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

In the Matter of:	**M-08-0046-4**
American Capital Mortgage Corp.,	**FINAL ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES**
Respondent.	

On October 14, 2008 the Director of the Department of Consumer and Business Services (the "Director") acting by the authority of Oregon Revised Statutes ("ORS") Chapter 59.840 et seq. (the "Oregon Mortgage Lender Law"), issued Administrative Order M-08-0046-4, ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES AND NOTICE OF RIGHT TO HEARING (the "Proposed Order") against American Capital Mortgage Corp. (the "Respondent").

On or about October 15, 2008 Respondent was mailed true copies of the Proposed Order by regular, first-class mail and by certified mail, postage prepaid, return receipt requested, and addressed to: 555 SE 99th Ave Ste 101, Portland, OR 97216. The return receipt was signed and returned and the regular mail copy was not returned.

Respondent 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 Division's investigative file and related documents, the Director hereby issues the following Findings of Fact, Conclusions of Law, and Final Order.

FINDINGS OF FACT

The Director **FINDS** that:

1. Respondent was a company engaged in Oregon residential mortgage lending

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

operating from a principal place of business located at 555 SE 99th Ave Ste 101, Portland, OR 97216. Respondent obtained a license (ML#2491) to engage in Oregon residential mortgage transactions on 11/9/2001. That license was set to expire on 11/9/2008.

2. Senate Bill 1064, passed in the 2008 supplemental legislative session, required that the Department of Consumer and Business Services (the "Department"), Division of Finance and Corporate Securities (the "Division"), obtain from mortgage bankers and brokers reports concerning their residential mortgage activities. The Department issued temporary Oregon Administrative Rule ("OAR") 441-865-0022 on May 7, 2008. As part of that procedure, the Department sent a copy of the temporary rule to all licensees, and the rule was also posted on the Division website.

3. In response to industry concerns about the ability of licensees to gather and report certain information required under OAR 441-865-022, the Department suspended that temporary rule and issued a new one on June 26, 2008, OAR 441-865-0024, containing all of the same language, but making reporting voluntary for certain items.

4. OAR 441-865-0024 requires reporting of certain data designed to allow legislators and state officials to gauge the health of the mortgage industry in Oregon, and sets a deadline of August 30, 2008 for the 2007 annual reports.

5. On or about June 26, 2008 a copy of OAR 441-85-0024 was mailed to all licensees, and the same was posted on the Division's website.

6. On or about July 31, 2008 a public website was opened for licensees to use to file their reports, and a notification email was sent to all valid email addresses that the Mortgage Lender Section had for active licensees. All "undeliverable" emails were tracked on a spreadsheet, as were "out-of-office" replies. The Division complied with all requests to forward emails to new addresses.

7. On or about August 4, 2008 a letter was mailed to all companies who had an

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active mortgage license any time after July 31, 2008 informing them of the requirement to file an annual report.

8. On or about August 11, 2008 the Division sent out the Summer 2008 edition of the Mortgage Regulation News newsletter to all licensees. The article on the outside back cover of the newsletter detailed the annual report requirement, including the due date, how to report, and consequences for failing to file the report.

9. On or about August 14, 2008 an email was set to those companies who had not yet filed an annual report and for which the Division had a valid email address, reminding them of the requirement to file the report. Again, "undeliverable" and "out-of-office" replies were tracked on a spreadsheet, and the Division complied with all requests to forward emails to new email addresses.

10. Between September 17 and September 19, 2008 letters were sent to approximately two hundred twenty five (225) licensees who had a license in 2007 but had not yet filed an annual report. The letter again advised the licensees of the requirement to file an annual report, and of the consequences for failing the report. Further, the letter stated that companies who had not filed annual reports by October 3, 2008 would be forwarded to the Enforcement Unit for assessment of a civil penalty.

11. As of October 10, 2008 Respondent had not filed an annual report for business conducted in 2007.

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CONCLUSIONS OF LAW

1. By failing to file an annual report with the Director by August 30, 2008, Respondent violated ORS 59.860(3) and OAR 441-865-0024(3).

ORDER

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

The Director, pursuant to its authority under ORS 59.865, ORS 59.885, and ORS 59.870, hereby **ORDERS** that Respondents shall **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 issues by the Division; **AND**

The Director, pursuant to ORS 59.996 and ORS 59.870 hereby **ORDERS** Respondents to pay the State of Oregon a civil penalty of **$4100**. The civil penalty is based on a fine of $100 per day for each day after August 30, 2008 through October 10, 2008, on which Respondent failed to file an Annual Report.

The date of this Order is the day the Director or the 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.

Dated this 10th day of November, 2008, at Salem, Oregon.

NUNC PRO TUNC October 14, 2008.

CORY STREISINGER, Director
Department of Consumer and Business Services



David Tatman, Administrator
Division of Finance and Corporate Securities

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NOTICE OF APPEAL RIGHTS

You are entitled to seek judicial review of this Final Order. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals in Salem, Oregon within sixty (60) days from the date of service of this Final Order. Judicial review is pursuant to the provisions of **ORS 183.482**.