

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

4 In the Matter of:) M-08-0046-43-2
5 Franklin Mutual Mortgage Corporation.,)
6 Respondent.) FINAL ORDER TO CEASE AND
7) DESIST, ASSESSING CIVIL
8) PENALTIES, VACATING PRIOR
9) ORDER, 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 Franklin Mutual Mortgage Corporation. (the
12 "Respondent") and determined that Respondent engaged in activities constituting
13 violations of ORS 59.840 through 59.980 (hereinafter cited as the Oregon Mortgage
14 Lender Law); and

15 WHEREAS Respondent wishes to resolve this matter with the Director; and

16 WHEREAS the Director issued a FINAL ORDER TO CEASE AND DESIST,
17 ASSESSING CIVIL PENALTIES by default; and

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

20 NOW THEREFORE the Director ORDERS that Administrative Order M-08-0046-
21 43 is vacated without prejudice; and

22 NOW THEREFORE, as evidenced by the authorized signature subscribed on
23 this order, Respondent hereby CONSENTS to entry of this order upon the Director's
24 Findings of Facts and Conclusions of Law as stated hereinafter:

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350 Winter Street NE, Suite 410
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Telephone: (503) 378-4387



1 **FINDINGS OF FACT**

2 The Director **FINDS** that:

3 1. Respondent was a company engaged in Oregon residential mortgage lending
4 operating from a principal place of business located at 18101 Von Karman, Suite 330,
5 Irvine, CA 92612. Respondent obtained a license (ML# 4067) to engage in Oregon
6 residential mortgage transactions on April 10, 2006. That license is set to expire on
7 April10, 2009.

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

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

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

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

24 6. On or about July 31, 2008 a public website was opened for licensees to use to file
25 their reports, and a notification email was sent to all valid email addresses that the
26 Mortgage Lender Section had for active licensees. All "undeliverable" emails were

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1 tracked on a spreadsheet, as were "out-of-office" replies. The Division complied with
2 all requests to forward emails to new addresses.

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

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

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

15 10. Between September 17 and September 19, 2008 letters were sent to
16 approximately two hundred twenty five (225) licensees who had a license in 2007 but
17 had not yet filed an annual report. The letter again advised the licensees of the
18 requirement to file an annual report, and of the consequences for failing the report.
19 Further, the letter stated that companies who had not filed annual reports by October 3,
20 2008 would be forwarded to the Enforcement Unit for assessment of a civil penalty.

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

23 12. On October 14, 2008 the Director issued Administrative Order M-08-0046-43,
24 ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES AND NOTICE OF
25 RIGHT TO HEARING (the "Proposed Order") against Respondent.

26 13. On November 10, 2008 the Director issued a Final Order To Cease and Desist,

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1 Assessing Civil Penalties (the "Final Order").

2 14. In response to the Final Order Respondent complied with OAR 441-865-0024 by
3 filing the report and provided the Division a written explanation as to the circumstances
4 surrounding Respondent's failure to provide the Annual Report in a timely manner.

5 15. Respondent's letter explaining the circumstances surrounding the failure to file an
6 annual report was sufficiently forthright and compelling to justify waiving \$4000 of the
7 proposed civil penalty.

8 **CONCLUSIONS OF LAW**

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

11 **ORDER**

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

13 The Director **ORDERS** that Administrative Order M-08-0046-43 is vacated
14 without prejudice;

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

19 The Director, pursuant to ORS 59.996 hereby **ORDERS** Respondents, jointly and
20 severally, to pay the State of Oregon a civil penalty of **\$100** based on Respondent's
21 violations of ORS 59.860(3) and OAR 441-865-0024(3).

22 Respondent has paid the \$100 civil penalty with the submission of the signed
23 Consent To Entry of Order below.

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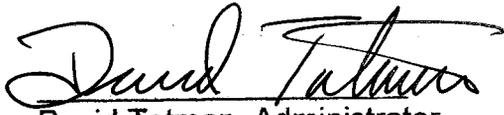
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1 CORY STREISINGER, Director
2 Department of Consumer and Business Services

3 

4 David Tatman, Administrator
5 Division of Finance and Corporate Securities

6 Dated this 6th day of May, 2009.

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9 **CORPORATE CONSENT TO ENTRY OF ORDER**

10 I, Giancarlo Maniaci, state that I am an officer of Respondent, and I am
11 authorized to act on its behalf; that I have read the foregoing Order and that I know and
12 fully understand the contents hereof; that I and this entity have been advised of the right
13 to a hearing and of the right to be represented by counsel in this matter; that
14 Respondent voluntarily and without any force or duress, consents to the entry of this
15 Order, expressly waiving any right to a hearing in this matter; that Respondent
16 understands that the Director reserves the right to take further actions to enforce this
17 Order or to take appropriate action upon discovery of other violations of the Oregon
18 Mortgage Law; and that Respondent will fully comply with the terms and conditions
19 stated herein.

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

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

24 Dated this 24 day of April, 2009.

25 By Jane M... CEO

26 (Signature)

(Office Held)

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CORPORATE ACKNOWLEDGMENT

There appeared before me this 24 day of April, 2009,

Giancarlo Mamaci (Respondent's Representative) who was first duly sworn on
oath, and stated that s/he was and is Franklin Mutual (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.

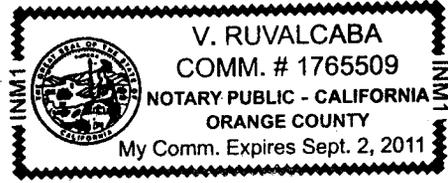
V. Ruvalcaba

Signature of Notary Public

Notary Public for the State of: California

My Commission Expires: Sept 2 2011

Dated this 24 day of April, 2009.



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