

1 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
2 DIVISION OF FINANCE AND CORPORATE SECURITIES  
3 ENFORCEMENT SECTION  
4 BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

5 In the Matter of:

M-05-0085

6 Marcy Garber,  
7 Respondent.

FINAL ORDER TO CEASE AND DESIST  
and  
ORDER ASSESSING CIVIL PENALTIES  
BY DEFAULT

8  
9  
10 On October 17, 2005, the Director of the Department of Consumer and Business  
11 Services for the State of Oregon (hereafter the "Director"), acting by and pursuant to the  
12 authority of Oregon Securities Law, Chapter 59 of the Oregon Revised Statutes, and  
13 other applicable authority, issued Administrative Order No. M-05-0085 to Cease And  
14 Desist And Assessing Civil Penalties And Notice Of Right To Hearing (hereafter "the  
15 Order") against Respondent Marcy Garber.

16 On October 17, 2005, Respondent Marcy Garber was duly served with a true  
17 copy of the Order and Notice by United States Mail, postage prepaid, and addressed to  
18 Respondent Marcy Garber at the following last known address: 2566 Page Place SE,  
19 Albany, Oregon 97322. The mailing made by certified mail was returned, marked  
20 "unclaimed." A similar mailing was made via regular first class mail was not returned.

21 Respondent Marcy Garber has not made a written request for a contested case  
22 hearing in this matter and the time to do so has expired.

23 **NOW THEREFORE**, after consideration of the Investigation Report and  
24 accompanying exhibits submitted in this matter by Kirsten Anderson, Enforcement  
25 Officer, the Director hereby issues the following Findings of Fact, Conclusions of Law,  
26 and Final Order:

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4140



## FINDINGS OF FACT

1  
2 1. At all times material herein, Lighthouse Lending and Investments Inc. dba  
3 Lighthouse Lending (hereinafter, "Lighthouse"), an Oregon corporation, engaged in  
4 residential mortgage transactions in Oregon or on Oregon real property in expectation  
5 of compensation. Lighthouse's principal place of business was 615 N. First Avenue in  
6 Stayton, Oregon 97383. At all times hereto, Lighthouse was licensed as residential  
7 mortgage lender in the State of Oregon. The Oregon mortgage lender license number  
8 for Lighthouse is ML-962.

9 2. At all times material herein, Lighthouse had numerous branch offices in  
10 Oregon authorized to do residential mortgage transactions in Oregon.

11 3. Rodney Smith was the president and owner of Lighthouse.

12 4. At all times material herein, Lighthouse had notified the Director that  
13 Marcy Garber (hereinafter "Respondent") was employed to act as a loan originator for  
14 Lighthouse.

15 5. Sometime in July 2003, Respondent began operating from a location of  
16 413 Second Avenue SW in Albany, Oregon 97321 (hereinafter "the America One  
17 location").

18 6. Respondent occupied the America One location via a sublet agreement  
19 until the lease was formalized in November 2003.

20 7. At all times material herein, Lighthouse did not obtain a license for the  
21 America One location.

22 8. At all times material herein, Respondent knew that Lighthouse had not  
23 obtained a license for the America One location.

### 24 **A. Knowingly Engaging in Oregon Residential Mortgage Loans from an** 25 **Unlicensed Location**

26 9. On the morning of November 18, 2003, Kirsten Anderson, an employee of





1 the Division of Finance and Corporate Securities (hereinafter "the Division") and an  
2 agent of the Director, specifically informed Respondent that the America One location  
3 was not licensed to engage in Oregon residential mortgage lending and Respondent  
4 could not engage in Oregon residential mortgage lending from the America One location  
5 until the location was licensed.

6 10. Respondent acknowledged the prohibition and further noted that she  
7 would contact Rodney Smith to get the America One location licensed.

8 11. In the afternoon of November 18, 2003, Respondent met with Susan  
9 Schoaps and Robert Brunner, also employees of the Division and agents of the  
10 Director, at the America One location where Respondent proceeded to discuss various  
11 residential mortgage loan options and obtained information from them necessary to  
12 begin the loan process.

13 12. Respondent continued to engage in Oregon residential mortgage lending  
14 through at least February 2004 from the America One location.

15 13. Respondent operated a web site soliciting Oregon residential mortgage  
16 loans for the America One location after November 18, 2003 and through at least  
17 January 29, 2004.

18 14. Respondent advertised the availability of Oregon residential mortgage  
19 loans at the America One location on the radio, including advertisements on KLOO,  
20 KEJO, and KRKT, after November 18, 2003 and through at least January 2004.

21 15. Respondent advertised the availability of Oregon residential mortgage  
22 loans at the America One location in the January and February 2004 editions of the  
23 Oregon Real Estate Magazine.

24 16. On November 18, 2003, the America One location had signs on the  
25 window advertising the availability of residential loans, including FHA.

26 17. As of February 2004, the signs advertising the availability of residential



1 loans, including FHA, were still visible in the window of the America One location.

2 **B. False Statement about Engaging Oregon Residential Mortgage Loans**

3 18. On November 18, 2003, Respondent stated to Kirsten Anderson that she  
4 did not have any residential transactions in progress at the America One location.

5 19. The Director issued a subpoena to Respondent requiring the production of  
6 documentation and her appearance to provide testimony on January 27, 2004  
7 (hereinafter "the Subpoena").

8 20. On January 27, 2004, Respondent appeared pursuant to the Subpoena at  
9 the Director's office where, after being duly sworn, Respondent answered questions,  
10 including many related to conduct that occurred at the America One location  
11 (hereinafter "the Deposition").

12 21. During the Deposition, Respondent admitted under oath that she had  
13 done two residential mortgages since moving to the America One location including the  
14 first and second mortgages for Robert and Tabatha Anderson and a first mortgage for  
15 Lucas Victor but noted that she didn't meet with the consumers at the America One  
16 location.

17 22. In response to the Subpoena, Respondent produced three residential  
18 loans files, including separate first and second mortgage files for Robert and Tabatha  
19 Anderson and a first mortgage file for Lucas Victor.

20 23. Respondent's process of obtaining the first and second mortgage loans for  
21 Robert and Tabatha Anderson started on or about August 15, 2003 and ended when  
22 the loan were closed and funded on or about December 10, 2003.

23 24. Specifically, on November 21, 2003, Respondent signed the Wholesale  
24 Document Order Request Form requesting that loan documents be sent to escrow on  
25 the Anderson loans.

26 25. As part of originating the first and second residential mortgage loans for



1 Robert and Tabatha Anderson, Respondent sent and received correspondence material  
2 to the transaction of the loans from the America One location.

3 26. Respondent also paid Vince Cappalo in connection with the completion of  
4 residential mortgages throughout November and December 2003.

5 **C. False Statement about Advertising on the Radio**

6 27. During the Deposition, Respondent stated under oath that she was not  
7 advertising on the radio in response to a line of questioning inquiring if she was  
8 soliciting residential loans for the America One location on the radio.

9 28. Clear Channel Communications Inc. records indicate that Respondent  
10 was the contact for advertising taken out on several radio stations, including KLOO,  
11 KEJO, and KRKT, for the period of August 2003 through January 2004.

12 29. The advertisements solicited Oregon mortgage loans in connection with  
13 the America One location.

14 **D. False Statement about Advertising in Print Media**

15 30. During the Deposition, Respondent further stated under oath that she was  
16 not advertising by means such as using flyers or newspaper advertising in response to  
17 a line of questioning inquiring if she was soliciting residential loans for the America One  
18 location using print media.

19 31. Respondent worked with Vince Cappalo to put together advertisements for  
20 print media including an advertisement appearing in the January and February 2004  
21 editions of the Oregon Real Estate Magazine offering to transact Oregon residential  
22 mortgage loans at the America One location.

23 32. Respondent also worked with New Generation Media to develop a web  
24 site offering to transact Oregon residential mortgage loans at the American One location  
25 (hereinafter "the America One web site").

26 33. The America One web site was operational on January 27, 2004.

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4140



1 **E. False Statement about Approving the Window Advertising**

2 34. During the Deposition, Respondent further stated under oath that she  
3 didn't approve the window signs advertising residential mortgage loans in the windows  
4 of the America One location.

5 35. However, on September 10, 2003, Respondent sent Jenny Van Dyke of  
6 Van Dyke's Signmakers a facsimile listing types of loans including residential, FHA and  
7 VA.

8 36. On September 16, 2003, Respondent signed an approval for Van Dyke's  
9 Signmakers of the window signs that were later placed at the America One location.

10 **F. False Statement about Meeting Customers at the America One Location**

11 37. During the Deposition, Respondent stated under oath that she had not  
12 met with any customers at the America One location in regard to residential mortgage  
13 loans.

14 38. As noted previously, on the afternoon of November 18, 2003, Respondent  
15 met with Susan Schoaps and Robert Brunner, also employees of the Director, at the  
16 America One location where Respondent proceeded to discuss various residential  
17 mortgage loan options and obtained information from them necessary to begin the loan  
18 process.

19 **CONCLUSIONS OF LAW**

20 The Director **CONCLUDES** that:

- 21 1. Respondent violated ORS 59.971(2) by continuing to engage in Oregon  
22 residential mortgage loans at the America One location after November 18, 2003  
23 without complying with the requirements of ORS 59.950(2), OAR 441-860-0030 and  
24 OAR 441-860-0020(11) after being specifically told by an employee of the Director on  
25 November 18, 2003 that the location was not licensed and that they could not engage in  
26 Oregon residential mortgage loans until it was licensed.



- 1           2. Respondent's violation of ORS 59.971(2) was a continuing violation that
- 2 occurred continually from November 18, 2003 through at least February 2004.
- 3           3. Respondent violated ORS 59.930(4) by telling an employee of the Director
- 4 that she did not have any residential mortgage transactions in progress on November
- 5 18, 2003 when she was working on a residential mortgage transaction for Robert and
- 6 Tabatha Anderson.
- 7           4. Respondent violated ORS 59.930(4) by telling employees of the Director
- 8 under oath during the Deposition that she had not advertised the America One location
- 9 on the radio when Respondent had taken out advertising on radio stations for the
- 10 America One location between August 2003 and January 2004.
- 11           5. Respondent violated ORS 59.930(4) by telling employees of the Director
- 12 under oath during the Deposition that she had not advertised the America One location
- 13 in print when Respondent had advertised the America One location in the January and
- 14 February 2004 editions of the Oregon Real Estate Magazine and on the America One
- 15 web site.
- 16           6. Respondent violated ORS 59.930(4) by telling employees of the Director that
- 17 she had not approved the signage placed in the windows at the America One location
- 18 when Respondent had signed an approval for the signage in the windows of the
- 19 America One location on September 16, 2003.
- 20           7. Respondent violated ORS 59.930(4) by telling employees of the Director that
- 21 she had not met with any customers at the America One location regarding Oregon
- 22 residential mortgage loans when Respondent had met with Robert Brunner and Susan
- 23 Schoaps about obtaining an Oregon residential mortgage loan on the afternoon of
- 24 November 18, 2003.
- 25           ///
- 26           ///

1 **ORDER**

2 **NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:**

3 The Director, pursuant to ORS 59.885(4), hereby **ORDERS** that Respondent will  
4 **CEASE AND DESIST** from violating any provision of Oregon Mortgage Lender Law,  
5 OAR 441-850-0005 through 441-885-0010 and any rule, order or policy issued by the  
6 Division specifically including not engaging in Oregon residential mortgage loans from  
7 an unlicensed location and making false statements to the Director.

8 The Director, pursuant to ORS 59.996, hereby **ORDERS** Respondent to pay the  
9 State of Oregon a civil penalty of \$45,000. The civil penalty is based upon \$20,000 for  
10 a continuing violation of ORS 59.971(2) and \$5,000 for each of the five violations of  
11 ORS 59.930(4).

12 The date of this order is the day the Director or Director's nominee signs the  
13 order. The entry of this Order in no way limits further remedies which may be available  
14 to the Director under Oregon law.

15 IT IS SO ORDERED.

16 Dated this 8<sup>th</sup> day of NOVEMBER, 2005, at Salem, Oregon.

17 CORY STREISINGER, Director  
18 Department of Consumer and Business Services

19   
20 \_\_\_\_\_  
21 David Tatman, Administrator  
22 Division of Finance and Corporate Securities

23 NOTICE: You are entitled to judicial review of this Order. Judicial review may be  
24 obtained by filing a petition with the Court of Appeals in Salem, Oregon within 60 days  
25 from the service of this Order. Judicial review is pursuant to the provisions of ORS  
26 183.482 to the Oregon Court of Appeals.

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4140

