

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

5 In the Matter of:

M-09-0029-40

6 BERGIN FINANCIAL INC

ORDER TO CEASE AND DESIST,
ASSESSING CIVIL PENALTIES

7 Respondent.

ENTERED BY DEFAULT

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10 _____

11 On May 11, 2009 the Director (the "Director") of the Department of Consumer
12 and Business Services (the "Department") acting by the authority of Oregon Revised
13 Statutes ("ORS") 59.840 et seq. (the "Oregon Mortgage Lender Law"), issued
14 Administrative Order **M-09-0029-40**, ORDER TO CEASE AND DESIST, ASSESSING
15 CIVIL PENALTIES AND NOTICE OF RIGHT TO HEARING (the "Proposed Order")
16 against **BERGIN FINANCIAL INC** (the "Respondent").

17 On May 11, 2009, Respondent was mailed true copies of the Proposed Order by
18 regular, first-class mail and by certified mail, postage prepaid, return receipt requested,
19 and addressed to: **29200 NORTHWESTERN HWY STE 350, SOUTHFIELD, MI**
20 **48034**. The certified mailing was returned to the Department's Division of Finance and
21 Corporate Securities (the "Division") as undeliverable, and the regular mailing was not
22 returned.

23 Respondent has not advised the Division of any change in its address or
24 cessation of business at any of its offices, as required by Oregon Administrative Rule
25 ("OAR") 441-860-0070.

26 Respondent has not made a written request for a contested case hearing in this

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350 Winter Street NE, Suite 410
Salem, OR 97301-3881
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1 matter and the time to do so has expired.

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

5 FINDINGS OF FACT

6 The Director **FINDS** that:

7 1. ("Respondent") is or was engaged in Oregon residential mortgage lending,
8 operating from a principal place of business located at **29200 NORTHWESTERN HWY**
9 **STE 350, SOUTHFIELD, MI 48034**. Respondent obtained a license **ML-4833** to
10 engage in Oregon residential mortgage transactions that was effective in 2008.

11 2. ORS 59.860(3) requires that the Division obtain annual reports from licensed
12 Oregon mortgage bankers and brokers concerning their residential mortgage lending
13 activities. OAR 441-865-0025 defines the data required to be included in those reports
14 and sets the deadline for filing them. The deadline for licensees to file mortgage
15 lending annual reports was March 31, 2009.

16 3. On or about February 5, 2009, the Division activated a website
17 (<https://www4.cbs.state.or.us/exs/dfcs/mlrpt/>) for licensees to use to file their annual
18 reports. The Division posted a link to that website from the Division home page along
19 with information on the annual report requirement. In addition, on February 6, 2009,
20 the Division also posted a prominent notice on its Mortgage Lending Section website
21 (http://www.dfcs.oregon.gov/mortgage_lending.html).

22 4. On or about February 6, 2009, an e-mail was sent to all the valid e-mail addresses
23 the Mortgage Lending Section had for entities with a license at any time in 2008
24 reminding them of the requirement to file the report and providing information on how to
25 do so. The list of e-mail addresses was tracked on a spreadsheet (the "Annual Report
26 Spreadsheet") and saved on the Division's hard drive. Each "undeliverable" e-mail

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1 address notice received was tracked on the Annual Report Spreadsheet. When the
2 Division received notice that the e-mail should be forwarded to a different address, a
3 Division employee forwarded the e-mail to the new address provided. This information
4 was also tracked on the Annual Report Spreadsheet.

5 5. On or about February 6, 2009, a letter was sent to all active licensees that had a
6 license any time in 2008 informing them of the requirement to file an annual report.

7 6. On March 9, 2009, another e-mail was sent to those entities for which the Division
8 had a valid e-mail address, with a license at any time in 2008, but that had not yet filed
9 an annual report. Again, the Division tracked those e-mails that were returned as
10 "undeliverable" and a Division employee forwarded e-mails as directed. This
11 information was tracked on the Annual Report Spreadsheet.

12 7. On March 25, 2009, a final e-mail was sent to those entities the Division had a
13 valid e-mail address for that had not yet filed an annual report. The Division tracked
14 those e-mails that were returned as "undeliverable" and forwarded e-mails as directed.
15 This information was tracked on the Annual Report Spreadsheet.

16 8. On April 1, 2009, a final letter was sent to all active licensees that currently hold a
17 mortgage banker / broker license in Oregon and had a license at some point in 2008,
18 but had not yet filed an annual report. The letter reminded the licensees of the
19 obligation to file an annual report and of the \$100 per day penalty for failure to file the
20 report.

21 9. As of June 15, 2009, Respondent had not filed an annual report for mortgage
22 lending business conducted in 2008 and has not contacted the Division to discuss the
23 issue.

24 CONCLUSION OF LAW

25 1. By failing to file an annual report with the Director by March 31, 2009, Respondent
26 violated ORS 59.860(3) and OAR 441-865-0025.

1 **ORDER**

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

3 The Director, pursuant to its authority under ORS 59.865, ORS 59.885, and ORS
4 59.870, hereby **ORDERS** that Respondents shall **CEASE AND DESIST** from violating
5 any provision of Oregon Mortgage Lender Law, OAR 441-850-0005 through 441-885-
6 0010 and any rule, order or policy issues by the Division; **AND**

7 The Director, pursuant to ORS 59.996 and ORS 59.870 hereby **ORDERS**
8 Respondent to pay the State of Oregon a civil penalty of \$3,800. The civil penalty is
9 based on a fine of \$100 per day for each day after March 31, 2009 through May 8, 2009
10 on which Respondent failed to file an Annual Report in violation of ORS 59.860(3) and
11 OAR 441-865-0025.

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

15 Dated this 25th day of June 2009, at Salem, Oregon.

16 NUNC PRO TUNC May 11, 2009.

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18 CORY STREISINGER, Director
19 Department of Consumer and Business Services

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21 David Tatman, Administrator
22 Division of Finance and Corporate Securities

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