

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

4 In the Matter of:

5 Valley Central Mortgage LLC and
6 Elton T. "Bud" Lafky

7 Respondent.

M-06-0029-2

ORDER TO CEASE AND DESIST
ORDER BARRING FROM INDUSTRY
And
CONSENT TO ENTRY OF ORDER

8
9 WHEREAS, the Director of the Department of Consumer and Business Services
10 for the State of Oregon (hereinafter "the Director"), through the Division of Finance and
11 Corporate Securities (hereinafter "the Division"), conducted an investigation of Valley
12 Central Mortgage LLC ("Valley Central") and Elton T. "Bud" Lafky ("Lafky"), and
13 determined that Valley Central engaged in activities constituting violations of ORS
14 59.840 through 59.965 (hereinafter cited as the Oregon Mortgage Lender Law); and

15 WHEREAS, Valley Central and Lafky do not admit nor deny the Findings of Fact
16 and Conclusions of Law contained herein, but wish to resolve and settle this matter with
17 the Director,

18 NOW, THEREFORE, as evidenced by the authorized signatures subscribed on
19 this Order, Valley Central and Lafky hereby **CONSENT** to entry of this Order upon the
20 Director's Findings of Fact and Conclusions of Law as stated hereinafter:

21 **FINDINGS OF FACT**

22 The Director **FINDS** that:

23 1. Valley Central is an Oregon limited liability corporation formed on September 29,
24 2004. Prior to July 27, 2006, Lafky owned 90% of Valley Central. Prior to July 27,
25 2006, Karen L. Dilday (hereinafter "Dilday") owned 10% of Valley Central and acted as
26 the company's experienced person. Prior to July 27, 2006, Valley Central operated

1 from 349 Union Street in Salem, Oregon 97301.

2 2. On July 27, 2006 Valley Central reported that the company had relocated to 1111
3 S. Main Street in Lebanon, Oregon 97355.

4 3. Lafky applied for a license to engage in Oregon residential mortgage lending on
5 January 7, 2005. During the licensing process, the application was amended to list
6 Valley Central as the applicant.

7 4. The initial application filed by Valley Central contained a Section 6 – Loan
8 Originator Information completed for Dilday on December 21, 2004. The form indicated
9 that a criminal records check had been conducted for Dilday.

10 5. On March 7, 2005, Dilday contacted a Division examiner to inquire about
11 conducting a criminal records check on Thomas Moorman (“Moorman”). While
12 answering Dilday’s question, the examiner inquired if the company had conducted a
13 criminal records check on Dilday. Dilday responded that she wasn’t aware that she had
14 to do so. The examiner informed Dilday that the Oregon Mortgage Lender Law requires
15 that Valley Central conduct a criminal records check on her.

16 6. On May 17, 2005, Valley Central entered into Consent Order M-05-0035
17 (hereinafter “the 2005 Order”) with the Division that ordered that Valley Central be
18 issued a conditional license to engage in Oregon residential mortgage lending that
19 prohibited Valley Central from employing Moorman “to act as or fulfill the duties of a
20 loan originator ... regardless of the technical title given him.” The 2005 Order is
21 attached as Exhibit A and is hereby incorporated by reference.

22 7. Valley Central provided written notice to the Division that it had hired Jaime Cain
23 (“Cain”) to originate Oregon residential mortgage loans beginning August 1, 2005.
24 According to the records of the Division, Cain had not previously been employed as a
25 loan originator for any company. As a result, Cain was required to complete entry-level
26 education and pass the required examination by February 1, 2006.

1 8. On January 4, 2006, the Division conducted an examination of the books and
2 records of Valley Central (hereinafter "2006 examination"). The 2006 examination
3 included a review of personnel records, financial records, and 67 borrower loan files.

4 9. A Division investigator contacted many of the consumers who obtained loans
5 from Valley Central. In some of the sixty-seven Oregon residential loans originated by
6 Valley Central, the consumers reported to the investigator that Moorman acted as the
7 loan originator on the consumer's loan.

8 10. The 2006 examination also revealed books and records violations including:
9 1) Valley Central Mortgage LLC did not have a personnel file or a criminal records
10 check for Dilday; 2) Valley Central Mortgage LLC did not have a certificate
11 demonstrating that Cain had completed twenty hours of entry-level education and
12 passed the required examination; 3) three borrower loan files did not contain a
13 borrower-executed loan application, 4) sixty-six of sixty-seven borrower loan files failed
14 to contain a borrower-executed rate lock or float agreement; 5) one borrower loan file
15 contained an executed borrower rate lock or float agreement, however, the form did not
16 indicate if the interest rate was to be locked or would float; 6) one borrower loan file did
17 not contain a copy of the initial good-faith estimate or Truth-in-Lending Disclosure
18 matching the amount and/or rate for which the borrower originally applied; 7) two
19 borrower loan files contained good-faith estimates that did not disclose the potential for
20 payment to the broker of fees from parties other than the borrower, such as a yield-
21 spread premium or service-release premium; 8) sixty-six of sixty-seven borrower loan
22 files contained Truth-in-Lending Disclosures that contained loan expenses that are not
23 finance charges in the computation of the annual percentage rate; 9) eight borrower
24 loan files contained Truth-in-Lending Disclosures in which the annual percentage rate
25 and/or the finance charges were over- or understated; 10) fifty-five of sixty-seven
26 borrower loan files included Truth-in-Lending Disclosures that failed to contain

1 estimated dates for the payments due on the loan and/or failed to contain disclosures
2 regarding items such as whether there is a prepayment penalty or late charge, whether
3 the loan is assumable, if insurance is required, and what is the security for the loan;
4 11) two borrower loan files did not contain an executed release of credit information
5 form; 12) four borrower loan files did not contain a copy of the report relied upon for the
6 loan decision; 13) four borrower loan files contained documents that were signed by the
7 borrower but were blank or incomplete; and 14) one borrower loan file did not contain a
8 copy of the final HUD-1 Settlement Statement.

9 11. Valley Central provided several responses to the 2006 examination indicating
10 that these deficiencies were the result of "oversights," "shredding the wrong ones," and
11 otherwise a general failing to understand the requirements.

12 12. To attempt to prevent future problems, Valley Central drafted "a checklist of
13 required disclosures needed in each file and instructed the loan officers to put this list in
14 their files to ensure that the file will be in compliance."

15 13. Valley Central provided a copy of the checklist to the Division. The checklist did
16 not include items required to be in the file by OAR 441-865-0060, including a borrower-
17 executed loan application or the credit report used to make the loan decision and the
18 final HUD-1 Settlement Statement.

19 14. On March 1, 2006, Valley Central submitted an application for renewal of its
20 license to engage in Oregon residential mortgage loans.

21 15. The March 1, 2006, application failed to contain the required financial
22 statements and contained a Section 6 – Loan Originator Information form for Cain that
23 reported that Cain had not failed to meet any initial education or testing requirements.

24 16. On March 2, 2006, the Division sent Valley Central a Notice of Incomplete
25 Application noting that the renewal application failed to include financial statements and
26 loan originator fees.

1 17. On May 9, 2006, Valley Central Mortgage LLC provided an education certificate
2 for Cain indicating that she had completed the required 20 hours of entry-level
3 education on March 23, 2006, over six months after she was first reported as a loan
4 originator on August 1, 2005.

5 18. On June 30, 2006, Lafky stated to the Division that John Dragoo ("Dragoo") was
6 currently employed as a loan originator for Valley Central.

7 19. Lafky supplied a completion certificate demonstrating that Dragoo had obtained
8 the required education on January 16, 17, and 18, 2006. The certificate stated that
9 John Dragoo was with Valley Central.

10 20. As of June 30, 2006, Valley Central had not reported Dragoo as a loan
11 originator.

12 21. On July 26, 2006, Valley Central provided the Division with a copy of a
13 compliance checklist. A review of the compliance checklist provided by Valley Central
14 revealed that the list did not include items required to be in the file by OAR 441-865-
15 0060, including a borrower-executed loan application or the credit report used to make
16 the loan decision and the final HUD-1 Settlement Statement. These were the same
17 items that were missing on the compliance checklist provided by Dilday in Valley
18 Central's May Response to the 2006 examination.

19 22. On August 24, 2006, Valley Central provided a copy of the company's policies
20 and procedures relating to lending (hereinafter "the manual").

21 23. A review of the manual revealed that much of it did not comply with the
22 requirements of the Oregon Mortgage Lender Law, the accompanying administrative
23 rules, and the federal laws relating to lending requirements.

24 24. As of August 31, 2006, Valley Central has not provided to the Division notice of
25 the change of address to 1111 S. Main Street in Lebanon, Oregon, as reported to the
26 Oregon Secretary of State, Corporation Division on July 27, 2006.

1 25. Valley Central lacks knowledge or information sufficient to form a belief as to
2 accuracy of Findings of Fact Nos. 5, 9, and 10, disputes Facts Nos. 2 and 18, and
3 disputes the Conclusions of Law. Lafky lacks knowledge or information sufficient to
4 form a belief as to accuracy of Findings of Fact Nos. 5, 7, 9, 10, 15, and 17, disputes
5 Findings of Fact Nos. 2 and 18, and disputes the Conclusions of Law.

6 26. Valley Central has surrendered its residential mortgage lending license. Valley
7 Central and Lafky have informed the Director that Valley Central and Lafky are not now
8 engaging in activities requiring a license under the Oregon Mortgage Lender Law and
9 will not in the future engage in activity requiring a license under the Oregon Mortgage
10 Lender Law without obtaining the license.

11 **CONCLUSIONS OF LAW**

12 The Director **CONCLUDES** that:

13 1. OAR 441-880-0050(4)(a) provides that a felony, described as "crimes punishable
14 by death or imprisonment in excess of one year under the law under which the person
15 was convicted," is among the categories of criminal convictions that will prevent a
16 person from acting as a loan originator.

17 2. Because Thomas Moorman was convicted prior to May 17, 2005 of Burglary II,
18 Forgery I, two counts of Unauthorized Use of a Vehicle, two counts of Criminal Mischief
19 I, Driving While Suspended and Driving While Revoked, all class C felonies, ORS
20 59.971(2) prohibited Thomas Moorman from acting as a loan originator between
21 May 17, 2005 and December 31, 2005.

22 3. Valley Central violated ORS 59.971(2) each time Moorman originated a loan
23 between April 1, 2005 and December 31, 2005.

24 4. Valley Central violated ORS 59.865(3) when it willfully and/or repeatedly violated
25 the provisions of Consent Order M-05-0035 each time Moorman originated a loan
26 between May 17, 2005 and December 31, 2005, which constitutes grounds to deny,

1 suspend, revoke or condition the license issued to Valley Central.

2 5. Valley Central violated ORS 59.860 by failing to make and keep records as
3 prescribed by the Director in OAR 441-865-0050(1) and 441-865-0060; specifically
4 Valley Central violated: 1) OAR 441-865-0050(1) by failing to maintain a personnel
5 ledger for Dilday, 2) OAR 441-865-0060(1)(a) by failing to maintain borrower-executed
6 loan applications in three borrower files, 3) OAR 441-865-0060(1)(c) by failing to
7 maintain an executed rate lock or float agreement in sixty-six borrower files, 4) OAR
8 441-865-0060(1)(d) by failing to maintain a copy of the good-faith estimate in one
9 borrower file, 5) OAR 441-865-0060(1)(f) by failing to maintain a copy of the credit
10 report relied upon for the loan decision in four borrower files, 6) OAR 441-865-
11 0060(1)(e) by failing to maintain a copy of the executed Authorization to Release Credit
12 Information in two borrower files and 7) OAR 441-865-0060(1)(h) by failing to maintain
13 copies of the HUD-1 Settlement Statement in one borrower file.

14 6. Valley Central violated ORS 59.865(2) by violating 24 CFR § 3500.7 when it
15 provided two customers with good-faith estimates that failed to contain a disclosure of
16 potential payments of fees from parties other than the borrower, such as a yield-spread
17 premium or service-release premium.

18 7. Valley Central violated ORS 59.955 by violating 12 CFR § 226.18 when it
19 provided fifty-five consumers with Truth-in-Lending disclosures that failed to contain the
20 timing of payments scheduled to repay the loan and/or disclosures regarding
21 prepayment penalties, late fees, insurance requirements, and whether the loan is
22 assumable.

23 8. Valley Central violated ORS 59.930(4) by submitting the Section 6 Loan
24 Originator Information for Dilday in the initial application indicating that a criminal
25 records check had been conducted when the company had not obtained one.

26 9. Valley Central violated ORS 59.972(1) and OAR 441-880-0050 by failing to

1 conduct a criminal records check prior to employing Dilday as a loan originator.

2 10. Valley Central violated OAR 441-880-0030(6) by continuing to employ Cain as a
3 loan originator after she failed to complete the required education and examination by
4 February 1, 2006.

5 11. Valley Central violated ORS 59.930(4) by submitting the Section 6 Loan
6 Originator Information for Cain as part of the renewal application on March 1, 2006,
7 indicating that Cain had met the initial education and testing requirements when Jaime
8 Cain did not complete the initial education and testing requirements until March 23,
9 2006.

10 12. Valley Central violated ORS 59.969(1) and OAR 441-880-0030(2) by failing to
11 report the hire of Dragoo as a loan originator within thirty days of his hire.

12 13. Valley Central violated OAR 441-860-0070(1)(i) by failing to notify the Director
13 within thirty days of the change of address for Valley Central.

14 14. Valley Central violated ORS 59.865(15) by failing to supervise diligently and
15 control the mortgage-related activities of its loan originator by allowing Moorman to
16 originate loans between April 1, 2005 and December 31, 2005, by failing to develop
17 accurate, adequate, and compliant policies and procedures, and by failing to ensure
18 that all loan originators comply with the education and testing requirements, which
19 constitutes grounds to deny, suspend, revoke, or condition the license issued to Valley
20 Central.

21 **ORDER**

22 The Director, pursuant to ORS 59.885(4) hereby **ORDERS** that:

23 1. Valley Central and Lafky will **CEASE AND DESIST** from violating any
24 provision of Oregon Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010
25 and any rule, order, or policy issued by the Division.

26 2. Lafky may not serve as a loan originator, experienced person, or principal for a

1 mortgage banker or broker, or occupy similar status or perform similar functions of an
2 officer, director, loan originator or experience person for a mortgage banker or broker.
3 Lafky may not own any portion of any mortgage broker or banker required by ORS
4 59.845(1) to be licensed in Oregon except by virtue of owning any security listed in ORS
5 59.025.

6 The Director, pursuant to ORS 59.996, hereby **ORDERS** Valley Central and any
7 assigns or successor business(es) or corporation(s) to pay the State of Oregon a civil
8 penalty of \$90,000. The civil penalty is based upon: 1) \$5,000 for violating ORS
9 59.972(1) and OAR 441-880-0050, 2) \$5,000 for violating ORS 59.930(4), 3) \$20,000
10 for continuing to violate ORS 59.971(2) between May 17, 2005 and December 31, 2005,
11 4) \$5,000 for violating OAR 441-865-0050(1), 5) \$5,000 for violating OAR 441-880-
12 0030(6), 6) \$5,000 for violating ORS 59.930(4), 7) \$5,000 for violating OAR 441-865-
13 0060(1)(a), 8) \$5,000 for violating OAR 441-865-0060(1)(c), 9) \$5,000 for violating OAR
14 441-865-0060(1)(d), 10) \$5,000 for violating ORS 59.955, 11) \$5,000 for violating OAR
15 441-865-0060(1)(e), 12) \$5,000 for violating OAR 441-865-0060(1)(f), 13) \$5,000 for
16 violating OAR 441-865-0060(1)(h), 14) \$5,000 for violating ORS 59.969(1) and OAR
17 441-880-0030(3), and 15) \$5,000 for violating OAR 441-860-0070(1)(i).

18 The Director suspends payment of \$90,000 of the assessed civil penalty for a
19 five-year period. If, in the period between the date of the Order to five years from the
20 date of the Order, Valley Central, and any assigns or successor business(es) or
21 corporation(s), or Lafky violates this Order, any provision of the Oregon Mortgage
22 Lender Law, OAR 441-850-0005 through 441-885-0010, or any rule, order, or policy
23 issued by the Director, the suspended portion of the assessed civil penalty will become
24 immediately due and payable. If Valley Central and any assigns or successor
25 business(es) or corporation(s), and Lafky do not violate this Order, the Oregon
26 Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010, or any rule, order, or

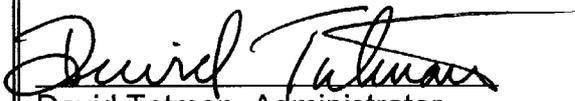
1 policy issued by the Director for five years from the date of the Order, the civil penalty is
2 waived.

3 The Director hereby **ORDERS** Valley Central to pay \$7,500.00 to the State of
4 Oregon to reimburse costs of its investigation.

5 The date of this Order is the day the Director or Director's nominee signs the
6 Order. The entry of this Order in no way limits further remedies that may be available to
7 the Director under Oregon law.

8 Dated this 23rd day of February, 2007, at Salem, Oregon.

9 CORY STREISINGER, Director
10 Department of Consumer and Business Services

11 
12 David Tatman, Administrator
13 Division of Finance and Corporate Securities

14
15 **CORPORATE CONSENT TO ENTRY OF ORDER**

16 I, Elton Lafky, state that I am an officer of Valley Central Mortgage LLC, and I am
17 authorized to act on its behalf; that I have read the foregoing Order and that I know and
18 fully understand the contents hereof; that I and this entity have been advised of the right
19 to a hearing and of the right to be represented by counsel in this matter; that Valley
20 Central Mortgage LLC neither admits nor denies the Findings of Facts and Conclusion
21 of Law contained herein; that Valley Central Mortgage LLC voluntarily and without any
22 force or duress, consents to the entry of this Order, expressly waiving any right to a
23 hearing in this matter; that Valley Central Mortgage LLC understands that the Director
24 reserves the right to take further actions to enforce this Order or to take appropriate
25 action upon discovery of violations of the Oregon Mortgage Lender Law; and that Valley
26 Central Mortgage LLC will fully comply with the terms and conditions stated herein.

1 Valley Central Mortgage LLC further assures the Director that neither Valley
2 Central Mortgage LLC, nor its officers, directors, employees or agents will effect
3 mortgage transactions in Oregon unless such activities are in full compliance with
4 Chapter 59 of the Oregon Revised Statutes.

5 Respondent understands that this Consent Order is a public document.

6 Dated this 2nd day of February, 2007

7
8 By [Signature]
9 Elton Lafky

10 (Office Held)

11 **CORPORATE ACKNOWLEDGMENT**

12 There appeared before me this 2nd day of February, 2007, Elton
13 Lafky, who was first duly sworn on oath, and stated that he was and is
14 of Valley Central Mortgage LLC and that he is authorized and empowered to sign this
15 Consent to Entry of Order on behalf of Valley Central Mortgage LLC, and to bind Valley
16 Central Mortgage LLC to the terms hereof.



22 Karla Garcia
23 Notary Public
24 for the State of: Oregon
25 My commission expires: Nov. 23, 2008

26 **CONSENT TO ENTRY OF ORDER**

I, Elton Lafky, state that have read the foregoing Order and that I know and fully understand the contents hereof; that I have been advised of the right to a hearing and of the right to be represented by counsel in this matter; that I neither admit nor deny the Findings of Facts and Conclusion of Law contained herein; that I voluntarily and without

1 any force or duress, consent to the entry of this Order, expressly waiving any right to a
2 hearing in this matter; that I understand that the Director reserves the right to take
3 further actions to enforce this Order or to take appropriate action upon discovery of
4 other violations of the Oregon Mortgage Lender Law; and that I will fully comply with the
5 terms and conditions stated herein.

6 I further assure the Director that neither I nor any employees or agents of mine
7 will effect mortgage transactions in Oregon unless such activities are in full compliance
8 with Chapter 59 of the Oregon Revised Statutes and authorized by the Director.

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

10 Dated this 2nd day of February, 2006

11
12 By [Signature]
Elton Lafky

13
14 **ACKNOWLEDGMENT**

15 Sworn to under oath before me this 2nd day of February, 2007, by Elton
16 Lafky.



19 Karla Garcia
Notary Public
For the State of: Oregon
My commission expires: Nov. 23-2008