBC did not have the
8 information for the Highway 212 Branch ready.

9 59. On March 3, 2000, Kirsten Jepsen asked Frank Forkes and Alan Sasaki about this
10 information, but CMBC did not have the information for the Highway 212 Branch ready.

11 60. As of April 25, 2000, CMBC had failed to provide any further information regarding
12 the Highway 212 Branch.

13 61. As of the 1998 renewal application for CMBC, Mr. Sasaki was listed as the
14 President.

15 62. On or about October 16, 1999, Mr. Frank Forkes became the President of CMBC,
16 Christie Stevens became the Vice-President, Ken Sasaki became the Treasurer, and
17 Alan Sasaki became the Secretary.

18 63. CMBC did not send written notice of these changes to the Division until the renewal
19 application was received by the Division on January 3, 2000.

20 64. On January 3, 2000, the Division sent a letter to CMBC indicating that Christie
21 Stevens could no longer be an officer or employee of CMBC because she is listed as
22 the experienced person for another licensee, CJ Unlimited.

23 65. On January 5, 2000, James Flaherty and Kirsten Jepsen met with Alan Sasaki,
24 Frank Forkes, Christie Stevens and David Yamashiro, the branch manager for the 82nd
25 Street Branch of CMBC. During the meeting, Kirsten Jepsen stated that Christie
26 Stevens could no longer work for CMBC.

1 66. On January 5, 2000, CMBC terminated Christie Stevens.

2 67. Christie Stevens was removed as an officer of CMBC effective December 31, 1999.

3 68. On March 3, 2000, Kirsten Jepsen and James Flaherty met with Frank Forkes and
4 Alan Sasaki at the principal location of CMBC. During that meeting, Frank Forkes
5 produced the check register for CMBC which indicated that CJ Unlimited had received
6 payments from CMBC since January 5, 2000. Also during that meeting, Mr. Forkes and
7 Mr. Sasaki admitted that Christie Stevens had still been working for CMBC. Mr. Forkes
8 and Mr. Sasaki were told again that she could not work for CMBC because she was
9 licensed as CJ Unlimited.

10 69. On March 22, 2000, James Flaherty traveled to the 701 Main Street Branch of
11 CMBC. At the branch, he found Christie Stevens working for CMBC despite previous
12 warnings regarding this behavior.

13 70. On March 22, 2000, Alan Sasaki met with Kirsten Jepsen and David Weiss, a
14 Compliance Officer for the Securities Section of the Division. During that meeting, Mr.
15 Sasaki admitted that Christie Stevens continued to work for CMBC and that he was
16 aware that it was a violation.

17 71. On March 3, 2000, the Division examined the books and records of CMBC.
18 Seventeen loan files were reviewed. Of those, thirteen failed to contain a borrower
19 acknowledged float agreement or a lock agreement as required by OAR 441-860-
20 0060(1)(c). Seven files had incomplete or inaccurate Truth in Lending Disclosure
21 pursuant to the requirements of the Truth in Lending Act (TILA). In one file, there were
22 two Truth in Lending Disclosures and both were inaccurate. Eleven files failed to
23 disclose that the lenders would be paying the broker a yield spread premium or similar
24 rebate in violation of the Real Estate Settlement Procedures Act (RESPA). One file did
25 not contain a final HUD-1 statement in violation of OAR 441-865-0060(1)(h). One file
26 failed to contain a copy of the Good Faith Estimate in violation of OAR 441-865-

1 0060(1)(d). One file revealed that the good faith estimate was not provided to the
2 borrower within the required three day period in violation of RESPA. One file did not
3 contain a copy of the Truth in Lending Disclosure as required by OAR 441-865-
4 0060(1)(g). Only one of the seventeen files reviewed was complete and in compliance
5 with all requirements.

6 72. CMBC did not submit financial statements with their renewal application on January
7 3, 2000.

8 73. On January 4, 2000, CMBC wrote to the Division that audited financial statements
9 would be provided for the period ending June 30, 1999 and that further audited
10 statements would be provided by January 14, 2000.

11 74. On January 5, 2000, CMBC provided the Division with financial statements audited
12 by Frank Forkes, the current President of the CMBC.

13 75. On January 6, 2000, a conditional license was granted to CMBC conditioned on
14 CMBC providing independently prepared CPA audited financial statements for the
15 period ending December 30, 1999 by 4 p.m. on February 16, 2000.

16 76. CMBC did not provide independently prepared CPA audited financial statements
17 for the period ending December 30, 1999 by 4 p.m. on February 16, 2000.

18 77. On March 7, 2000, CMBC sent the Division the financial statements prepared by
19 Ed Culp, a licensed CPA.

20 78. These financial statements indicate a worsening financial position. CMBC 's
21 financial statements indicated a net loss of \$298,070.39 in 1999. The financial
22 statements also indicated that the liabilities of the company exceed the assets.

23 **CONCLUSIONS OF LAW**

24 The Director **CONCLUDES** that:

25 1. CMBC and S. Alan Sasaki violated ORS 59.845, ORS 59.950(2), and OAR 441-860-
26 0030 by conducting unlicensed activity at the Endicott Branch, Salem Branch,

1 Gladstone Branch, Mallory Branch, and Beaver Creek Branch.

2 2. CMBC and S. Alan Sasaki failed to comply with the requirements ORS 59.860 by
3 failing to keep residential loan files as required by OAR 441-865-0060 with regard to the
4 residential loan files for the loans negotiated by loan officer Richard Gill.

5 3. CMBC and S. Alan Sasaki have failed to file other information as required by the
6 Director as contemplated in ORS 59.865(11) by failing to provide responses to the
7 requests of the Division pursuant to ORS 59.885 regarding the investigation of
8 unlicensed activity.

9 4. CMBC and S. Alan Sasaki violated ORS 59.930(4) by filing false statements with the
10 director regarding the opening date of the Salem Branch and the termination of Christie
11 Stevens.

12 5. CMBC and S. Alan Sasaki violated ORS 59.950(3) by failing to file notice of the
13 change in the officers, members, partners or directors of the company within 30 days
14 of the change.

15 6. CMBC and S. Alan Sasaki demonstrated negligence or incompetence in performing
16 any act for which the licensee is required to hold a license by failing to keep files as
17 required by OAR 441-865-0060 and by failing to provide accurate disclosures pursuant
18 to the rules of RESPA and TILA.

19 7. CMBC and S. Alan Sasaki have failed to file financial statements as required by the
20 Director as contemplated in ORS 59.865(11).

21 8. CMBC and S. Alan Sasaki are either insolvent or are in such a financial condition
22 that the company cannot continue with safety to its customers as contemplated in ORS
23 59.865(1).

24 **ORDER**

25 The Director, pursuant to ORS 59.885(4), hereby **ORDERS** that CMBC and S.
26 Alan Sasaki will **CEASE AND DESIST** from violating any provision of ORS Chapter 59.

1 The Director, pursuant to ORS 59.865, hereby **REVOKES** CMBC's license to
2 conduct mortgage lending activity.

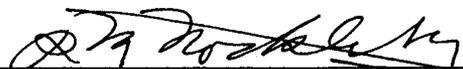
3 The Director, pursuant to ORS 59.996 hereby **ORDERS** CMBC and S. Alan
4 Sasaki to pay the State of Oregon a civil penalty of \$30,750.00. CMBC and S. Alan
5 Sasaki are jointly and severally liable for the \$30,750.00 civil penalty.

6 The Director suspends payment of \$30,750.00 of the assessed civil penalty for
7 a three year period. If in the period between the date of the Order to three years from
8 the date of the Order, CMBC or S. Alan Sasaki violate any provision of ORS Chapter
9 59, the suspended portion of the assessed civil penalty will become immediately due
10 and payable. If neither CMBC or S. Alan Sasaki violate ORS Chapter 59 in the three
11 year period, the suspended portion of the civil penalty is waived. The date of the Order
12 is the date the Director signs the Order.

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

15 Dated this 8th day of May, 2000.

16
17 **MARY C. NEIDIG, ACTING DIRECTOR**
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

18
19
20 by 
21 **R.M. NOCKLEBY, ADMINISTRATOR**
DIVISION OF FINANCE AND CORPORATE SECURITIES

22
23 **CONSENT TO ENTRY OF ORDER**

24 I, S. Alan Sasaki, state that I am the sole Director of Capital Mortgage Banking
25 Corporation, and I am authorized to act on its behalf; that I have read the foregoing
26 Order and that I know and fully understand the contents hereof; that Capital Mortgage

1 Banking Corporation admits the findings of fact herein, voluntarily consents to the entry
2 of this Order without further hearing, expressly waiving any right to a hearing in this
3 matter; that Capital Mortgage Banking Corporation understands that the Director
4 reserves the right to take further actions to enforce this order or to take appropriate
5 action upon discovery of other violations of Oregon's Mortgage Lender Law; and that
6 Capital Mortgage Banking Corporation Inc will fully comply with Chapter 59 of Oregon's
7 Mortgage Lender Law.

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

9
10 Dated this 4 day of MAY, 2000.

11 By S.A. SASAKI BROKER
12 (Office Held)

13 S.A. SASAKI
14 (Signature)

15 **CORPORATE ACKNOWLEDGMENT**

16 There appeared before me this 4 day of May, 2000,
17 S.A. SASAKI, who was first duly sworn on oath, and stated that he was
18 and is the broker of Capital Mortgage Banking Corporation and he is
19 authorized and empowered to sign this Consent to Entry of Order on behalf of Capital
20 Mortgage Banking Corporation and to bind Capital Mortgage Banking Corporation to the
21 terms hereof.

22
23 [Signature]
24 Signature of Notary Public
25 Notary Public for the State of: Oregon
26 My Commission expires: 2002

