**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-09-0029-18** |
| **CLEER CREEK INC,** | **ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES** |
| **Respondent.** | **ENTERED BY DEFAULT** |

On May 11, 2009 the Director (the "Director") of the Department of Consumer and Business Services (the "Department") acting by the authority of Oregon Revised Statutes ("ORS") 59.840 et seq. (the "Oregon Mortgage Lender Law"), issued Administrative Order **M-09-0029-18**, ORDER TO CEASE AND DESIST, ASSESSING CIVIL PENALTIES AND NOTICE OF RIGHT TO HEARING (the "Proposed Order") against **CLEER CREEK INC** (the "Respondent").

On May 11, 2009, 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: **CLEER CREEK INC, HENDERSON, NV 89015.** Respondent received the certified mailing as evidenced by the signed return receipt. The regular mailing was not returned to the Department's Division of Finance and Corporate Securities (the "Division").

Respondent has not advised the Division of any change in its address or cessation of business at any of its offices, as required by Oregon Administrative Rule ("OAR") 441-860-0070.

Respondent has not made a written request for a contested case hearing in this

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

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. **CLEER CREEK INC** ("Respondent") is or was engaged in Oregon residential mortgage lending, operating from a principal place of business located at **CLEER CREEK INC, HENDERSON, NV 89015.** Respondent obtained a license **ML-3973** to engage in Oregon residential mortgage transactions that was effective in 2008.

2. ORS 59.860(3) requires that the Division obtain annual reports from licensed Oregon mortgage bankers and brokers concerning their residential mortgage lending activities. OAR 441-865-0025 defines the data required to be included in those reports and sets the deadline for filing them. The deadline for licensees to file mortgage lending annual reports was March 31, 2009.

3. On or about February 5, 2009, the Division activated a website (https://www4.cbs.state.or.us/exs/dfcs/mlrpt/) for licensees to use to file their annual reports. The Division posted a link to that website from the Division home page along with information on the annual report requirement. In addition, on February 6, 2009, the Division also posted a prominent notice on its Mortgage Lending Section website (http://www.dfcs.oregon.gov/mortgage_lending.html).

4. On or about February 6, 2009, an e-mail was sent to all the valid e-mail addresses the Mortgage Lending Section had for entities with a license at any time in 2008 reminding them of the requirement to file the report and providing information on how to do so. The list of e-mail addresses was tracked on a spreadsheet (the "Annual Report Spreadsheet") and saved on the Division's hard drive. Each "undeliverable" e-mail

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

address notice received was tracked on the Annual Report Spreadsheet. When the Division received notice that the e-mail should be forwarded to a different address, a Division employee forwarded the e-mail to the new address provided. This information was also tracked on the Annual Report Spreadsheet.

5. On or about February 6, 2009, a letter was sent to all active licensees that had a license any time in 2008 informing them of the requirement to file an annual report.

6. On March 9, 2009, another e-mail was sent to those entities for which the Division had a valid e-mail address, with a license at any time in 2008, but that had not yet filed an annual report. Again, the Division tracked those e-mails that were returned as "undeliverable" and a Division employee forwarded e-mails as directed. This information was tracked on the Annual Report Spreadsheet.

7. On March 25, 2009, a final e-mail was sent to those entities the Division had a valid e-mail address for that had not yet filed an annual report. The Division tracked those e-mails that were returned as "undeliverable" and forwarded e-mails as directed. This information was tracked on the Annual Report Spreadsheet.

8. On April 1, 2009, a final letter was sent to all active licensees that currently hold a mortgage banker / broker license in Oregon and had a license at some point in 2008, but had not yet filed an annual report. The letter reminded the licensees of the obligation to file an annual report and of the $100 per day penalty for failure to file the report.

9. As of June 15, 2009, Respondent had not filed an annual report for mortgage lending business conducted in 2008 and has not contacted the Division to discuss the issue.

//

//

## CONCLUSION OF LAW

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

1. By failing to file an annual report with the Director by March 31, 2009, Respondent violated ORS 59.860(3) and OAR 441-865-0025.

**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** Respondent to pay the State of Oregon a civil penalty of **$3,800.** The civil penalty is based on a fine of $100 per day for each day after March 31, 2009 through May 8, 2009 on which Respondent failed to file an Annual Report in violation of ORS 59.860(3) and OAR 441-865-0025.

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 25th day of June 2009, at Salem, Oregon.

NUNC PRO TUNC May 11, 2009.

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

CORY STREISINGER, Director
Department of Consumer and Business Services

David Tatman, Administrator
Division of Finance and Corporate Securities

//

**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**.

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

//

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