

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

5 In the Matter of:

6 Pacific North Star Lending
7 Corporation,

8 Respondent.

M-08-0046-92-2

FINAL ORDER TO CEASE AND DESIST,
VACATING PRIOR ORDER AND
ASSESSING CIVIL PENALTIES,
ENTERED BY DEFAULT

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-08-0046-92 ORDER TO CEASE AND DESIST, ASSESSING CIVIL
13 PENALTIES AND NOTICE OF RIGHT TO HEARING (the "Proposed Order") against
14 Pacific North Star Lending Corporation (the "Respondent");

15 On or about June 22, 2009 Respondent was mailed true copies of an Order To
16 Cease and Desist, Vacating Prior Order, Assessing Civil Penalties, With Notice of Right
17 To Hearing (the "Second Proposed Order") by regular, first-class mail and by certified
18 mail, postage prepaid, return receipt requested, and addressed to: 1719 SW 16th Ave.,
19 #9, Portland, OR 97201. Neither the regular mailing or the certified mailing were
20 returned to the Division as undeliverable. The certified mailing signature receipt was
21 not returned to the Division.

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

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



FINDINGS OF FACT

The Director **FINDS** that:

1. Respondent was a company engaged in Oregon residential mortgage lending operating from a principal place of business located at 10121 SE Sunnyside Rd., Ste. 300, Clackamas, OR 97015. Respondent obtained a license (#4496) to engage in Oregon residential mortgage transactions on 3/19/2007. That license was set to expire on 4/25/2009 until Respondent surrendered the license on 11/03/2008.

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

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

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

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

6. On or about July 31, 2008 a public website was opened for licensees to use to file their reports, and a notification email was sent to all valid email addresses that the 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 sent 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 of the Department of Consumer and Business
24 Services (the "Director") acting by the authority of Oregon Revised Statutes ("ORS")
25 Chapter 59.840 et seq. (the "Oregon Mortgage Lender Law"), issued Administrative
26 Order M-08-0046-92 ORDER TO CEASE AND DESIST, ASSESSING CIVIL

1 PENALTIES AND NOTICE OF RIGHT TO HEARING (the "Proposed Order") against
2 Pacific North Star Lending Corporation (the "Respondent").

3 13. On or about October 15, 2008 Respondent was mailed true copies of the
4 Proposed Order by regular, first-class mail and by certified mail, postage prepaid,
5 return receipt requested, and addressed to: 10121 SE Sunnyside Rd., Ste. 300,
6 Clackamas, OR 97015. The copies sent by certified mail and regular mail were
7 returned as undeliverable.

8 14. On or about November 3, 2008 Respondent surrendered its mortgage banker /
9 broker license with the Division.

10 15. During the months of November and December of 2008 a Division Enforcement
11 Officer and a Division Mortgage Lending Section employee had several telephone
12 conversations with Respondent's owner, control person, president and Experienced
13 Person, Rafael La Grotta, informing him of the need to fill out his annual report,
14 attempting to facilitate the completion of that task, and on several occasions, informing
15 him of the consequences for failing to do so.

16 16. On or about November 6, 2008 Respondent was mailed true copies of the
17 Proposed Order by regular, first-class mail and by certified mail, postage prepaid,
18 return receipt requested, and addressed to: 1719 SW 16th Ave., #9, Portland, OR
19 97201. Neither the certified nor the regular mailing was returned to the Division.

20 17. On or about December 8, 2008 a Division Mortgage Lending Section employee
21 confirmed via an email exchange with Mr. La Grotta that Mr. La Grotta's address was
22 still 1719 SW 16th Ave., #9, Portland, OR 97201.

23 18. On or about December 8, 2008 a Division Enforcement Officer sent a letter again
24 informing Mr. La Grotta of the requirement to file an annual report. This letter was
25 addressed to Mr. La Grotta and Pacific North Star Lending Corporation with a mailing
26 address of 1719 SW 16th Ave., #9, Portland, OR 97201, by regular first class and

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1 certified mail, postage prepaid, return receipt requested. The certified mailing was
2 returned to the Division as unclaimed. The regular mailing was not returned to the
3 Division.

4 19. On or about April 23, 2009 two Division employees again had telephone
5 conversations with Mr. La Grotta about filing the annual report and resolving the
6 administrative case currently pending against his former firm. As a result of these
7 conversations Mr. La Grotta sent a Division employee the information necessary to
8 allow the Division to file Respondent's report on its behalf.

9 20. On or about April 24, 2009 a Division Enforcement Officer sent an email to Mr. La
10 Grotta, to an email address provided by Mr. La Grotta, attached to which were an Order
11 to Cease and Desist, Assessing Civil Penalties, Entered By Consent (the "Proposed
12 Consent Order"). The email also stated that, in reference to the Proposed Consent
13 Order, "If it is not in [the Division's] office by next Thursday [the Division] will have to
14 assess the full \$4100 fine." Neither Mr. La Grotta nor any other representative of
15 Respondent responded to this email.

16 21. On or about June 22, 2009 Respondent was mailed true copies of an Order To
17 Cease and Desist, Vacating Prior Order, Assessing Civil Penalties, With Notice of Right
18 To Hearing (the "Second Proposed Order") by regular, first-class mail and by certified
19 mail, postage prepaid, return receipt requested, and addressed to: 1719 SW 16th Ave.,
20 #9, Portland, OR 97201. Neither the regular mailing nor the certified mailing were
21 returned to the Division as undeliverable. The certified mailing signature receipt card
22 was not returned to the Division.

23 22. On or about July 14, 2009 Mr. La Grotta made several phone calls to several
24 Division employees requesting a reduction of the civil penalty assessed against
25 Respondent. Mr. La Grotta was informed that the time within which he had to request a
26 hearing had expired.

1 23. On or about July 17 a Division employee called Mr. La Grotta and informed him
2 that the civil penalty assessed against Respondent would not be reduced any further
3 and that the time and many opportunities for Respondent to resolve this matter by
4 consent, or for a lesser fine, had expired.

5 24. Respondent's verbal explanation explaining the circumstances surrounding the
6 failure to file an annual report, and reporting of the information required for the annual
7 report, were sufficiently compelling to justify waiving \$3100 of the proposed civil
8 penalty.

9 **CONCLUSIONS OF LAW**

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

12
13 **ORDER**

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

15 The Director hereby **VACATES** order M-08-0046-92 issued March 27, 2009 and
16 hereby replaces it with this order M-08-0046-92-2;

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

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1 The Director, pursuant to ORS 59.996 hereby **ORDERS** Respondent to pay the
2 State of Oregon a civil penalty of **\$1000** based on Respondent's violations of ORS
3 59.860(3) and OAR 441-865-0024(3).

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

7
8 Dated this 23rd day of July, 2009, at Salem, Oregon.
9

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

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

16 NOTICE OF APPEAL RIGHTS

17 You are entitled to seek judicial review of this Final Order. Judicial review may be
18 obtained by filing a petition for review with the Oregon Court of Appeals in Salem,
19 Oregon within sixty (60) days from the date of service of this Final Order. Judicial
20 review is pursuant to the provisions of **ORS 183.482**.

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