

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

In the Matter of:

Case No. DM-15-0032

AMERICAN CAPITAL
REVITALIZATION GROUP LLC,

Respondent.

FINAL ORDER TO CEASE AND
DESIST AND FINAL ORDER
ASSESSING CIVIL PENALTY
ENTERED BY DEFAULT

On April 2, 2015, the Director of the Department of Consumer and Business Services for the State of Oregon (the “Director”), acting in accordance with the Oregon statutes regulating debt management service providers, ORS 697.602 to 697.842, and the administrative rules promulgated thereunder, and ORS 183.415(3), duly served American Capital Revitalization Group, LLC with a true copy of Administrative Order S-15-0032, ORDER TO CEASE AND DESIST, PROPOSED ORDER ASSESSING CIVIL PENALTY AND NOTICE OF RIGHT TO AN ADMINISTRATIVE HEARING (the “Notice Order”).

In accordance with OAR 137-003-0075, the Notice Order designated the Division’s file, including all materials submitted by American Capital Revitalization Group, LLC, as the record for the purpose of making a prima facie case in the event that the Director entered a final order by default.

American Capital Revitalization Group, LLC did not timely request a hearing.

Now, therefore, on consideration of the record, the Director issues the following Findings of Fact, Conclusions of Law and Final Orders.

I. FINDINGS OF FACT

The Director FINDS that:





1 1. At all times relevant to this matter, American Capital Revitalization Group
2 LLC (“American Capital”) was a California limited liability company. According to
3 records filed with the California Secretary of State’s office, American Capital has a
4 business office in Culver City, California; but the company also uses an address in
5 Beverly Hills, California.

6 2. American Capital has never been registered with the Oregon Secretary of
7 State to do business in Oregon.

8 3. American Capital represented to at least one Oregon consumer that it was
9 authorized to perform or furnish residential mortgage assistance and debt relief services
10 to Oregon consumers. American Capital expressly or by implication solicited at least one
11 Oregon homeowner to assist or attempt to assist the homeowner in negotiating a
12 modification of a residential real estate loan, including a reduction in the amount owed to
13 facilitate a short sale of residential real estate.

14 4. At all times material to this order, the individuals identified herein as “JM”
15 and “KM” were Oregon residents and were party to a residential mortgage loan secured
16 by real estate located in Oregon.

17 5. On or about late October or early November, 2014, American Capital solicited
18 JM and KM to provide mortgage assistance services. JM and KM paid American Capital
19 \$3,625 for services that were never performed.

20 6. At no time material to this matter did American Capital ever hold a license
21 from the Director to engage in residential mortgage transactions as a mortgage broker in
22 Oregon. American Capital has never been registered with the Director to provide debt
23 management services in Oregon.

24 7. At no time material to this Order did American Capital file a surety bond with
25 the Director to engage in debt management services in Oregon.

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1 II. CONCLUSIONS OF LAW

2 The Director CONCLUDES that:

3 8. American Capital acted as a “mortgage broker” under ORS 86A.100(5)(a)(C)
4 when American Capital for compensation, or in the expectation of compensation, either
5 directly or indirectly made, negotiated, or offered to make or negotiate a modification to
6 the terms and conditions of a mortgage loan.

7 9. American Capital engaged in “residential mortgage transactions in this state”
8 under ORS 86A.103(2) by acting as a mortgage broker when American Capital offered to
9 negotiate a modification to the terms and conditions of JM and KM’s residential
10 mortgage loan secured by property located in Oregon.

11 10. American Capital violated 86A.103(1) by engaging in residential mortgage
12 transactions in Oregon without first obtaining a license as a mortgage broker under ORS
13 86A.095 to 86A.198.

14 11. American Capital received money or expected to receive money for providing
15 debt management services by modifying or offering to modify the terms and conditions
16 of an existing loan under ORS 697.602(2)(c), in violation of ORS 697.612(1)(a).

17 12. American Capital performed debt management services as defined by ORS
18 697.602(2)(d) when it received or offered to receive money from a consumer in return for
19 obtaining or attempting to obtain as an intermediary on a consumer’s behalf a concession
20 from a creditor including, but not limited to, a reduction in the principal, interest,
21 penalties or fees associated with a debt.

22 13. American Capital violated ORS 697.612(1) by engaging in the business of
23 debt management service provider without being registered with the Director.

24 14. American Capital violated ORS 697.692(1)(a) by charging Oregon consumers
25 JM and KM an initial fee of more than \$50.

26 15. American Capital violated ORS 697.642(1) when it performed debt

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1 management services without first filing a bond issued by one or more corporate sureties
2 authorized to do business in Oregon.

3
4 III. ORDERS

5 Now, therefore, the Director issues the following ORDERS:

6 *Final Order to Cease and Desist*

7 16. In accordance with ORS 86A.127(4) and 697.825(1)(a), the Director hereby
8 orders American Capital and all entities owned or controlled by American Capital, to
9 CEASE AND DESIST from violating any provision of the Oregon statutes regulating
10 mortgage lending, ORS 86A.100 *et seq.*, and debt management service providers, ORS
11 697.602 to 697.842.

12 *Final Order Assessing Civil Penalty*

13 17. Under ORS 86A.992(1), the Director may assess a civil penalty in an amount
14 not to exceed \$5,000 per violation against any person who violates or who procures, aids
15 or abets in the violation of any provision of ORS 86A.095 to 86A.198 or any rule or
16 order issued under ORS 86A.124 or 86A.242.

17 18. Under ORS 697.832(1), the Director may assess a civil penalty in an amount
18 not to exceed \$5,000 per violation against any person who violates ORS 697.612 or
19 697.642 to 697.702, rules adopted under ORS 697.632, or any order issued under ORS
20 697.825.

21 19. In accordance with ORS 86A.992(1) and 697.832(1), the Director ORDERS
22 American Capital to pay a CIVIL PENALTY in the amount of \$15,000 (fifteen thousand
23 dollars) as follows:

24 A. A CIVIL PENALTY of \$5,000 (five thousand dollars) for violating ORS
25 86A.103(1) by acting as a mortgage broker without holding a license from the Director
26 and violating ORS 697.612(1)(a) by engaging in the business of performing debt



1 management services without being registered with the Director;

2 B. A CIVIL PENALTY OF \$5,000 (five thousand dollars) for violating ORS
3 697.692(1)(a) by charging Oregon consumers JM and KM an initial fee of more than
4 \$50; and

5 C. A CIVIL PENALTY of \$5,000 (five thousand dollars) for performing debt
6 management services without first filing a bond as required by ORS 697.642(1).

7
8 IV. AUTHORITY OF THE DIRECTOR TO SEEK OTHER
9 REMEDIES UNDER OREGON LAW

10 20. This Order is a “Final Order” under ORS 183.310(6)(b). Subject to that
11 provision, the entry of this Order does not limit other remedies that are available to the
12 Director under Oregon law.

13 SO ORDERED this 27th day of April, 2015 at Salem,
14 Oregon.

15 PATRICK M. ALLEN, Director
16 Department of Consumer and Business Services

17 /s/ David Tatman
18 David C. Tatman, Administrator
19 Division of Finance and Corporate Securities

20 NOTICE OF RIGHT TO APPEAL

21 Pursuant to ORS 697.825(2)(c), a person aggrieved by an Order of the Director of
22 the Department of Consumer and Business Services which has been the subject of a
23 timely application for a hearing before the Director shall be entitled to judicial review of
24 the order under ORS chapter 183. Pursuant to ORS 697.825(2)(e), a person who does not
25 timely file a request for a hearing on an order is not entitled to judicial review.

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