

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

5 In the Matter of:

M-05-0062

6 America One Finance, Inc.,

ORDER TO CEASE AND DESIST
ORDER ASSESSING CIVIL PENALTIES

7 Respondent.

8 And
9 CONSENT TO ENTRY OF ORDER

10 The Director of the Department of Consumer and Business Services for the State
11 of Oregon (hereinafter "the Director") acting by the authority of the Chapter 59 of the
12 Oregon Revised Statutes (hereinafter cited as "the Oregon Mortgage Lender Law"),
13 hereby issues the following Findings of Fact, Conclusions of Law, Order and Notice of
14 Right to a Public Hearing:

15 FINDINGS OF FACT

16 The Director FINDS that:

17 1. America One Finance, Inc. (hereinafter "Respondent" or "America One"), a
18 foreign corporation authorized to do business in Oregon, engages in residential
19 mortgage transactions in Oregon or on Oregon real property in expectation of
20 compensation. America One's principal place of business is 15110 21st Dr., SE, Mill
21 Creek, Washington 98012. At all times hereto, America One was licensed as residential
22 mortgage lender in the State of Oregon. The Oregon mortgage lender license number
23 for America One is ML-2241. 082605-051-003-001-0500-0001750000 ✓

24 2. America One has numerous branch offices, in Oregon and Washington,
25 authorized to do residential mortgage transactions in Oregon.

26 3. Matt Simmons is the president and chief executive for America One. His

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1 business address is 15110 21st Dr., SE, Mill Creek, Washington 98012.

2 4. America One was the subject of order number M-04-0008 (hereinafter "the
3 2004 Order"), which was a Cease and Desist Order, Order Assessing Civil Penalties
4 and Consent to Entry of Civil Penalties that became final on June 14, 2004, imposing
5 \$10,000 in civil penalties for violations of ORS 59.950(2) (failure to notify of branch
6 location) and ORS 59.865(15) (failure to diligently supervise and control activities of
7 loan originators). The 2004 Order provided that \$7,500 of the \$10,000 civil penalty was
8 suspended but would be "immediately due and payable upon a determination by the
9 Director that Respondent America One has violated any term of this Order or any
10 provision of the Oregon Mortgage Lender Law or applicable administrative rules (OAR
11 441-850-0010 through 441-885-0010)." Prior this action, the Director had not found
12 that America One has violated any term of this Order or any provision of the Oregon
13 Mortgage Lender Law or applicable administrative rules (OAR 441-850-0010 through
14 441-885-0010) subsequent to the entry of the 2004 Order.

15 5. At all times material herein, America One did not have a licensed branch
16 office at 2290 Commercial St. SE in Salem, Oregon 97302-5377 or at 7724 SE Aspen
17 Summit Drive, Suite 202 in Portland, Oregon 97266. At all times material herein, the
18 Director had not received notification from America One that Rebecca Guyer, Steve
19 Martinez and David Yamashiro were authorized to act as loan originators for America
20 One.

21 6. Sometime prior to July 18, 2005, America One opened a branch office
22 located at 2290 Commercial St. SE in Salem, Oregon 97302-5377 (hereinafter "Salem
23 branch") to engage in Oregon residential mortgage transactions.

24 7. Respondent asserts that Matt Simmons specifically expressed to the
25 branch manager that he could not put up any signage indicating that the branch was
26 open for business. Despite that admonition, the branch manager allowed signage to be

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1 put up that was visible from the street prior to July 18, 2005 indicating that the location
2 was a branch of America One and advertising that it could provide purchase money
3 home loans, equity loans and refinance loans.

4 8. As of July 20, 2005, America One had not provided notification to the
5 Director that it intended to open and operate the Salem branch, nor had it provided the
6 licensing fee or information regarding the branch including the address, telephone
7 number, facsimile number and name of the supervisor of the branch location.

8 9. Sometime prior to July 19, 2005, America One opened a branch office
9 located at 7724 SE Aspen Summit Drive, Suite 202 in Portland, Oregon 97266
10 (hereinafter "Portland branch") to engage in Oregon residential mortgage transactions.

11 10. As of July 20, 2005, America One had not provided notification to the
12 Director that it intended to open and operate the Portland branch, nor had it provided
13 the licensing fee or information regarding the branch including the address, telephone
14 number, facsimile number and name of the supervisor of the branch location.

15 11. America One hired Rebecca Guyer, Steve Martinez and David Yamashiro
16 to act as loan originators at the Portland branch.

17 12. As of July 20, 2005, America One had not provided any notification to the
18 Director of the hire of Rebecca Guyer, Steve Martinez or David Yamashiro as loan
19 originators for the company.

20 13. Since becoming aware of the problems, the company has obtained
21 licenses for both the Salem and Portland branch.

22 14. Respondent has also drafted new contracts to prevent the violations noted
23 herein from occurring in the future.

24 15. Respondent agrees to the imposition of a suspension of its license for a
25 seven (7) day period but that the suspension shall be suspended for a three-year
26 period. Respondent agrees that if the Director provides Respondent notice that it

1 violated in the period between the date of the Order to three years from the date of the
2 Order any provision of the Oregon Mortgage Lender Law, OAR 441-850-0005 through
3 441-885-0010 or any rule, order, or policy issued by the Director, Respondent's license
4 will be suspended for a seven (7) day period beginning at midnight on the 30th day
5 following the date of the Director's notice to Respondent of the violation. Respondent
6 agrees that the specific dates of the suspension, based upon the formula contained in
7 this Order, will be provided in the notification provided by the Director and the
8 suspension will be in addition to any other civil penalty imposed by the Director as a
9 result of the new violation.

10 CONCLUSIONS OF LAW

11 The Director **CONCLUDES** that:

12 1. Respondent violated ORS 59.950(2) by failing to provide the Director notice of its
13 intent to operate the Salem branch at least 30 days prior to commencing operations at
14 the location.

15 2. Respondent violated OAR 441-860-0030 by failing to provide the Director with
16 the licensing fee and branch information including the address, telephone number,
17 facsimile number and branch supervisor's name at least 30 days prior to commencing
18 operations at the Salem branch.

19 3. Respondent violated ORS 59.950(2) by failing to provide the Director notice of its
20 intent to operate the Portland branch at least 30 days prior to commencing operations at
21 the location.

22 4. Respondent violated OAR 441-860-0030 by failing to provide the Director with
23 the licensing fee and branch information including the address, telephone number,
24 facsimile number and branch supervisor's name at least 30 days prior to commencing
25 operations at the Portland branch.

26 5. Respondent violated ORS 59.969(1) and OAR 441-880-0030 by failing to provide





1 the Director with notification that it had hired Steve Martinez and David Yamashiro to act
2 as loan originators.

3 6. By violating ORS 59.950(2) and OAR 441-860-0030 by operating the Salem
4 branch without proper notification to the Director, violating ORS 59.950(2) and OAR
5 441-860-0030 by operating the Portland branch without proper notification to the
6 Director, and by violating ORS 59.969(1) and OAR 441-880-0030 by failing to provide
7 the Director notice that Steve Martinez and David Yamashiro were hired to act as a loan
8 originator, America One has violated the terms of the 2004 Order or any provision of the
9 Oregon Mortgage Lender Law or applicable administrative rules (OAR 441-850-0010
10 through 441-885-0010).

11 7. By violating ORS 59.950(2) and OAR 441-860-0030 by operating the Salem
12 branch without proper notification to the Director, violating ORS 59.950(2) and OAR
13 441-860-0030 by operating the Portland branch without proper notification to the
14 Director and violating ORS 59.950(2) as noted in the 2004 Order, Respondent has
15 repeatedly violated or failed to comply with any provision of ORS 59.840 to 59.980 or
16 any rule or order of the Director, which constitutes grounds as provided in ORS
17 59.865(3) to suspend or condition Respondent's license.

18 ORDER

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

23 The Director, pursuant to ORS 59.996 hereby **ORDERS** Respondent to pay the
24 State of Oregon a civil penalty of \$10,000. The civil penalty is based upon \$5,000 for
25 violations of ORS 59.950(2) and OAR 441-860-0030 for operating the Salem branch
26 and Portland branches without proper notification to the Director and \$5,000 for a

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1 violation of ORS 59.969(1) and OAR 441-880-0030 for failing to notify the Director of
2 the hire of loan originators.

3 In addition, the Director imposes the \$7,500 civil penalty suspended in the 2004
4 Order due to Respondent's violations of ORS 59.950(2) and OAR 441-860-0030 by
5 operating the Salem branch without proper notification to the Director, ORS 59.950(2)
6 and OAR 441-860-0030 by operating the Portland branch without proper notification to
7 the Director, and ORS 59.969(1) and OAR 441-880-0030 by failing to provide the
8 Director notice that Steve Martinez and David Yamashiro were hired to act as a loan
9 originators.

10 The Director, pursuant to ORS 59.865 hereby **ORDERS** the mortgage license
11 issued to Respondent shall be subject to the following conditions:

12 1) Respondent shall hire a full-time licensing supervisor, subject to prior
13 approval by the Director, and provide to the Director proof of employment acceptable to
14 the Director by 5 p.m. on October 1, 2005. The licensing supervisor shall be
15 responsible to ensure that Respondent's licensing in Oregon is in compliance with the
16 requirements of the Oregon Mortgage Lender Law.

17 2) Respondent shall complete internal reviews and provide a written report to the
18 Director on a monthly basis certifying that Respondent is in compliance with the
19 requirements of the Oregon Mortgage Lender Law. The first report shall due no later
20 than 5 p.m. on October 1, 2005. Subsequent monthly reports shall be due no later than
21 5 p.m. on the first day of each month thereafter until otherwise ordered by the Director.

22 The report shall contain at a minimum:

23 a) A list of all locations originating Oregon residential mortgage loans
24 including the complete address of the location and date that the location began
25 originating Oregon residential mortgage loans,

26 b) A list of all loan originators who originate Oregon residential mortgage

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1 loans for Respondent; and

2 c) A certification that the company, including all branches and loan
3 originators, are operating in compliance with the Oregon Mortgage Lender law.

4 The Director, pursuant to ORS 59.865 hereby **ORDERS** the suspension of
5 Respondent's license for a seven (7) day period. Respondent may continue to
6 complete any loan applications in process as of 11:59 p.m. the night prior to the first day
7 of the suspension during the period of suspension of Respondent's license but may not
8 originate any new Oregon residential mortgage loan or mortgage banking loan
9 applications during the period of suspension.

10 The Director suspends imposition of the suspension of Respondent's license for
11 a three-year period. If in the period between the date of the Order to three years from
12 the date of the Order, Respondent violates any provision of the Oregon Mortgage
13 Lender Law, OAR 441-850-0005 through 441-885-0010 or any rule, order, or policy
14 issued by the Director, Respondent's license will be suspended for a seven (7) day
15 period beginning at midnight on the 30th day following the date of the Director's notice to
16 Respondent of the violation. The specific dates of the suspension based upon the
17 formula contained in this Order will be provided in the notification provided by the
18 Director and the suspension will be in addition to any other civil penalty imposed by the
19 Director as a result of the new violation. If Respondent does not violate the Oregon
20 Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 or any rule, order, or
21 policy issued by the Director in three years from the date of the Order, the seven (7) day
22 suspension of the license is waived.

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

26 ///

1 Dated this 1st day of September, 2005, at Salem, Oregon.

2
3 CORY STREISINGER, Director
4 Department of Consumer and Business Services

5 
6 David Tatum for
7 Floyd Lanter, Administrator
8 Division of Finance and Corporate Securities


8 **CORPORATE CONSENT TO ENTRY OF ORDER**

9 I, Matt Simmons, state that I am an officer of Respondent, and I am authorized to
10 act on its behalf; that I have read the foregoing Order and that I know and fully
11 understand the contents hereof; that I and this entity have been advised of the right to a
12 hearing and of the right to be represented by counsel in this matter; that Respondent
13 voluntarily and without any force or duress, consents to the entry of this Order,
14 expressly waiving any right to a hearing in this matter; that Respondent understands
15 that the Director reserves the right to take further actions to enforce this Order or to take
16 appropriate action upon discovery of other violations of the Oregon Mortgage Lender
17 Law; and that Respondent will fully comply with the terms and conditions stated herein.

18 Respondent further assures the Director that neither Respondent, nor its officers,
19 directors, employees or agents will effect mortgage transactions in Oregon unless such
20 activities are in full compliance with Chapter 59 of the Oregon Revised Statutes.

21 Respondent understands that this Consent Order is a public document.

22 Dated this 23 day of Aug, 2005.

23
24 By 
25 Matt Simmons
26 President
(Office Held)

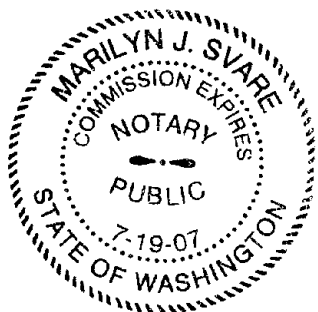
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CORPORATE ACKNOWLEDGMENT

There appeared before me this 23 day of August 2005, Matt Simmons, who was first duly sworn on oath, and stated that he was and is president of Respondent and that he is authorized and empowered to sign this Consent to Entry of Order on behalf of Respondent, and to bind Respondent to the terms hereof.



Marilyn J. Svare
(Signature of Notary Public)

Marilyn J. Svare
(Printed Name of Notary Public)
Notary Public
for the State of: Washington
My commission expires: 7-19-07

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