STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
MORTGAGE LENDING SECTION

BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

In the Matter of: **Fogg Mortgage Company Inc.,** **Respondent.**	**M-11-0011** **ORDER TO CEASE AND DESIST, ORDER TO PAY EXAMINATION EXPENSES, AND CONSENT TO ENTRY OF ORDER**

WHEREAS the Director of the Department of Consumer and Business Services for the State of Oregon (hereinafter "the Director") conducted an investigation of Fogg Mortgage Company Inc. and determined that Fogg Mortgage Company Inc. engaged in activities constituting violations of 86A.100 et seq, previously 59.840 et. seq, (hereinafter cited as the "Oregon Mortgage Lender Law"); and

WHEREAS Fogg Mortgage Company Inc. wishes to resolve and settle this matter with the Director,

NOW THEREFORE, as evidenced by the authorized signature subscribed on this order, Fogg Mortgage Company Inc. hereby **CONSENTS** to entry of this order upon the Director's Findings of Fact 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. Fogg Mortgage Company Inc. (hereinafter "FMC") is an Oregon domestic business corporation first registered on March 5, 1998. The company is located at 6405 NE 116th Avenue, #103A, in Vancouver, Washington, 98663.

2. On November 7, 1995, FMC first became licensed to engage in Oregon residential

mortgage transactions. (ML 778, NMLS 394650)

3. The Director's records list Edward Fogg as the sole owner and experienced person.

4. On August 9, 2010, an examiner employed by the Oregon Division of Finance and Corporate Securities (hereinafter "the Division") completed an on-site examination of the books and records of FMC. FMC received a satisfactory score of 3 out of a possible 5, with 5 being the worst.

5. The examination revealed, among other things, that FMC failed to produce a criminal records check for Edward Fogg.

6. FMC had only completed one loan since the previous examination in June 2009, so the examiner reviewed the one loan file to find it did not contain an executed loan application.

7. The fee for the on-site examination and preparation of the exam report owed by FMC totaled $225.00.

8. On or about August 31, 2010, the Division sent a report detailing the examination findings (hereinafter "examination report") with a cover letter requiring a response within two weeks along with an invoice for the payment of the examination fees. No response was received.

9. On September 23, 2010, an office specialist from the Mortgage Lending section of the Division spoke with Edward Fogg requesting a response to the examination report and extending the time to provide it to October 15, 2010. Edward Fogg confirmed that he understood an exam response was due.

10. Because no response was received, on November 1, 2010, the manager for the Mortgage Lending section of the Division sent an e-mail to the company's contact e-mail address containing a copy of the examination report and demanding a response to the report within two weeks of the e-mail.

11. On November 2, 2010, the Division received payment of the $225.00 examination fees, but did not receive a response to the examination report.

12. Because no examination response was received, on January 25, 2011, the Division sent a

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letter to FMC warning that the response to the examination report was due and gave the company until February 25, 2011 to file the response.

13. On or about March 28, 2011, the Division issued an order to FMC for failure to respond to the examination report.

14. On or about March 29, 2011, FMC submitted a satisfactory response to the examination report.

15. Division employees spent one hour of examiner time and two hours of enforcement time following the issuance of the examination report working to complete the examination.

CONCLUSIONS OF LAW

The Director **CONCLUDES** that:

1. By failing to respond to the Division's examination report following numerous requests, FMC violated ORS 86A.115(11), previously ORS 59.865(11).

2. By failing to produce a criminal records check completed for Edward Fogg, FMC violated OAR 441-860-0045(3).

3. By failing to maintain an executed loan application in the loan file reviewed, FMC violated OAR 441-865-0060(1)(a).

4. The three hours of Division examiner and enforcement time spent preparing this case following the issuance of the examination reports subjects FMC to $75 an hour examination expenses under ORS 86A.124, previously ORS 59.880, and OAR 441-860-0110(2).

ORDER

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

The Director, pursuant to ORS 86A.127(4), hereby **ORDERS** that FMC will **CEASE AND DESIST** from violating any provision of the Oregon Mortgage Lender Law, any rules, or orders issued by the Division.

Pursuant to OAR 441-860-0110(2), FMC must pay $225 in examination expenses ($75.00 x 3) for the three hours of Division time spent preparing this case. The date of this order

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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.

Dated this 10th day of May 2011 at Salem, Oregon.

Scott L. Harra, Acting Director

Department of Consumer and Business Services

/s/ David C. Tatman

David C. Tatman, Administrator

Division of Finance and Corporate Securities

ENTITY CONSENT TO ENTRY OF ORDER

I, Edward Fogg, state that I am an officer of Respondent FMC, and I am authorized to act on its behalf. I have read the foregoing Order and that I know and fully understand contents hereof and this entity have been advised of the right to a hearing and of the right to be represented by counsel in this matter. 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. Respondent understands that the Director reserves the right to take further action to enforce this Order or to take appropriate action upon discover of other violations of the Oregon Mortgage Lender Law; and that Respondent will fully comply with the terms and conditions stated herein.

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 the Oregon Mortgage Lender Law.

FMC understands that this Consent Order is a public document.

Dated this 2 day of May 2011

By Ed Fogg
President
(Office held)

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ENTITY ACKNOWLEDGMENT

There appeared before me this 2 day of May 2011 who was first duly sworn on oath, and stated that he was and is an officer 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.

/s/ Timothy S. White

Notary Public for the State of Washington

My commission expires: 7/19/2013

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