DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
ENFORCEMENT SECTION
BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

In the Matter of: **Marcy Garber,** **Respondent.**	**M-05-0085** **FINAL ORDER TO CEASE AND DESIST and ORDER ASSESSING CIVIL PENALTIES BY DEFAULT**

On October 17, 2005, the Director of the Department of Consumer and Business Services for the State of Oregon (hereafter the "Director"), acting by and pursuant to the authority of Oregon Securities Law, Chapter 59 of the Oregon Revised Statutes, and other applicable authority, issued Administrative Order No. M-05-0085 to Cease And Desist And Assessing Civil Penalties And Notice Of Right To Hearing (hereafter "the Order") against Respondent Marcy Garber.

On October 17, 2005, Respondent Marcy Garber was duly served with a true copy of the Order and Notice by United States Mail, postage prepaid, and addressed to Respondent Marcy Garber at the following last known address: 2566 Page Place SE, Albany, Oregon 97322. The mailing made by certified mail was returned, marked "unclaimed." A similar mailing was made via regular first class mail was not returned.

Respondent Marcy Garber has not made a written request for a contested case hearing in this matter and the time to do so has expired.

NOW THEREFORE, after consideration of the Investigation Report and accompanying exhibits submitted in this matter by Kirsten Anderson, Enforcement Officer, the Director hereby issues the following Findings of Fact, Conclusions of Law, and Final Order:

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4140

FINDINGS OF FACT

1. At all times material herein, Lighthouse Lending and Investments Inc. dba Lighthouse Lending (hereinafter, "Lighthouse"), an Oregon corporation, engaged in residential mortgage transactions in Oregon or on Oregon real property in expectation of compensation. Lighthouse's principal place of business was 615 N. First Avenue in Stayton, Oregon 97383. At all times hereto, Lighthouse was licensed as residential mortgage lender in the State of Oregon. The Oregon mortgage lender license number for Lighthouse is ML-962.

2. At all times material herein, Lighthouse had numerous branch offices in Oregon authorized to do residential mortgage transactions in Oregon.

3. Rodney Smith was the president and owner of Lighthouse.

4. At all times material herein, Lighthouse had notified the Director that Marcy Garber (hereinafter "Respondent") was employed to act as a loan originator for Lighthouse.

5. Sometime in July 2003, Respondent began operating from a location of 413 Second Avenue SW in Albany, Oregon 97321 (hereinafter "the America One location").

6. Respondent occupied the America One location via a sublet agreement until the lease was formalized in November 2003.

7. At all times material herein, Lighthouse did not obtain a license for the America One location.

8. At all times material herein, Respondent knew that Lighthouse had not obtained a license for the America One location.

A. Knowingly Engaging in Oregon Residential Mortgage Loans from an Unlicensed Location

9. On the morning of November 18, 2003, Kirsten Anderson, an employee of

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the Division of Finance and Corporate Securities (hereinafter "the Division") and an agent of the Director, specifically informed Respondent that the America One location was not licensed to engage in Oregon residential mortgage lending and Respondent could not engage in Oregon residential mortgage lending from the America One location until the location was licensed.

10. Respondent acknowledged the prohibition and further noted that she would contact Rodney Smith to get the America One location licensed.

11. In the afternoon of November 18, 2003, Respondent met with Susan Schoaps and Robert Brunner, also employees of the Division and agents of the Director, at the America One location where Respondent proceeded to discuss various residential mortgage loan options and obtained information from them necessary to begin the loan process.

12. Respondent continued to engage in Oregon residential mortgage lending through at least February 2004 from the America One location.

13. Respondent operated a web site soliciting Oregon residential mortgage loans for the America One location after November 18, 2003 and through at least January 29, 2004.

14. Respondent advertised the availability of Oregon residential mortgage loans at the America One location on the radio, including advertisements on KLOO, KEJO, and KRKT, after November 18, 2003 and through at least January 2004.

15. Respondent advertised the availability of Oregon residential mortgage loans at the America One location in the January and February 2004 editions of the Oregon Real Estate Magazine.

16. On November 18, 2003, the America One location had signs on the window advertising the availability of residential loans, including FHA.

17. As of February 2004, the signs advertising the availability of residential

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loans, including FHA, were still visible in the window of the America One location.

B. False Statement about Engaging Oregon Residential Mortgage Loans

18. On November 18, 2003, Respondent stated to Kirsten Anderson that she did not have any residential transactions in progress at the America One location.

19. The Director issued a subpoena to Respondent requiring the production of documentation and her appearance to provide testimony on January 27, 2004 (hereinafter "the Subpoena").

20. On January 27, 2004, Respondent appeared pursuant to the Subpoena at the Director's office where, after being duly sworn, Respondent answered questions, including many related to conduct that occurred at the America One location (hereinafter "the Deposition").

21. During the Deposition, Respondent admitted under oath that she had done two residential mortgages since moving to the America One location including the first and second mortgages for Robert and Tabatha Anderson and a first mortgage for Lucas Victor but noted that she didn't meet with the consumers at the America One location.

22. In response to the Subpoena, Respondent produced three residential loans files, including separate first and second mortgage files for Robert and Tabatha Anderson and a first mortgage file for Lucas Victor.

23. Respondent's process of obtaining the first and second mortgage loans for Robert and Tabatha Anderson started on or about August 15, 2003 and ended when the loan were closed and funded on or about December 10, 2003.

24. Specifically, on November 21, 2003, Respondent signed the Wholesale Document Order Request Form requesting that loan documents be sent to escrow on the Anderson loans.

25. As part of originating the first and second residential mortgage loans for

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Robert and Tabatha Anderson, Respondent sent and received correspondence material to the transaction of the loans from the America One location.

26. Respondent also paid Vince Cappalo in connection with the completion of residential mortgages throughout November and December 2003.

C. False Statement about Advertising on the Radio

27. During the Deposition, Respondent stated under oath that she was not advertising on the radio in response to a line of questioning inquiring if she was soliciting residential loans for the America One location on the radio.

28. Clear Channel Communications Inc. records indicate that Respondent was the contact for advertising taken out on several radio stations, including KLOO, KEJO, and KRKT, for the period of August 2003 through January 2004.

29. The advertisements solicited Oregon mortgage loans in connection with the America One location.

D. False Statement about Advertising in Print Media

30. During the Deposition, Respondent further stated under oath that she was not advertising by means such as using flyers or newspaper advertising in response to a line of questioning inquiring if she was soliciting residential loans for the America One location using print media.

31. Respondent worked with Vince Cappalo to put together advertisements for print media including an advertisement appearing in the January and February 2004 editions of the Oregon Real Estate Magazine offering to transact Oregon residential mortgage loans at the America One location.

32. Respondent also worked with New Generation Media to develop a web site offering to transact Oregon residential mortgage loans at the American One location (hereinafter "the America One web site").

33. The America One web site was operational on January 27, 2004.

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E. False Statement about Approving the Window Advertising

34. During the Deposition, Respondent further stated under oath that she didn't approve the window signs advertising residential mortgage loans in the windows of the America One location.

35. However, on September 10, 2003, Respondent sent Jenny Van Dyke of Van Dyke's Signmakers a facsimile listing types of loans including residential, FHA and VA.

36. On September 16, 2003, Respondent signed an approval for Van Dyke's Signmakers of the window signs that were later placed at the America One location.

F. False Statement about Meeting Customers at the America One Location

37. During the Deposition, Respondent stated under oath that she had not met with any customers at the America One location in regard to residential mortgage loans.

38. As noted previously, on the afternoon of November 18, 2003, Respondent met with Susan Schoaps and Robert Brunner, also employees of the Director, at the America One location where Respondent proceeded to discuss various residential mortgage loan options and obtained information from them necessary to begin the loan process.

CONCLUSIONS OF LAW

The Director **CONCLUDES** that:

1. Respondent violated ORS 59.971(2) by continuing to engage in Oregon residential mortgage loans at the America One location after November 18, 2003 without complying with the requirements of ORS 59.950(2), OAR 441-860-0030 and OAR 441-860-0020(11) after being specifically told by an employee of the Director on November 18, 2003 that the location was not licensed and that they could not engage in Oregon residential mortgage loans until it was licensed.

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2. Respondent's violation of ORS 59.971(2) was a continuing violation that occurred continually from November 18, 2003 through at least February 2004.

3. Respondent violated ORS 59.930(4) by telling an employee of the Director that she did not have any residential mortgage transactions in progress on November 18, 2003 when she was working on a residential mortgage transaction for Robert and Tabatha Anderson.

4. Respondent violated ORS 59.930(4) by telling employees of the Director under oath during the Deposition that she had not advertised the America One location on the radio when Respondent had taken out advertising on radio stations for the America One location between August 2003 and January 2004.

5. Respondent violated ORS 59.930(4) by telling employees of the Director under oath during the Deposition that she had not advertised the America One location in print when Respondent had advertised the America One location in the January and February 2004 editions of the Oregon Real Estate Magazine and on the America One web site.

6. Respondent violated ORS 59.930(4) by telling employees of the Director that she had not approved the signage placed in the windows at the America One location when Respondent had signed an approval for the signage in the windows of the America One location on September 16, 2003.

7. Respondent violated ORS 59.930(4) by telling employees of the Director that she had not met with any customers at the America One location regarding Oregon residential mortgage loans when Respondent had met with Robert Brunner and Susan Schoaps about obtaining an Oregon residential mortgage loan on the afternoon of November 18, 2003.

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ORDER

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

The Director, pursuant to ORS 59.885(4), hereby **ORDERS** that Respondent will **CEASE AND DESIST** from violating any provision of Oregon Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 and any rule, order or policy issued by the Division specifically including not engaging in Oregon residential mortgage loans from an unlicensed location and making false statements to the Director.

The Director, pursuant to ORS 59.996, hereby **ORDERS** Respondent to pay the State of Oregon a civil penalty of $45,000. The civil penalty is based upon $20,000 for a continuing violation of ORS 59.971(2) and $5,000 for each of the five violations of ORS 59.930(4).

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

IT IS SO ORDERED.

Dated this 8th day of November, 2005, at Salem, Oregon.

CORY STREISINGER, Director
Department of Consumer and Business Services

David Tatman, Administrator
Division of Finance and Corporate Securities

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NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the service of this Order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.