

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
MORTGAGE LENDING SECTION
BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

In the Matter of:

M-11-0124

Michael Silbernagel
NMLS ID 192043,

ORDER SUSPENDING
MORTGAGE LOAN ORIGINATOR
LICENSE and CONSENT TO ENTRY OF
ORDER

Respondent.

WHEREAS the Director (hereinafter the "Director") of the Department of Consumer & Business Services for the State of Oregon (hereinafter the "Department") conducted an investigation into the activities of Michael Silbernagel (hereinafter "Silbernagel" or the "Respondent") and determined that Respondent engaged in activities constituting violations of ORS 86A.0195 et seq. (hereinafter cited as the Oregon Mortgage Lender Law); and

WHEREAS Respondent wishes to resolve this matter with the Director,
NOW THEREFORE, as evidenced by the authorized signature subscribed on this order, Respondent hereby **CONSENTS** to the entry of this order upon the Director's Findings of Fact and Conclusions of Law as stated hereinafter:

FINDINGS OF FACT

The Director **FINDS** that:

1. Michael Silbernagel filed an application for an Oregon loan originator license on April 8, 2010 through the Nationwide Mortgage Licensing System

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1 (hereinafter the “NMLS”) and was assigned the unique identifier number, 192043.
2 NMLS records show that Respondent’s individually assigned login and password
3 were used to file the application.

4 2. As part of the application, Respondent answered several disclosure
5 questions about the applicant’s regulatory, criminal, and litigation history.

6 Respondent answered “no” to question I-2 that asks “Has any State or federal
7 regulatory agency or foreign financial regulatory authority ever found you to have
8 been involved in a violation of a financial services-related business regulation(s)
9 or statute(s)?” Respondent also answered “no” to question I-4 that asks “Has
10 any State or federal regulatory agency or foreign financial regulatory authority
11 ever entered an order against you in connection with a financial services-related
12 activity?” Respondent also answered “no” to question I-6 that asks “Has any
13 State or federal regulatory agency or foreign financial regulatory authority ever
14 denied or suspended your registration or license, disciplined you, or otherwise by
15 order, prevented you from associating with a financial services-related business
16 or restricted your activities?”

17 3. As part of filing the application that contained the disclosure
18 questions stated in paragraph 2, Respondent completed an oath that “I executed
19 this application on my own behalf. . . [t]hat the information and statements
20 contained herein, including the exhibits attached hereto, and other information
21 filed herewith, all of which are made part of this application, are current, true,
22 accurate and complete and are made under the penalty of perjury, or un-sworn
23 falsification to authorities, or similar provisions as provided by law” and “[t]o the
24 extent any information previously submitted is not amended and hereby, such
25 information remains accurate and complete.”



1 4. Applications are reviewed by examiners in the Mortgage Lending
2 Section of the Department. If an application contains an affirmative answer to a
3 disclosure question, examiners place a deficiency on the application for further
4 explanation. The explanation is used in determining whether the Department
5 should issue the license.

6 5. On May 7, 2010, an examiner reviewed the application submitted by
7 Respondent and posted a deficiency requiring Respondent to provide additional
8 information about a disclosure question, question A-1, the only question to which
9 Respondent had answered “yes.” Because Respondent did not answer “yes” to
10 questions I-2, I-4, and I-6, the Director did not request additional information
11 about these questions and the review of the application was based upon less
12 than the complete circumstances of the applicant.

13 6. On July 31, 2010, the first day that the Department was permitted to
14 issue a loan originator license, the Department issued a loan originator license to
15 Respondent, based upon the application submitted by Respondent that
16 contained the “no” answers to questions I-2, I-4, and I-6.

17 7. In September 2011, the Department of Financial Institutions for the
18 state of Washington (hereinafter the “DFI”) contacted the Director to inquire into
19 the licensing records of Respondent. In that contact, the DFI reported that they
20 had entered into a regulatory action with Respondent that was not reflected on
21 Respondent’s record in NMLS. At the time, there was no way for a regulator to
22 indicate in NMLS that it had taken action against a particular individual; it was
23 incumbent upon the individual to accurately answer his or her disclosure
24 questions.

25 8. The DFI provided us copies of the order entered into with



1 Respondent. Those records show that on March 29, 2004, Respondent and his
2 attorney signed a consent order against Valentine Lender Services, Inc. and
3 Michael Silbernagel, case C-03-0135-03-CO01 (hereinafter the "Consent Order").
4 The Consent Order accepted the voluntary surrender of the consumer loan
5 license issued to the respondents in the matter and respondents agreed not to
6 apply to DFI for a license for a period of seven years from the date of the order.
7 The Consent Order imposed a civil penalty of \$20,250.00 for failing to file
8 required annual reports for 2000, 2001 and 2002, failing to pay annual
9 assessments for the same years, failing to timely pay the examination fee, failing
10 to notify of a change in business address, and failing to maintain a surety bond.
11 The Consent Order was final on April 2, 2004.

12 9. Based upon a review of the order, the Department believed that
13 Respondent should have answered "yes" on questions I-2, I-4 and I-6 of his
14 application. A review of the current record in NMLS revealed that these
15 questions were still answered "no" in September 2011.

16 10. In response to the contact from DFI and review of the consent
17 order, an employee of the Department contacted Silbernagel on September 26,
18 2011, to inquire about the answers to the disclosure questions. Silbernagel could
19 not recall his answers and agreed to review the materials and provide a written
20 response.

21 11. On September 26, 2011, Respondent reported in an email to an
22 employee of the Department that "I'll have to find my file on the Washington
23 license issue so that I can determine which questions specifically should have
24 been answered differently. But, clearly, at least one was answered incorrectly."
25 He also wrote, "As far as why I answered "no" to each question, I was reading

1 them as pertaining to actions that would be precipitated by fraudulent, dishonest
2 or deceptive practices.” He concluded, “As I recall, I settled monetarily with the
3 State of Washington and agreed not to apply for a license for a specified period
4 of time. It did not involve a license being revoked or denied. It didn’t arise from
5 any malfeasance on my part. In reading disclosure questions [sic], it didn’t
6 trigger a memory of the Washington settlement.”

7 12. On September 30, 2011, Respondent amended his application to
8 change the answers to questions I-2, I-4 and I-6 to “yes.”

9
10 **CONCLUSIONS OF LAW**

11 The Director **CONCLUDES** that:

12 1. By filing an application with “no” answers to disclosure questions I-
13 2, I-4, and I-6, Michael Silbernagel filed an application that contained a false
14 statement, which constitutes grounds to suspend the license pursuant to ORS
15 86A.224(1)(c).

16
17 **ORDER**

18 The Director, pursuant to ORS 86A.224, hereby **SUSPENDS** the
19 mortgage loan originator license of Respondent for a period of 30 days. The
20 suspension shall begin at 12:01 a.m. on January 1, 2012 and shall end at 12:01
21 a.m. on January 31, 2012.

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I understand that this Order is a public document.

Dated this 22nd day of December, 2011.

/s/ Michael Silbernagel
Michael Silbernagel, NMLS #192043

Subscribed and sworn to before me this 22nd day of December, 2011, by
Michael Silbernagel.

/s/ Elizabeth Rael Benedick
Notary Public for the State of Oregon
My commission expires: 12/25/2012

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