

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 In the Matter of: 5 AAA Worldwide Financial, 6 7 Respondent.))))))	M-08-0046- 10- 2 FINAL ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES, ENTERED BY CONSENT
--	----------------------------	--

9 **WHEREAS** the Director (the "Director") of the Department of Consumer &
 10 Business Services for the State of Oregon (the "Department") conducted an
 11 investigation into the activities of AAA Worldwide Financial (the "Respondent") and
 12 determined that Respondent engaged in activities constituting violations of ORS 59.840
 13 through 59.980 (hereinafter cited as the Oregon Mortgage Lender Law); and

14 **WHEREAS** the Director issued a FINAL ORDER TO CEASE AND DESIST,
 15 ASSESSING CIVIL PENALTIES by default; and

16 **WHEREAS** upon further investigation and review of the information and issues in
 17 this case the Director concludes that her goal to protect the public has been served;

18 **NOW THEREFORE** the Director **ORDERS** that Administrative Order M-08-0046-
 19 10 is vacated without prejudice; and

20 **NOW THEREFORE** as evidenced by the authorized signature subscribed on this
 21 Order, Respondent hereby Consents to this Order upon the Director's Findings of Fact
 22 and Conclusions of Law as stated hereafter.

23 **FINDINGS OF FACT**

24 The Director **FINDS** that:

25 1. Respondent was a company engaged in Oregon residential mortgage lending
 26 operating from a principal place of business located at 5057 Keller Springs Rd. Ste.

Division of Finance and Corporate Securities
 Labor and Industries Building
 350 Winter Street NE, Suite 410
 Salem, OR 97301-3881
 Telephone: (503) 378-4387





1 300, Addison, TX 75001. Respondent obtained a license (ML# 3832) to engage in
2 Oregon residential mortgage transactions on January 25, 2006. That license is set to
3 expire on January 25, 2009.

4 2. Senate Bill 1064, passed in the 2008 supplemental legislative session, required
5 that the Department's Division of Finance and Corporate Securities (the "Division"),
6 obtain from mortgage bankers and brokers reports concerning their residential
7 mortgage activities. The Department issued temporary Oregon Administrative Rule
8 ("OAR") 441-865-0022 on May 7, 2008. As part of that procedure, the Department sent
9 a copy of the temporary rule to all licensees, and the rule was also posted on the
10 Division's website.

11 3. In response to industry concerns about the ability of licensees to gather and report
12 certain information required under OAR 441-865-0022, the Department suspended that
13 temporary rule and issued a new one on June 26, 2008, OAR 441-865-0024,
14 containing all of the same language, but making reporting voluntary for certain items.

15 4. OAR 441-865-0024 requires reporting of certain data designed to allow legislators
16 and state officials to gauge the health of the mortgage industry in Oregon, and set a
17 deadline of August 30, 2008 for the 2007 annual reports.

18 5. On or about June 26, 2008 a copy of OAR 441-865-0024 was mailed to all
19 licensees, and the same was posted on the Division's website.

20 6. On or about July 31, 2008 a public website was opened for licensees to use to file
21 their reports, and a notification email was sent to all valid email addresses that the
22 Mortgage Lender Section had for active licensees. All "undeliverable" emails were
23 tracked on a spreadsheet, as were "out-of-office" replies. The Division complied with
24 all requests to forward emails to new addresses.

25 7. On or about August 4, 2008 a letter was mailed to all companies who had an
26 active mortgage license any time after July 31, 2008 informing them of the requirement



1 to file an annual report.

2 8. On or about August 11, 2008 the Division sent out the Summer 2008 edition of the
3 Mortgage Regulation News newsletter to all licensees. The article on the outside back
4 cover of the newsletter detailed the annual report requirement, including the due date,
5 how to report, and consequences for failing to file the report.

6 9. On or about August 14, 2008 an email was set to those companies who had not
7 yet filed an annual report and for which the Division had a valid email address,
8 reminding them of the requirement to file the report. Again, "undeliverable" and "out-of-
9 office" replies were tracked on a spreadsheet, and the Division complied with all
10 requests to forward emails to new email addresses.

11 10. Between September 17 and September 19, 2008 letters were sent to
12 approximately two hundred twenty five (225) licensees who had a license in 2007 but
13 had not yet filed an annual report. The letter again advised the licensees of the
14 requirement to file an annual report, and of the consequences for failing the report.
15 Further, the letter stated that companies who had not filed annual reports by October 3,
16 2008 would be forwarded to the Enforcement Unit for assessment of a civil penalty.

17 11. As of October 10, 2008 Respondent had not filed an annual report for business
18 conducted in 2007.

19 12. On October 14, 2008 the Director issued Administrative Order M-08-0046-10,
20 ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES AND NOTICE OF
21 RIGHT TO HEARING (the "Proposed Order") against Respondent.

22 13. On November 10, 2008 the Director issued a Final Order To Cease and Desist,
23 Assessing Civil Penalties (the "Final Order").

24 14. In response to the Final Order Respondent complied with OAR 441-865-0024 by
25 filing an annual report and provided the Division a written explanation as to the
26 circumstances surrounding Respondent's failure to provide the Annual Report in a

1 timely manner.

2 15. Respondent's letter explaining the circumstances surrounding the failure to file an
3 annual report was sufficiently timely, forthright and compelling to justify waiving \$3600
4 of the proposed civil penalty.

5 **CONCLUSIONS OF LAW**

6 1. By failing to file an annual report with the Director by August 30, 2008,
7 Respondent violated ORS 59.860(3) and OAR 441-865-0024.

8 **ORDER**

9 **NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:**

10 The Director **ORDERS** that Administrative Order M-08-0046-10 is vacated
11 without prejudice;

12 The Director, pursuant to its authority under ORS 59.885(4), hereby **ORDERS**
13 that Respondent shall **CEASE AND DESIST** from violating any provision of Oregon
14 Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 and any rule, order or
15 policy issued by the Division;

16 The Director, pursuant to ORS 59.996 hereby **ORDERS** Respondent to pay the
17 State of Oregon a civil penalty of **\$500** based on Respondent's violations of ORS
18 59.860(3) and OAR 441-865-0024(3).

19 Respondent has paid the \$500 Civil Penalty with the submission of the signed
20 Consent To Entry of Order below.

21 CORY STREISINGER, Director
22 Department of Consumer and Business Services

23 *April 17, 2009*

24 *David Tatman*

25 David Tatman, Administrator
26 Division of Finance and Corporate Securities

Dated this 30th day of March, 2009.

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97331-3888
Telephone: (503) 378-4387



1 **CORPORATE CONSENT TO ENTRY OF ORDER**

2 I, Michael Kergosien state that I am an officer of Respondent, and I am
3 authorized to act on its behalf; that I have read the foregoing Order and that I know and
4 fully understand the contents hereof; that I and this entity have been advised of the right
5 to a hearing and of the right to be represented by counsel in this matter; that
6 Respondent voluntarily and without any force or duress, consents to the entry of this
7 Order, expressly waiving any right to a hearing in this matter; that Respondent
8 understands that the Director reserves the right to take further actions to enforce this
9 Order or to take appropriate action upon discovery of other violations of the Oregon
10 Mortgage Law; and that Respondent will fully comply with the terms and conditions
11 stated herein.

12 Respondent further assures the Director that neither Respondent, nor its officers,
13 directors, employees or agents will effect mortgage transactions in Oregon unless such
14 activities are in full compliance with Chapter 59 of the Oregon Revised Statutes.

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

16 Dated this 30th day of March, 2009.

17 By [Signature] President
18 (Signature) (Office Held)

19 //
20 //
21 //
22 //
23 //
24 //
25 //
26 //

Division of Finance and Corporate Securities
Labor and Industries Building
330 Winter Street NE, Suite 410
Salem, OR 97301-3581
Telephone: (503) 378-4387



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

CORPORATE ACKNOWLEDGMENT

There appeared before me this 30th day of March, 2009,

Michael Kergesen (Respondent's Representative) who was first duly sworn on
oath, and stated that s/he was and is President (Representative's
Title) of Respondent and that s/he is authorized and empowered to sign this Consent to
Entry of Order on behalf of Respondent, and to bind Respondent to the terms hereof.

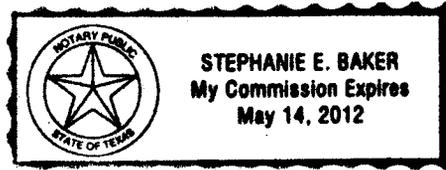
Stephanie Baker

Signature of Notary Public

Notary Public for the State of: Texas.

My Commission Expires: 5.14.12.

Dated this 30th day of March, 2009.



Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

