

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-08-0046-69
5 NA Nationwide Mortgage Corp.,) FINAL ORDER TO CEASE AND
6 Respondent.) DESIST, ASSESSING CIVIL
7) PENALTIES
8)

9 On October 14, 2008 the Director of the Department of Consumer and Business
10 Services (the "Director") acting by the authority of Oregon Revised Statutes ("ORS")
11 Chapter 59.840 et seq. (the "Oregon Mortgage Lender Law"), issued Administrative
12 Order M-08-0046-69, ORDER TO CEASE AND DESIST, ASSESSING CIVIL
13 PENALTIES AND NOTICE OF RIGHT TO HEARING (the "Proposed Order") against
14 NA Nationwide Mortgage Corp. (the "Respondent").

15 On or about October 15, 2008 Respondent was mailed true copies of the
16 Proposed Order by regular, first-class mail and by certified mail, postage prepaid, return
17 receipt requested, and addressed to: 26361 Crown Valley Parkway-Suite 200, Mission
18 Viejo, CA 92691. The return receipt was signed and returned and the regular mail copy
19 was not returned.

20 Respondent has not made a written request for a contested case hearing in this
21 matter and the time to do so has expired.

22 NOW THEREFORE, after consideration of the Division's investigative file and
23 related documents, the Director hereby issues the following Findings of Fact,
24 Conclusions of Law, and Final Order.

25 **FINDINGS OF FACT**

26 The Director **FINDS** that:





1 obtain from mortgage bankers and brokers reports concerning their residential
2 mortgage activities. The Department issued temporary Oregon Administrative Rule
3 ("OAR") 441-865-0022 on May 7, 2008. As part of that procedure, the Department sent
4 a copy of the temporary rule to all licensees, and the rule was also posted on the
5 Division's website.

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

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

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

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

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

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



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

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

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

14 12. On October 14, 2008 the Director issued Administrative Order M-08-0046-69,
15 ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES AND NOTICE OF
16 RIGHT TO HEARING (the "Proposed Order") against Respondent.

17 13. In response to the Proposed Order Respondent complied with OAR 441-865-0024
18 by filing the report and provided the Division a written explanation as to the
19 circumstances surrounding Respondent's failure to provide the Annual Report in a
20 timely manner.

21 14. Respondent's letter explaining the circumstances surrounding the failure to file an
22 annual report was sufficiently forthright and compelling to justify waiving \$4000 of the
23 proposed civil penalty.

24 CONCLUSIONS OF LAW

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

1 ORDER

2 NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

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

7 The Director, pursuant to ORS 59.996 hereby ORDERS Respondents, jointly and
8 severally, to pay the State of Oregon a civil penalty of \$100 based on Respondent's
9 violations of ORS 59.860(3) and OAR 441-865-0024(3). \$100 paid in full
DOT

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

12 *David Tatman* March 10, 2009

13 David Tatman, Administrator
14 Division of Finance and Corporate Securities

15 CORPORATE CONSENT TO ENTRY OF ORDER

16 I, *Noelle Wheeler*, state that I am an officer of Respondent, 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
20 Respondent voluntarily and without any force or duress, consents to the entry of this
21 Order, expressly waiving any right to a hearing in this matter; that Respondent
22 understands that the Director reserves the right to take further actions to enforce this
23 Order or to take appropriate action upon discovery of other violations of the Oregon
24 Mortgage Law; and that Respondent will fully comply with the terms and conditions
25 stated herein.

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

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

5 Dated this 16th day of JAN, 2009.

6 By [Signature], PRESIDENT.
7 (Signature) (Office Held)

8 **CORPORATE ACKNOWLEDGMENT**

9 There appeared before me this 16th day of Jan, 2009,
10 Noelle Wheeler (Respondent's Representative) who was first duly sworn on
11 oath, and stated that s/he was and is President (Representative's
12 Title) of Respondent and that s/he is authorized and empowered to sign this Consent to
13 Entry of Order on behalf of Respondent, and to bind Respondent to the terms hereof.

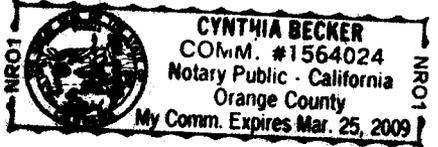
14 [Signature]

15 Signature of Notary Public

16 Notary Public for the State of: CA

17 My Commission Expires: 3-25-09

18 Dated this 16th day of Jan, 2009.



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