

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

6 In the Matter of

7 EASTBANK MORTGAGE COMPANY

8 ORDER NO. O-03-0015

9 CEASE AND DESIST ORDER AND  
10 CONSENT TO IMPOSITION OF CIVIL  
11 PENALTIES AND ISSUANCE OF A  
12 CONDITIONAL MORTGAGE LENDER  
13 LICENSE

14 To: Eastbank Mortgage Company  
15 4370 NE Halsey Suite 138  
16 Portland, Oregon 97213

17 **WHEREAS** the Director of the Department of Consumer and Business Services  
18 for the State of Oregon (hereinafter "the Director") conducted an investigation of  
19 Eastbank Mortgage Company, and determined that Eastbank Mortgage Company  
20 engaged in activities constituting violations of ORS 59.840 through 59.980 (hereinafter  
21 "the Oregon Mortgage Lender Law"); and

22 **WHEREAS** Eastbank Mortgage Company wishes to resolve and settle this  
23 matter with the Director;

24 **NOW THEREFORE**, as evidenced by the authorized signatures subscribed on  
25 this order Eastbank Mortgage Company hereby **CONSENTS** to entry of this order upon  
26 the Director's Findings of Fact and Conclusions of Law as stated hereinafter:

**FINDINGS OF FACT**

The Director **FINDS** that:

1. Eastbank Mortgage Company (hereinafter "Respondent"), incorporated in Oregon on June 30, 1998, engages in residential mortgage transactions in Oregon or on Oregon real property in expectation of compensation.

2. The Director first issued an Oregon mortgage lender license to Respondent

1 on April 5, 1996. Respondent has been continuously licensed since that date.

2 3. At the time of the events which are the subject of this Order, Respondent was  
3 owned by Linda Ferrell, as 25% owner, and William Rogers, as 75% owner.  
4 Subsequent to the events which are the subject of this Order, William Rogers acquired  
5 100% ownership of Respondent.

6 4. On February 19, 2002, Linda Ferrell, then owner of and loan originator for  
7 Respondent, sought approval for funding first and second mortgages on 20382  
8 Southwest Appy Court in Beaverton, Oregon for consumer Greg Ferrara from Entrust  
9 Mortgage Inc.

10 5. In the borrower file for Greg Ferrara maintained by Respondent, there was a  
11 handwritten 1003 for a first mortgage of \$650,000 at 7.75% interest on a 2 year, six  
12 month adjustable rate mortgage. The application contained no writing under income or  
13 liquid assets and was signed by the borrower on December 14, 2001.

14 6. In the borrower file for Greg Ferrara maintained by Respondent, there was a  
15 typewritten 1003 for a first mortgage of \$750,000 at 8.875% interest on a 30 year fixed  
16 mortgage. The application contained no writing under income but listed liquid assets  
17 of \$10,000 in an account at Bank of the Northwest and \$99,000 in multiple Piper Jaffray  
18 accounts. The application was not signed by the borrower or dated.

19 7. In the borrower file for Greg Ferrara maintained by Respondent, there was a  
20 handwritten 1003 for a second mortgage of \$249,900 at 14.25% interest on a 30 year  
21 fixed mortgage. The application contained no writing under income or liquid assets and  
22 was signed by the borrower on December 14, 2001.

23 8. In the borrower file for Greg Ferrara maintained by Respondent, there was a  
24 typewritten 1003 for a second mortgage of \$152,500 at 14.00% interest on a 30 year  
25 fixed mortgage. The application contained no writing under income but listed liquid  
26 assets of \$10,000 in an account at Bank of the Northwest and \$99,000 in multiple Piper

1 Jaffray accounts. The application was not signed by the borrower or dated.

2 9. The typewritten applications were submitted to Entrust Mortgage, Inc. by  
3 Respondent.

4 10. Entrust Mortgage Inc. reviewed the loan application materials submitted by  
5 Respondent for first and second mortgages for borrower Greg Ferrera and issued  
6 conditional approvals on both mortgage loan applications.

7 11. The conditional approvals required a verification of deposit with two months  
8 average balance to verify all assets, which was to include the Piper Jaffray accounts,  
9 of the Ferrera first and second mortgage applications.

10 12. Linda Ferrell submitted a Request for Verification of Deposit for Piper Jaffray  
11 individual retirement accounts 3160-3700 and 3160-4645 to the Lake Oswego branch  
12 office of US Bancorp – Piper Jaffray.

13 13. On January 31, 2002, Wanda Fugate, an employee of US Bancorp - Piper  
14 Jaffray completed the verification of deposit for the individual retirement accounts listed  
15 on the form which were accounts held in the name of Linda and Tony Ferrell.

16 14. Wanda Fugate mailed the verification of deposit that she completed to  
17 Respondent at the request of Linda Ferrell which was different than the normal  
18 procedure of mailing verifications of deposit to the lender who will be funding the loan  
19 application.

20 15. On March 18, 2002, Linda Ferrell presented Scott Springer, the Managing  
21 Director of US Bancorp – Piper Jaffray, with a photocopy of a completed verification of  
22 deposit indicating that the lender was requiring an original signature on the photocopy.  
23 Without verifying the information, Scott Springer signed the photocopy based upon his  
24 memory of the accounts and his prior dealings with Linda Ferrell.

25 16. Respondent submitted a verification of deposit for Greg Ferrera for Piper  
26 Jaffray individual retirement accounts 3160-3700 and 3160-4645 listing a total balance

1 of \$93,056.54 (hereinafter "the Piper Jaffray VOD") which was sufficient to meet the  
2 requirements of the conditional approvals issued by Entrust Mortgage Inc. in response  
3 to the loan application materials submitted for first and second mortgages for borrower  
4 Greg Ferrera.

5 17. Scott Sax, President of Entrust Mortgage Inc., contacted Wanda Fugate to  
6 verify the information contained in the Piper Jaffray VOD.

7 18. Wanda Fugate reported to Scott Sax that the Piper Jaffray VOD was not  
8 correct in that Greg Ferrera was not the account holder for the account numbers listed  
9 on the Piper Jaffray VOD.

10 19. Wanda Fugate was provided with a copy of the Piper Jaffray VOD. She  
11 states that she did complete the handwritten portion listing the account numbers and  
12 balances and did sign the bottom of the form but that when she completed the form it  
13 was for Linda and Tony Ferrell, not Greg Ferrera.

14 20. Wanda Fugate has reviewed the records of US Bancorp – Piper Jaffray and  
15 the account numbers listed on the Piper Jaffray VOD were not for an account held in the  
16 name of Greg Ferrera and she was unable to locate any individual retirement accounts  
17 held for Greg Ferrera.

18 21. Scott Springer was provided with a copy of the Piper Jaffray VOD. He  
19 indicated that the Piper Jaffray VOD was not what he recalled signing because he would  
20 have noticed Greg Ferrera's name on the form but that he didn't verify the information  
21 on the verification of deposit that he had signed when Linda Ferrell presented him with  
22 one to obtain an original signature.

23 22. Respondent altered or manufactured the Piper Jaffray VOD based upon  
24 information or documentation provided by US Bancorp – Piper Jaffray and Respondent  
25 was aware that the information contained in the Piper Jaffray VOD was not true.

26 23. William Rogers asserts that he had no knowledge of and/or was not a

1 participant in altering any documentation to create the Piper Jaffray VOD or in the  
2 creation of the Piper Jaffray VOD. He further asserts that he was not aware that the  
3 information contained Piper Jaffray VOD was fraudulent.

4 24. Entrust Mortgage, Inc. notified the Director of the Piper Jaffray VOD. In  
5 response, the Director obtained a copy of the borrower file for Greg Ferrera from  
6 Respondent alerting William Rogers that there was some issue with the first and second  
7 mortgage loan applications for Greg Ferrera.

8 25. In response to learning there was an issue with the verification of deposit  
9 provided to Entrust Mortgage, Inc. for Greg Ferrera, William Rogers acquired sole  
10 ownership of Respondent and Linda Ferrell was employed as a loan originator  
11 conditioned on the outcome of the investigation of the Piper Jaffray VOD.

12 26. Linda Ferrell has now been terminated as a loan originator for Respondent for  
13 reasons unrelated to the loan applications for Greg Ferrera and is no longer employed  
14 in any capacity by Respondent.

15 27. The Director reviewed the borrower file for Greg Ferrera (hereinafter "the  
16 Ferrera file") obtained from Respondent. The Ferrera file contained a disclosure as  
17 required by the Truth in Lending Act (hereinafter "TIL disclosure") which were provided  
18 in response to the loan application for a first mortgage for Greg Ferrera. The TIL  
19 disclosure did not contain the dates for repayment.

20 28. The Ferrera file contained a disclosure as required by the Truth in Lending Act  
21 (hereinafter "TIL disclosure") which were provided in response to the loan application  
22 for a second mortgage for Greg Ferrera. The TIL disclosure did not contain the dates  
23 for repayment.

24 29. The Ferrera borrower file contained two copies of a Lock In Agreement. Since  
25 the files for the first and second mortgage loans were combined, one Lock In Agreement  
26 would suffice for compliance with the requirements for the requirements for first

1 mortgage loan and the other would suffice for the second mortgage loan. However, on  
2 both copies of the Lock In Agreement, all of the spaces to be completed on the form  
3 were blank but the form had been signed by the consumer and dated. The form  
4 requires the initials of the borrower beside either the float or lock option. There were no  
5 markings of any kind on either option on either copy. As a result, the forms did not  
6 indicate if the interest rate was to float or be locked.

### 7 **CONCLUSIONS OF LAW**

8 The Director **CONCLUDES** that:

9 1. Respondent violated ORS 59.930(3) by engaging in an act practice or course of  
10 business that operates or would operate as a fraud upon any person when Respondent  
11 altered the verification of deposit obtained from US Bancorp – Piper Jaffray to indicate  
12 that the accounts listed were those of the borrower when they were not.

13 2. Respondent violated ORS 59.865(2) by engaging in a dishonest, fraudulent or  
14 illegal practice or conduct when Respondent altered the verification of deposit obtained  
15 from US Bancorp – Piper Jaffray to indicate that the accounts listed were those of the  
16 borrower when they were not. This violation constitutes grounds to deny, suspend or  
17 revoke a mortgage lender license or to issue a conditional mortgage lender license.

18 3. Respondent violated ORS 59.930(2) by knowingly making an untrue statement  
19 of material fact when Respondent submitted the Piper Jaffray VOD to Entrust Mortgage,  
20 Inc. to fulfill the required conditions for the first mortgage loan application for Greg  
21 Ferrera knowing that the information contain therein was not true.

22 4. Respondent violated ORS 59.930(2) by knowingly making an untrue statement  
23 of material fact when Respondent submitted the Piper Jaffray VOD to Entrust Mortgage,  
24 Inc. to fulfill the required conditions for the second mortgage loan application for Greg  
25 Ferrera knowing that the information contain therein was not true.

26 5. Respondent violated ORS 59.865(2) by engaging in a dishonest, fraudulent or

1 illegal practice or conduct when Respondent submitted the falsified Piper Jaffray VOD  
2 to Entrust Mortgage, Inc. for the first mortgage loan application for Greg Ferrera knowing  
3 that the information contain therein was not true. This violation constitutes grounds to  
4 deny, suspend or revoke a mortgage lender license or to issue a conditional mortgage  
5 lender license.

6 6. Respondent violated ORS 59.865(2) by engaging in a dishonest, fraudulent or  
7 illegal practice or conduct when Respondent submitted the falsified Piper Jaffray VOD  
8 to Entrust Mortgage, Inc. for the second mortgage loan application for Greg Ferrera  
9 knowing that the information contain therein was not true. This violation constitutes  
10 grounds to deny, suspend or revoke a mortgage lender license or to issue a conditional  
11 mortgage lender license.

12 7. Respondent violated 12 CFR 226.18(g) when, in response to the application by  
13 Greg Ferrera for a first mortgage loan, Respondent failed to provide the borrower with  
14 a TIL disclosure containing the dates for repayment of the loan within three business  
15 days of the date of application for the first mortgage loan.

16 8. Respondent violated 12 CFR 226.18(g) when, in response to the application by  
17 Greg Ferrera for a second mortgage loan, Respondent failed to provide the borrower  
18 with a TIL disclosure containing the dates for repayment of the loan within three  
19 business days of the date of application for the second mortgage loan.

20 9. Respondent violated ORS 59.955 when Respondent failed to provide the  
21 borrower with disclosures as required by the Truth in Lending Act for the application by  
22 Greg Ferrera for a first mortgage loan.

23 10. Respondent violated ORS 59.955 when Respondent failed to provide the  
24 borrower with disclosures as required by the Truth in Lending Act for the application by  
25 Greg Ferrera for a second mortgage loan.

26 11. Respondent violated OAR 441-865-0060(1)(c) by failing to maintain in the

1 borrower file a copy of a float agreement signed and dated by the borrower or a lock  
2 agreement completed with the required information and signed by the borrower in  
3 response to the application by Greg Ferrara for a first mortgage loan.

4 12. Respondent violated OAR 441-865-0060(1)(c) by failing to maintain in the  
5 borrower file a copy of a float agreement signed and dated by the borrower or a lock  
6 agreement completed with the required information and signed by the borrower in  
7 response to the application by Greg Ferrara for a second mortgage loan.

8 13. Respondent violated ORS 59.865(b) by engaging in an illegal or unethical act in  
9 connection with the mortgage business when Respondent had the borrower sign and  
10 date an otherwise blank loan document in the form of the Lock In Agreement in  
11 connection with the application by Greg Ferrara for a first mortgage loan. This violation  
12 constitutes grounds to deny, suspend or revoke a mortgage lender license or to issue  
13 a conditional mortgage lender license.

14 14. Respondent violated ORS 59.865(b) by engaging in an illegal or unethical act in  
15 connection with the mortgage business when Respondent had the borrower sign and  
16 date an otherwise blank loan document in the form of the Lock In Agreement in  
17 connection with the application by Greg Ferrara for a second mortgage loan. This  
18 violation constitutes grounds to deny, suspend or revoke a mortgage lender license or  
19 to issue a conditional mortgage lender license.

#### 20 **ORDER**

21 The Director, pursuant to ORS 59.885(4), hereby **ORDERS** that Eastbank  
22 Mortgage Company will **CEASE AND DESIST** from violating any provision of Oregon  
23 Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 and any rule, order,  
24 or policy issued by the Division.

25 The Director, pursuant to ORS 59.865 and 59.996 hereby **ORDERS** that the  
26 Oregon mortgage lender license issued to Eastbank Mortgage Company shall be



1 subject to the following condition which will be printed on the license: "The company  
2 shall not violate any provisions of the Oregon Mortgage Lender Law and its  
3 accompanying rules, the Truth in Lending Act or the Real Estate Settlement Procedures  
4 Act. Any violation shall be grounds for the revocation of the license."

5 Futhermore, the Director, pursuant to ORS 59.996 hereby **ORDERS** Eastbank  
6 Mortgage Company to pay the State of Oregon a civil penalty of \$10,000. The civil  
7 penalty is based upon \$5,000 for the violation of ORS 59.930(2) and \$5,000 for the  
8 violation of ORS 59.930(3).

9 The Director suspends payment of \$5,000 of the assessed civil penalty for a  
10 three year period. If in the period between the date of the Order to three years from the  
11 date of the Order, Eastbank Mortgage Company violates any provision of the Oregon  
12 Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 or any rule, order, or  
13 policy issued by the Division, the suspended portion of the assessed civil penalty will  
14 become immediately due and payable. If Eastbank Mortgage Company does not violate  
15 the Oregon Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 or any  
16 rule, order, or policy issued by the Division in the three year period, the suspended  
17 portion of the civil penalty is waived. The date of the Order is the date the Director signs  
18 the Order.

19 The entry of this Order in no way limits further remedies which may be available  
20 to the Director under Oregon law.

21 Dated this 17th day of APRIL, 2003.

22 **CORY STREISINGER, DIRECTOR**  
23 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

24  
25 by   
26 **FLOYD G. LANTER, ADMINISTRATOR**  
**DIVISION OF FINANCE AND CORPORATE SECURITIES**

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**CONSENT TO ENTRY OF ORDER**

I, William Rogers, state that I am the President of Eastbank Mortgage Company, and I am authorized to act on its behalf; that I have read the foregoing Order and that I know and fully understand the contents hereof; that Eastbank Mortgage Company admits the findings of fact herein, voluntarily consents to the entry of this Order without further hearing, expressly waiving any right to a hearing in this matter; that Eastbank Mortgage Company understands that the Director reserves the right to take further actions to enforce this order or to take appropriate action upon discovery of other violations of Oregon Mortgage Lender Law; and that Eastbank Mortgage Company will fully comply with Oregon Mortgage Lender Law.

I understand that this Consent Order is a public document.

Dated this 14 day of April, 2003.

By William J. Rogers President  
(Office Held)

William J. Rogers  
(Signature)

**CORPORATE ACKNOWLEDGMENT**

There appeared before me this 14 day of April, 2003, William J. Rogers, who was first duly sworn on oath, and stated that s/he was and is the President of Eastbank Mortgage Company and William J. Rogers is authorized and empowered to sign this Consent to Entry of Order on behalf of Eastbank Mortgage Company and to bind Eastbank Mortgage Company to the terms hereof.



Susana Almanza-Guerrero  
Signature of Notary Public  
Notary Public for the State of: Oregon  
My Commission expires: Aug 29, 2006