

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
FINANCE SECTION

BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
STATE OF OREGON

In the Matter of

FIRST NATIONAL MORTGAGEBANC

O-02-0065

FINAL ORDER BY DEFAULT -
IMPOSITION OF CIVIL PENALTIES

To: First National Mortgagebanc

6120 N 16th Street

Phoenix, AZ 85016

On May 8, 2003, the Director of the Department of Consumer and Business Services, Division of Finance and Corporate Securities (hereinafter "Director") served by certified mail certified true copies of a Notice of Intent to Impose Civil Penalties on M. Elliott Lynn, the registered agent for service of process for First National Mortgagebanc (hereinafter "Respondent"). The certified mail was accepted on May 22, 2003 at 10151 SW Barbur Blvd. Suite 107D.

This Notice alleged that 1) Respondent commenced branch operations prior to providing the Director evidence of the increase in Respondent's surety bond in violation of OAR 441-860-0090(5), 2) Respondent engaged in Oregon residential mortgage transactions at a location without displaying a copy of the license in violation of ORS 59.950(2) and 3) Respondent willfully commenced branch operations after the Director informed Respondent that it could not engaged in Oregon residential mortgage transactions until the branch location was licensed violation of ORS 59.865(3).

The Notice further granted to Respondent an opportunity for hearing, if requested within 21 days of service of the Notice. No such request for hearing has been received by the Director. The Notice designated the Division of Finance and Corporate

1 Securities' file on this matter as the record for purposes of default.

2 NOW THEREFORE, after consideration of the records and files of the Division
3 of Finance and Corporate Securities relating to this matter, the Director enters the
4 following Order.

5 **FINDINGS OF FACT**

6 1. Respondent, incorporated in Arizona on December 18, 1998, engages in
7 residential mortgage transactions in Oregon or on Oregon real property in expectation
8 of compensation.

9 2. The Director issued a mortgage lender license to Respondent on August 10,
10 2000 which expired on August 10, 2001. The Director then issued a mortgage lender
11 license to Respondent on September 7, 2001 and that license expired on September
12 7, 2002. Respondent has not been licensed since September 7, 2002.

13 3. Robert Brader and Gregory Crouse each owned one-half of Respondent.

14 4. On January 20, 2002, the Director received information from Respondent to
15 license a branch location at 16570 SE McLoughlin Boulevard in Milwaukie, Oregon
16 (hereinafter "the Milwaukie location").

17 5. The Director submitted a Notice of Incomplete Licensing to Respondent
18 indicating that certain items needed to be completed before the Director could issue a
19 branch license.

20 6. The Director did not receive the items necessary to complete the branch
21 license application and therefore issued a second Notice of Incomplete License
22 Application on March 5, 2002.

23 7. On April 5, 2002, the Director withdrew the branch application because
24 Respondent had not submitted the requested items to complete the branch application.

25 8. On May 20, 2002, Respondent sought to license the Milwaukie location in
26 addition to two other branch locations.

1 9. On June 4, 2002, the Director sent Respondent a Notice of Incomplete
2 Licensing indicating that prior to licensing the Milwaukie location, Respondent needed
3 to register with the Corporation Division of the Secretary of State, that the location was
4 currently licensed to another company and there still needed to be clarification regarding
5 the location, and Respondent needed to submit a completed Section 5 of the mortgage
6 lender application for M. Elliott Lynn along with a surety bond rider increasing the bond
7 coverage by \$5,000.

8 10. Respondent provided a completed Section 5 of the mortgage lender
9 application completed for M. Elliott Lynn and the correct telephone and fax number for
10 the Milwaukie location but did not provide the other items necessary to complete the
11 branch license application.

12 11. On July 8, 2002, the Director sent a Notice of Incomplete Licensing indicating
13 that prior to licensing the Milwaukie location Respondent needed to register with the
14 Corporation Division of the Secretary of State and to submit a surety bond rider
15 increasing the bond coverage by \$5,000.

16 12. On July 16, 2002, Respondent finally submitted a surety bond rider evidencing
17 an increase in coverage of \$5,000 for the branch location but Respondent still had not
18 registered with the Secretary of State.

19 13. In response to the Director's inquiry regarding activity originated from the
20 Milwaukie location, Respondent indicated that three loan applications had been taken
21 prior to July 16, 2002.

22 14. Since Respondent never submitted all the requirements to license the
23 Milwaukie location, the Director never issued a branch license for the Milwaukie location.

24 15. The Director requested that Respondent provide a list of the loan applications
25 taken at the Milwaukie location or any other location that had not been licensed.

26 16. In response, Respondent reported that seven mortgage loan applications

1 were taken at the Milwaukie location.

2 17. The seven applications were taken when Respondent did not have a license
3 for the location posted in the location.

4 18. On January 28, 2002, the Director notified Respondent that it could not
5 conduct Oregon residential mortgage activity from a location that was not licensed and
6 that violations could result in civil penalties.

7 19. On June 4, 2002 and July 8, 2002, the Director notified Respondent that it
8 could not conduct Oregon residential mortgage activity from a location that was not
9 licensed.

10 20. On July 29, 2002, the Director received notice from Sierra Pacific Mortgage
11 Company that it had received an application for an Oregon residential mortgage loan
12 from the Milwaukie location of Respondent.

13 21. On July 29, 2002, the Director instructed Respondent to cease any Oregon
14 residential mortgage activity occurring from the Milwaukie location until the location was
15 licensed.

16 22. The Director requested that Respondent provide a list of the loan applications
17 taken at the Milwaukie location or any other location that had not been licensed.

18 23. In response, Respondent reported that Oregon residential mortgage loan
19 applications were taken on July 2, 14 and 15, 2002 and August 2, 17, 25 and 27, 2002.

20 **ULTIMATE FINDINGS OF FACT**

21 1. Respondent took three loan applications at the Milwaukie location prior to
22 providing the Director evidence of the increase in Respondent's surety bond.

23 2. Respondent engaged in Oregon residential mortgage transactions at the
24 Milwaukie location without displaying a copy of a license issued to Respondent for
25 that location.

26 3. Respondent engaged in Oregon residential mortgage transactions at the

1 Milwaukie location even after the Director specifically informed Respondent on
2 several occasions that it could not conduct Oregon residential transactions from the
3 Milwaukie location until it had been licensed.

4 **CONCLUSIONS OF LAW**

5 1. Respondent violated OAR 441-860-0090(5) by commencing branch operations
6 prior to providing the Director evidence of the increase in Respondent's surety bond.

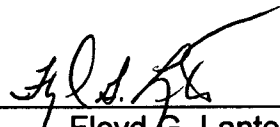
7 2. Respondent violated ORS 59.950(2) by engaging in Oregon residential mortgage
8 transactions at the Milwaukie location without displaying a copy of a license issued to
9 Respondent for that location.

10 3. Respondent engaged in Oregon residential mortgage loans from the Milwaukie
11 location prior to licensing the location in willful disregard to the Oregon Mortgage Lender
12 Law and its accompanying rules which constitutes grounds under ORS 59.865(3) to
13 revoke, suspend, deny or condition any license granted to Respondent.

14 **ORDER**

15 The Director, pursuant to ORS 59.996, hereby **ORDERS** First National
16 Mortgagebanc to pay the State of Oregon a civil penalty of \$5,350 based upon \$5,000
17 for engaging in Oregon residential mortgage transactions from an unlicensed branch
18 location. Because it was a continuing violation, the civil penalty also includes an
19 additional \$50 for each of the seven loan applications taken while the location was not
20 licensed for a total of an additional \$350.

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22 Dated this 5th day of JUNE, 2003.

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26 Floyd G. Lanter, Administrator
Division of Finance and Corporate Securities

1 NOTICE: You are entitled to judicial review of this Order. Judicial review may be
2 obtained by filing a petition for review within 60 days from the service of this Order.
3 Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of
4 Appeals.
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