

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-01-0008

7 LINDA L MOTT DBA RHINEGOLD)
8 MORTGAGE)

FINAL ORDER BY DEFAULT -
REVOCATION OF MORTGAGE
LENDER LICENSE AND IMPOSITION
CIVIL OF PENALTIES

9 To: Linda L Mott dba Rhinegold Mortgage
10 1445 SE 122nd Ave.
11 Portland, Oregon 97233

12 On February 16, 2001, certified true copies of a Cease and Desist Order and a
13 Notice of Intent to Revoke Mortgage Banker/Broker License and to Impose Civil
14 Penalties were served upon Linda L. Mott dba Rhinegold Mortgage by certified mail.
15 The certified mail was accepted on February 21, 2001 at the licensed location of Linda
16 L. Mott dba Rhinegold Mortgage (hereinafter "Respondent"). This notice alleged that
17 (1) Respondent engaged in a dishonest, fraudulent or illegal practice by retaining fees
18 for services not actually performed by Respondent; (2) Respondent engaged in a
19 dishonest, fraudulent or illegal practice by hiding the true amount of Respondent's
20 charges among fees normally payable to third parties; (3) Respondent failed to account
21 to persons interested for all money or property received; (4) Respondent did not
22 respond to a request to produce the documents sent by the Director, Department of
23 Business and Consumer Services, (hereinafter "Director"); (5) Respondent engaged in
24 an act, practice, or course of business which would operate as a fraud or deceit upon
25 any person when Respondent did not refund the excess appraisal fees charged; and
26 (6) that Respondent is insolvent or is in such a financial condition that the business
cannot continue with safety to consumers. The Notice further granted to Respondent

1 an opportunity for hearing, if requested within 21 days of service of the Notice. No such
2 request for hearing has been received by the Director. The Notice designated the
3 Division of Finance and Corporate Securities' file on this matter as the record for
4 purposes of default.

5 NOW THEREFORE, after consideration of the records and files of the Division
6 of Finance and Corporate Securities relating to this matter, the Director enters the
7 following Order.

8 FINDINGS OF FACT

9 1. Respondent is a sole proprietorship that engages in Oregon residential
10 mortgage transactions. The Director first issued a mortgage banker/broker license to
11 Respondent on September 14, 1999 which was due to expire on September 14, 2001.

12 2. Respondent was the mortgage broker for the M■■■■, Y■■■■ and D■■■■
13 E■■■■ loan (hereinafter "the Y■■■■ loan"). As such, Respondent submitted a
14 Mortgage Document Order Request Form (hereinafter "original broker demand") to Long
15 Beach Mortgage Company listing broker fees including an appraisal fee for the Y■■■■
16 loan payable to Rhinegold of \$450.00. The original broker demand was signed by
17 Oscar Griffin, a loan officer for Respondent, on August 24, 2000. On August 28, 2000,
18 Respondent submitted a Rhinegold Mortgage Broker Demand (hereinafter "amended
19 broker demand") to First American Title Company of Deschutes County Escrow
20 Department (hereinafter "First American") requesting payment of \$700.00 for appraisal
21 fees to be collected at closing of the Y■■■■ loan. Based upon the amended broker
22 demand, on September 7, 2000, First American issued a check to Respondent for fees
23 collected from the Y■■■■ loan which included \$700.00 for appraisal fees. The actual
24 total appraisal fees for the Y■■■■ loan were only \$450.00. Respondent did not pay the
25 appraiser the \$450.00 owed for services rendered in connection with the Y■■■■ loan.
26 Respondent has retained all of the \$700.00 collected for appraisal fees at closing of the

1 Young loan.

2 3. Respondent submitted the Y [REDACTED] loan to Long Beach Mortgage Company for
3 funding. Long Beach Mortgage Company would not fund the Y [REDACTED] loan if the total
4 broker and lender fees and points exceeded 8% of the total loan amount. The original
5 broker demand submitted by Respondent through loan officer Oscar Griffin on August
6 24, 2000 contained lender and broker points and fees that totaled \$5,168.00. Since the
7 total loan amount was \$59,500.00, the fees exceeded the 8% limitation. On August 28,
8 2000, Respondent submitted the amended broker demand which would appear to
9 contain total lender and broker points and fees of only \$4,763.00, which is exactly 8%
10 of the total loan amount.

11 4. D [REDACTED] E [REDACTED] contacted Respondent to inquire about concerns such as the
12 \$700.00 appraisal fee listed on the HUD-1 for the Y [REDACTED] loan. Respondent failed to
13 account to D [REDACTED] E [REDACTED] for the distribution of the \$700.00 appraisal fee. The
14 appraiser contacted Respondent in addition to the September 25, 2000 and October 30,
15 2000 invoices to inquire about the distribution of the \$700.00 collected at closing for
16 appraisal fees for the Young loan. Respondent failed to pay the appraiser and failed to
17 account for the \$700.00 collected. As of February 1, 2001, Respondent still had not
18 paid the appraiser for the appraisal done in connection with the Y [REDACTED] loan or provided
19 an accounting to either D [REDACTED] E [REDACTED] or the appraiser.

20 5. On November 22, 2000, the Director left a message for Respondent to call the
21 Director about the failure to pay the appraiser despite having collected fees to pay for
22 the appraisal at the closing of the Y [REDACTED] loan. On November 30, 2000, having not
23 received a return telephone call, the Director again left a message for Respondent to
24 call the Director. On December 11, 2000, still having not received a return telephone
25 call, the Director sent a letter requesting records from Respondent regarding the unpaid
26 appraisal for the Y [REDACTED] loan. The letter required that the records be provided no later

1 than December 26, 2000. On January 2, 2001, not having received a response to the
2 letter and still not having received a return telephone call, the Director again left a
3 message for Respondent to call or send the documents requested. On January 8,
4 2001, having received no written or telephone response, the Director issued a subpoena
5 for the records.

6 6. Respondent submitted an amended broker demand to First American
7 requesting payment of \$700.00 for appraisal fees to be collected at the close of the
8 Y [REDACTED] loan. Based upon the amended broker demand, on September 7, 2000, First
9 American issued a check to Respondent for fees collected from the Y [REDACTED] loan which
10 included \$700.00 for appraisal fees. The actual total appraisal fees for the Y [REDACTED] loan
11 were only \$450.00. Respondent did intend to keep the fees in excess of \$450.00.
12 Respondent in fact did not refund any portion of the fees collected in excess of \$450.00
13 to the consumer.

14 7. Respondent collected \$700.00 for appraisal fees on the M [REDACTED] Y [REDACTED] and
15 D [REDACTED] E [REDACTED] loan (hereinafter "the Y [REDACTED] loan") on September 7, 2000. Bratton
16 Appraisal Group LLC (hereinafter "the appraiser") sent a request for payment of \$450.00
17 in appraisal fees for the Y [REDACTED] loan on June 26, 2000, August 31, 2000, September 25,
18 2000, and October 30, 2000. On November 22, 2001, the appraiser contacted the
19 Director for assistance in collecting the past due appraisal fees. The Director provided
20 Respondent's bond information to the appraiser. The appraiser filed a bond claim. The
21 appraiser did not receive any payment from Respondent for the Y [REDACTED] loan by February
22 1, 2001. On February 15, 2001, Executive Reporting Service requested Respondent's
23 bond information to collect for unpaid credit reports requested by Respondent. In
24 addition, Executive Reporting Service has received non-sufficient fund checks from
25 Respondent in payment for credit reports. On January 8, 2001, the Director sent a
26 subpoena to Respondent for financial statements of the company and copies of the

1 most recent bank statement for any and all businesses owned by Linda L. Mott. The
2 bank statements provided by Respondent show that the business checking account for
3 Rhinegold Mortgage held at Washington Mutual Bank was \$1,534.84 overdrawn on
4 December 31, 2000. The business checking account for Rhinegold Financial Group Inc.
5 dba Rhinegold Mortgage located at Bank of America was overdrawn \$12.79 on
6 November 1, 2000. On November 10, 2000, there was a credit memo of \$12.79 to
7 create the account balance of \$0.00, the ending balance on November 30, 2000. The
8 business economy checking account for Rhinegold Financial Group, Inc. located at
9 Bank of America was overdrawn \$1,252.45 on August 1, 2000. This was the only
10 Rhinegold account that had regular activity during the statement period. On August 31,
11 2000, that account was overdrawn \$13,026.51. There was a bank statement included
12 for a company named New Gaming Co. On February 13, 2001, the Director received
13 a message from Executive Reporting Services indicating that Respondent had sent
14 checks for credit report services provided by Executive Reporting Services on an
15 checking account held under the name New Gaming Co. The basic business checking
16 account held by New Gaming Co. at Wells Fargo Bank indicates that the account was
17 overdrawn by \$1,018.05 on December 7, 2000. There is a positive ending balance on
18 December 19, 2000 of \$991.96. These are the only bank statements provided in
19 response to the Director's subpoena.

20 **ULTIMATE FINDINGS OF FACT**

- 21 1. Respondent retained \$700.00 collected from the Y [REDACTED] loan for appraisal fees when
22 Respondent did not perform the appraisal.
- 23 2. Respondent increased the appraisal fee charged to the consumer on the Young loan
24 to conceal some of the fees to be collected and retained by the Respondent in a
25 category that is normally completely paid to a third party service provider so that the
26 loan would meet the lender's criteria.

- 1 3. Respondent failed to account to the consumer for all money received and to the
2 appraiser for the appraisal fee collected for the appraiser by Respondent on behalf
3 of the consumers.
- 4 4. Respondent failed to respond to the November 22, 2000, November 30, 2000, and
5 January 2, 2001 telephone inquiries of the Director.
- 6 5. Respondent failed to respond to the December 11, 2000 written request by the
7 Director for records.
- 8 6. Respondent did not refund any portion of the fees collected in excess of the actual
9 appraisal fees.
- 10 7. Respondent is insolvent or is in such a financial condition that it cannot continue with
11 safety to customers.

12 **CONCLUSIONS OF LAW**

- 13 1. Respondent's retention of the \$700.00 collected for the appraisal costs is a violation
14 of 12 U.S.C. § 2607(c).
- 15 2. By violating 12 U.S.C. § 2607(c), Respondent engaged in a dishonest, fraudulent,
16 or illegal practice which constitutes grounds to revoke Respondent's mortgage
17 lender license pursuant to ORS 59.865(2).
- 18 3. Respondent's act of increasing the appraisal fee in order to collect extra fees that
19 would be concealed in manner such that the loan would appear to meet the lender's
20 criteria is a dishonest, fraudulent, or illegal practice which constitutes grounds to
21 revoke Respondent's mortgage lender license pursuant to ORS 59.865(2).
- 22 4. Respondent's failure to account to the consumer and the appraiser for all money
23 collected is grounds to revoke Respondent's mortgage lender license pursuant to
24 ORS 59.865(6).
- 25 5. Respondent's failure to produce records requested by the Director is grounds to
26 revoke Respondent's mortgage lender license pursuant to ORS 59.865(11).

1 6. Respondent's failure to refund monies collected in excess of the actual cost of the
2 appraisal is an act, practice or course of business which would operate as a fraud
3 or deceit upon any person in violation of ORS 59.930(3).

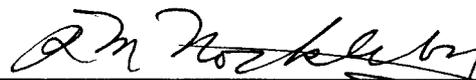
4 7. Respondent is either insolvent or is in such a financial condition that the company
5 cannot continue with safety to customers which constitutes grounds to revoke
6 Respondent's mortgage lender license pursuant to ORS 59.865(1).

7 **ORDER**

8 The Director, pursuant to ORS 59.865, hereby **REVOKES** the mortgage lender
9 license issued to Linda L. Mott dba Rhinegold Mortgage.

10 In addition, the Director, pursuant to ORS 59.996, hereby **ORDERS** Linda L. Mott
11 dba Rhinegold Mortgage to pay the State of Oregon a civil penalty of \$2,000.00. The
12 civil penalty of \$2,000.00 is based upon (1) \$1,000.00 for engaging in an act, practice,
13 or course of business which would operate as a fraud or deceit upon any person and
14 (2) \$1,000.00 for failing to produce records required by the Director.

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16
17 Dated this 16th day of March, 2001.

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20 Richard M. Nockleby, Administrator
21 Division of Finance and Corporate Securities
22

23 **NOTICE:** You are entitled to judicial review of this Order. Judicial review may be
24 obtained by filing a petition for review within 60 days from the service of this Order.
25 Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of
26 Appeals.