

STATE OF OREGON
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-11-0101

Rystadt & Escobar, Inc., NMLS # 259428

Final Order to Cease and Desist and
Order Assessing Civil Penalties Entered
by Default

Respondent.

On October 18, 2011, the Director of the Department of Consumer and Business Services for the State of Oregon (hereinafter “the Director”), acting pursuant to the authority contained in Oregon Revised Statutes (“ORS”) 86A.100 et seq. and Oregon Administrative Rules (“OAR”) 441-850-0005 through 441-885-0010 (hereinafter “the Oregon Mortgage Lender Law”) issued Administrative Order Case No. M-11-0101 Order to Cease and Desist, Proposed Order Assessing Civil Penalties and Notice of Opportunity for a Hearing (hereinafter “the Order”) to Rystadt & Escobar Inc. (hereinafter “Rystadt”).

On November 15, 2011, Rystadt requested a hearing.

On March 15, 2012, a prehearing telephone conference was held for this case in which Rystadt appeared, and another prehearing conference date was scheduled.

On May 24, 2012, a pre-hearing telephone conference was held for this case in which Rystadt appeared and was represented by counsel. An in-person hearing was scheduled for November 27 through November 30, 2012.

On November 27, 2012, neither Rystadt nor counsel for Rystadt appeared at the in-person hearing.

Rystadt was aware that failure to appear at the hearing would result in the entry of a final order by default.



1 **FINDINGS OF FACT**

2 The Director FINDS that:

3 1. Rystadt is an Oregon corporation first
4 registered with the Oregon Secretary of State on March 5, 2003.

5 2. Rystadt obtained an Oregon mortgage broker license from the Division
6 of Finance and Corporate Securities (hereinafter the “Division”) on May 7, 1998, NMLS#
7 259428. Rystadt’s principal place of business is listed as 9900 SW Wildshire Street, Suite 200
8 Portland, OR 97225.

9 3. In 2011, the Nationwide Mortgage Licensing System (hereinafter “NMLS”) released
10 the mortgage call report (hereinafter “MCR”) functionality. The MCR is comprised of
11 individual reports of activity by state called Residential Mortgage Loan Activity reports
12 (hereinafter “RMLA”) that are compiled and submitted by the company to NMLS on a quarterly
13 basis for each state in which the company does business or sponsors a mortgage loan originator
14 license.

15 4. The intent was for companies to gather data for the first quarter of 2011 (hereinafter
16 “Q1”), and Q1 reports would be due 45 days after the end of Q1.

17 5. The NMLS online Resource Center provided the following time frames and due
18 dates for licensed companies’ MCRs. Q1 data dates from January 1 through March 31, and the
19 MCR is due on May 15, 2011. Quarter two (hereinafter “Q2”) data dates from April 1 through
20 June 30, and the MCR is due on August 14, 2011.

21 6. On January 12, 2011, the Division sent an e-mail to the e-mail address of record in
22 NMLS to each Oregon licensed mortgage broker notifying them of the MCR requirements.
23 In this case, the email was sent to curtis@rystadt.com which has been the e-mail address of
24 record for Rystadt at all times relevant to this order.

25 7. On February 17, 2011, the Division sent an e-mail to Rystadt noting that the
26 Q1 MCR was due by May 15, 2011.





1 8. On March 9, 2011, the Division sent an e-mail to Rystadt notifying the
2 company that the Winter 2011 newsletter was available on the Division's website. The Winter
3 2011 newsletter included an article notifying companies of the MCR requirements.

4 9. In the Spring of 2011, the Division published the Spring newsletter which is mailed
5 to all licensed mortgage brokers and posted on the Division's website. The Spring newsletter
6 included information notifying the companies employing mortgage loan originators that they
7 were required to file a quarterly MCR with Q1 data for 2011 in NMLS.

8 10. Due to some technical difficulties NMLS experienced in processing the MCRs, on
9 May 2, 2011, the Division sent an email to Rystadt notifying that the deadline to file the Q1
10 MCR was extended to August 14, 2011. This was also the deadline for the Q2 MCR.

11 11. On May 13, 2011, the Division again sent an e-mail to Rystadt notifying that the
12 new deadline to file the Q1 MCR was extended to August 14, 2011.

13 12. On June 7, 2011, the Division sent another email to Rystadt notifying of the
14 MCR requirement.

15 13. Since Rystadt had not filed the Q1 MCR, on July 14, 2011, the Division placed a
16 deficiency in NMLS notifying the company of the Q1 MCR requirement that was due on
17 August 14, 2011. On the same day, the Division sent an e-mail to Rystadt notifying them of the
18 Q1 MCR requirement due on August 14, 2011.

19 14. On August 2, 2011, the Division sent a reminder e-mail to Rystadt notifying of
20 the MCR requirements.

21 15. In the beginning of August 2011, NMLS released a new report to regulators showing
22 if a company had filed a MCR, including RMLA for that state, and it showed that Rystadt had
23 not filed the MCR with NMLS.

24 16. On August 4, 2011, the Division placed a deficiency in NMLS notifying Rystadt of
25 the requirement to file the Q2 MCR by August 14, 2011.

26 17. On August 5, 2011, the Division sent Rystadt an e-mail reminder that the Q2 MCR



1 was due on August 14, 2011.

2 18. On August 16, 2011, the Division sent Rystadt another notice that it was late in
3 filing the Q2 MCR.

4 19. On August 17, 2011, the Division sent Rystadt a letter to the address of record
5 in NMLS notifying that it is required to file the MCR, including Q1 RMLA for Oregon. The
6 letter reported that if Rystadt did not file by September 23, 2011, the matter would be referred
7 for enforcement action.

8 20. On August 19, 2011, the Division sent Rystadt another letter notifying that it is
9 required to file the MCR, including Q2 RMLA for Oregon. The letter reported that if Rystadt
10 did not file by September 23, 2011, the matter would be referred for enforcement action. The
11 matter was referred for enforcement on October 10, 2011 for failure to file both the Q1 and the
12 Q2 reports.

13 21. As of the date the notice order was issued in this matter, October 17, 2011, Rystadt
14 had not filed a Q1 or Q2 MCR despite being notified numerous times to do so.

15 **CONCLUSIONS OF LAW**

16 The Director CONCLUDES that:

17 1. By failing to file the Q1 and Q2 MCR including RMLA for Oregon in NMLS by
18 August 14, 2011, Rystadt violated ORS 86A.239(2).

19 **ORDERS**

20 NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

21 The Director, pursuant to ORS 86A.127, hereby ORDERS Rystadt to Cease and Desist
22 from violating Oregon's Mortgage Lender Law.

23 The Director, pursuant to ORS 86A.992, may assess civil penalties of up to \$5,000 per
24 violation of the Oregon Mortgage Lender Law. Further, the Director may assess civil penalties
25 of up to \$20,000 for a continuing violation of the Oregon Mortgage Lender law.

26 The Director, pursuant to ORS 86A.992(1) and ORS 86A.992(2), orders Rystadt to pay

1 a civil penalty of \$10,000 for two violations of ORS 86A.239(2).

2 The entry of this Order in no way further limits remedies that may be available to the Director
3 under Oregon law.

4 Dated this 30th day of November, 2012.

5
6 PATRICK M. ALLEN, Acting Director
Department of Consumer and Business Services

7
8 /s/ David Tatman
David C. Tatman, Administrator
9 Division of Finance and Corporate Securities

10 Nunc Pro Tunc October 17, 2011.

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

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

