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- 7**
Austin Capital Mortgage Inc,	**FINAL ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES, ENTERED BY CONSENT**
Respondent.	

WHEREAS the Director (the "Director") of the Department of Consumer & Business Services for the State of Oregon (the "Department") conducted an investigation into the activities of Austin Capital Mortgage Inc (the "Respondent") and determined that Respondent engaged in activities constituting violations of ORS 59.840 through 59.980 (hereinafter cited as the Oregon Mortgage Lender Law); and

WHEREAS Respondent wishes to resolve this matter with the Director,

NOW THEREFORE, as evidenced by the authorized signature subscribed on this order, Respondent hereby **CONSENTS** to entry of this order upon the Director's Findings of Facts and Conclusions of Law as stated hereinafter:

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

FINDINGS OF FACT

The Director **FINDS** that:

1. Respondent was a company engaged in Oregon residential mortgage lending operating from a principal place of business located at 4425 South Mopac Ste 300, Austin, TX 78735. Respondent obtained a license (ML# 3054) to engage in Oregon residential mortgage transactions on 12/15/2003. That license is set to expire on 1/22/2010.

2. Senate Bill 1064, passed in the 2008 supplemental legislative session, required that the Department's 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's website.

3. In response to industry concerns about the ability of licensees to gather and report certain information required under OAR 441-865-0022, 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 set a deadline of August 30, 2008 for the 2007 annual reports.

5. On or about June 26, 2008 a copy of OAR 441-865-0024 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 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.

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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.

12. On October 14, 2008 the Director issued Administrative Order M-08-0046-7, ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES AND NOTICE OF RIGHT TO HEARING (the "Proposed Order") against Respondent.

13. In response to the Proposed Order Respondent complied with OAR 441-865-0024 by filnig the report and provided the Division a written explanation as to the circumstances surrounding Respondent's failure to provide the Annual Report in a timely manner.

14. Respondent's letter explaining the circumstances surrounding the failure to file an annual report was sufficiently forthright and compelling to justify waiving $4000 of the proposed civil penalty.

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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.

ORDER

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

The Director, pursuant to its authority under ORS 59.885(4), hereby **ORDERS** that Respondent 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 issued by the Division;

The Director, pursuant to ORS 59.996 hereby **ORDERS** Respondents, jointly and severally, to pay the State of Oregon a civil penalty of **$100** based on Respondent's violations of ORS 59.860(3) and OAR 441-865-0024(3). $100 paid in full DCT

CORY STREISINGER, Director
Department of Consumer and Business Services

David Tatman, Administrator
Division of Finance and Corporate Securities

Dated this 2nd day of February, 2009.

CORPORATE CONSENT TO ENTRY OF ORDER

I, Arthur Lassater, state that I am an officer of Respondent, 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 I and this entity have been advised of the right to a hearing and of the right to be represented by counsel in this matter; that Respondent voluntarily and without any force or duress, consents to the entry of this Order, expressly waiving any right to a hearing in this matter; that Respondent 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 the Oregon Mortgage Law; and that Respondent will fully comply with the terms and conditions stated herein.

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

Respondent understands that this Consent Order is a public document.

Dated this 14 day of Jan, 2009.

By _____, President

(Signature) (Office Held)

CORPORATE ACKNOWLEDGMENT

There appeared before me this 14 day of Jan, 2009, Arthur Lasseter (Respondent's Representative) who was first duly sworn on oath, and stated that s/he was and is President (Representative's Title) of Respondent and that s/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.

April M Hinterlach

Signature of Notary Public

APRIL M. HINTERLACH
MY COMMISSION EXPIRES
July 7, 2010

Notary Public for the State of: TX.

My Commission Expires: July 7, 2010

Dated this 14 day of Jan, 2008.

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