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2 **STATE OF OREGON**
3 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**
4 **DIVISION OF FINANCE AND CORPORATE SECURITIES**
5 **ENFORCEMENT SECTION**

6
7 **BEFORE THE DIRECTOR OF THE DEPARTMENT**
8 **OF CONSUMER AND BUSINESS SERVICES**

9 **In the Matter of:**

10 **Benjamin Lucian Lucescu,**
11 **and**
12 **American Capital Mortgage Corp.**

13 **M-10-0042**
14 **FINAL ORDER DENYING MORTGAGE**
15 **LOAN ORIGINATOR LICENSE AND**
16 **ORDER REVOKING MORTGAGE**
17 **BROKER LICENSE ENTERED BY**
18 **DEFAULT**

19 **Respondents.**

20 On December 2, 2010, the Director of the Department of Consumer and Business
21 Services for the State of Oregon (hereafter the "Director"), acting by and pursuant to the
22 authority of the Oregon Mortgage Lending Law, ORS 86A.100 *et seq*, issued Administrative
23 Order No. M-10-0042, Order Denying Mortgage Loan Originator License and Notice of Right to
24 a Hearing against Benjamin Lucian Lucescu and Order Revoking Mortgage Broker License and
25 Notice of Right to a Hearing against American Capital Mortgage Corp. (hereinafter "the Order").

26 On December 3, 2010, Benjamin Lucian Lucescu and American Capital Mortgage Corp.
were duly served with true copies of the Order by regular, first-class mail and by certified mail,
postage prepaid, and addressed to the following addresses: Norman Sepenuk PC 520 S.W.
Yamhill Suite 600, Portland, Oregon 97204 and 4320 S.W. Council Crest Drive, Portland,
Oregon 97239.

On December 21, 2010, Benjamin Lucian Lucescu and American Capital Mortgage
Corp. filed a request for a hearing with the Director. On August 19, 2010, Benjamin Lucian
Lucescu and American Capital Mortgage Corp. withdrew their requests for a hearing. Benjamin

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 Lucian Lucescu and American Capital Mortgage Corp. were aware that withdrawal of the
2 hearing request would result in entry of a final order.

3 **FINDINGS OF FACT**

4 The Director **FINDS** that:

5 1. On March 30, 2010, American Capital Mortgage Corp. submitted an application to the
6 Oregon Division of Finance and Corporate Securities (hereinafter "Division") for transition to
7 the National Mortgage Licensing System (hereinafter "NMLS").

8 2. Benjamin Lucian Lucescu (hereinafter "Lucescu") is the sole owner, control person and a
9 loan originator for licensed mortgage broker (ML-2491) American Capital Mortgage Corp.
10 (hereinafter "ACMC"). Lucescu has been employed by ACMC since November 8, 2001.

11 3. On March 28, 2010, Lucescu applied for an Oregon mortgage loan originator license with
12 the Division.

13 4. In response to the application question "Are there pending charges against you for any
14 felony" Lucescu answered "yes". As a part of the company's application, ACMC also noted that
15 Lucescu answered "yes" to the above question.

16 5. Criminal court records reflect that on June 24, 2009 criminal charges were filed against
17 Lucescu, and a superseding indictment was handed down on November 16, 2010 (case number
18 3:09-cr-00247-MO-1) charging Lucescu with three counts of Bank Fraud under 18 USC §1344
19 and two counts of Wire Fraud under 18 USC §1343. The transactions underlying the charges are
20 detailed below.

21 6. In February 2007, a borrower (hereinafter "Borrower One") came to Lucescu at ACMC
22 interested in a mortgage loan. Lucescu found that Borrower One would not qualify for a loan
23 due to his low credit score but discovered that Borrower One's wife would qualify.

24 7. Borrower One reported to Lucescu that he was self-employed remodeling homes and
25 selling them. Borrower One advised Lucescu that his wife also did some work for his business.
26 Borrower One reported that Lucescu suggested taking the loan out in Borrower One's



1 wife's name. Lucescu also suggested adding Borrower One's wife to the Oregon Secretary of
2 State's records for the business.

3 8. Borrower One told Lucescu that, due to the nature of his work, neither he nor his wife
4 received a steady quantifiable income. He would make money when he sold a house he had
5 worked on, but he reported that neither he nor his wife had any income for 2005, 2006, 2007 or
6 2008.

7 9. Lucescu prepared a loan application for Borrower One's wife to sign. On March 24,
8 2007, Borrower One's wife signed a loan application for a \$91,300 refinance loan on a piece of
9 property (hereinafter "Property One"). Lucescu listed Borrower One's wife's monthly income as
10 \$10,000, and the property was listed as the borrower's primary residence. This application was
11 submitted to the lender, and based on the information listed on the loan application, the loan
12 funded.

13 10. Lucescu prepared loan applications for Borrower One's wife to sign for four additional
14 loans. On March 28, 2007, Borrower One's wife signed a loan application for a \$417,000 loan
15 to purchase an additional property (hereinafter "Property Two"). Also on March 28, 2007,
16 Borrower One's wife signed a loan application for a \$81,750 second mortgage loan for Property
17 Two. Lucescu listed Borrower One's wife's monthly income as \$12,500 on these applications.
18 The applications were submitted to the lender, and based on the information listed on the loan
19 application, the loans funded.

20 11. In May 2007, based on a loan application relied on by the lender, Borrower One's wife
21 was approved for a \$197,000 refinance loan for an additional property (hereinafter "Property
22 Three"). The property was listed as the borrower's primary residence.

23 12. On June 15, 2007, Borrower One's wife signed a loan application prepared by Lucescu
24 for a \$78,000 refinance loan for an additional property (hereinafter "Property Four"). Lucescu
25 listed Borrower One's wife's monthly income as \$12,500, and the property was listed as the
26 borrower's primary residence. Properties One and Two were not listed on the schedule of



1 properties on the loan application, and the loans secured for those properties originated by
2 Lucescu were also not listed on the loan application as liabilities. The application was submitted
3 to the lender, and based on the information listed on the loan application, the loan funded.

4 **CONCLUSIONS OF LAW**

5 The Director **CONCLUDES** that:

6 1. Lucescu submitted an application to the Director to be licensed to conduct business as a
7 mortgage loan originator pursuant to ORS 86A.206.

8 2. As alleged in the indictment, case number 3:09-cr-00247-MO-1, on five occasions,
9 Lucescu knowingly misstated the borrower's financial qualifications on loan applications with
10 the intent that the financial lending institutions would approve the mortgage loans based upon the
11 false information submitted. This constitutes dishonest, fraudulent or illegal practices or conduct
12 in any business or profession or unfair or unethical practices or conduct in connection with the
13 mortgage business in violation of ORS 86A.183(1)(a).

14 3. By violating ORS 86A.183(1)(a), Lucescu has failed to demonstrate financial
15 responsibility sufficient to command the confidence of the community and warrant the
16 determination that the applicant, Lucescu, will operate honestly, fairly and efficiently within the
17 purposes of ORS 86A.200 to 86A.239. This constitutes grounds for the Director to deny
18 Lucescu's mortgage loan originator license application under ORS 86A.212(1)(d).

19 4. As an owner and control person of ACMC, Lucescu's violation ORS 86A.183(1)(a)
20 constitutes grounds to revoke the mortgage broker license of ACMC under ORS 86A.118 and
21 ORS 86A.115.

22 **ORDER**

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

24 The Director, pursuant to ORS 86A.212, hereby **DENIES** Lucescu's application for
25 mortgage loan originator license, and pursuant to ORS 86A.115 and ORS 86A.118, **REVOKES**
26 the mortgage broker license of ACMC.

1 The entry of this Order in no way limits further remedies which may be available to the
2 Director under Oregon law including for the violations noted in the Conclusions of Law section
3 above.

4 Dated this __19th__ day of __August_____, 2011.

5 SCOTT L. HARRA, Acting Director
6 Department of Consumer and Business Services

7 _____/s/_____
8 David C. Tatman, Administrator
9 Division of Finance and Corporate Securities

10 NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing
11 a petition with the Court of Appeals in Salem, Oregon within 60 days from the service of this Order.

12 Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.
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