

Mortgage Regulation

NEWS

Oregon Division of Finance & Corporate Securities

Winter 2008

Administrator's message



David Tatman

The past five months have been quite challenging for the mortgage lending industry and consumers. I'm pleased that we have worked hard, in coop-

eration with the Oregon Association of Mortgage Professionals, to try to create some positive outcomes from the recent events.

As most of you heard or read about in the newspaper, the governor asked the Department of Consumer and Business Services to organize a work group of interested parties to evaluate both short- and long-term proposals addressing concerns with mortgage lending practices.

The short-term goal is to help consumers challenged by resetting adjustable rate mortgages or foreclosures. Longer term, we expect to analyze lending practices to determine if there are issues that should be addressed during the 2009 legislative session.

The work group has met a number of times to tackle issues such as foreclosure data, foreclosure rescue businesses, the notification consumers receive when they are in default, and strengthening our enforcement tools.

The 2008 special legislative session is discussing important consumer protections for Oregonians working

with foreclosure rescue businesses, improved notification standards, and enhanced enforcement laws. We also expect the group to continue meeting after the February session to discuss the longer-term objective of measuring appropriate lending practices.

The work group is composed of industry representatives, consumer advocates, and members of state government, including legislators. All of the participants are working diligently to try to find remedies for Oregonians. Many participants, including representatives of the association, have given hundreds of hours of their personal time to listen and communicate about these important issues. Although the participants have not always agreed, the commitment to respectful and open dialogue is invaluable and has improved our mutual understanding of the issues.

The division also is reviewing our administrative rules on advertising to make them more effective. Many lenders have shared concerns during the past few years about companies that use advertising clearly intended to mislead borrowers. During our enforcement efforts with these companies, we have found areas in our rules that – if strengthened and clarified – will greatly improve our efforts to stop these practices. Please watch your mailboxes for notifications about that rulemaking and please provide input to the division about those changes.

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Division of Finance & Corporate Securities



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350 Winter St. NE, Rm. 410
Salem, Oregon 97301-3881

<http://dfcs.oregon.gov>
(503) 378-4140

Administration

David Tatman

Administrator

david.c.tatman@state.or.us

Nancy Boysen

Deputy Administrator

nancy.j.boysen@state.or.us

Program Contacts

Mortgage Lending Program Manager
Vacant

Fernando Velez

Consumer Information Specialist
fernando.a.velez@state.or.us

In-house Examiners

Betty Keppinger.....A–E
betty.a.keppinger@state.or.us

Lee Proctor.....F–M
d.lee.proctor@state.or.us

Ken Power.....N–Z
kenneth.e.power@state.or.us

Field Examiners

Jeffrey Keuter
jeffrey.l.keuter@state.or.us

Anna Mahony
anna.m.mahony@state.or.us

Mike Ruda
mike.s.ruda@state.or.us

Tips for a successful examination

We routinely hear from our licensees that preparing for an examination is a source of anxiety. Since the division has tripled the number of examinations we perform each year, you can anticipate being scheduled for an examination soon, especially if you've never had one. Here are a few tips to ensure the process goes smoothly:

- Have all education certificates available at the time of examination. Failure to comply with the education portion of the law is the most common violation found by examiners. The education law went into effect Jan. 1, 2002, and we have found that a large number of loan originators do not meet the minimum requirements of 20 hours every two years.
- Have available criminal records checks on loan originators. Criminal records checks must be ordered prior to hiring loan originators and must include federal and state databases. If you are the owner of the company and also a loan originator, you also must have a 10-year state and federal background check on file for the examiner to review.
- Each loan file must contain a signed interest rate lock or float agreement. This document is designed to ensure that the borrower understands that the rate is either floating or is locked and that all terms of the lock are adequately disclosed.

In addition to these common violations, there are some violations that occur less frequently, but warrant discussion:

- **Blank, signed documents** – The division recommends against having the borrower sign any document that is blank or incomplete.

- **Prepaid finance charges** – The annual percentage rate disclosed on the Truth-in-Lending Disclosure is calculated using prepaid finance charges. Including the correct charges ensures an accurate calculation and disclosure.
- **List of loan originators** – Oregon Revised Statute (ORS) 59.969(1) and Oregon Administrative Rule (OAR) 441-880-0030 requires the licensee to maintain a list of loan originators employed by the licensee. The list provided to the examiner at the time of examination must include all items mentioned in the above OAR (3) (a) through (f).

On Jan. 1, 2008, the division began reviewing the written Supervision Policy required for each licensee at the time of examination. Oregon Administrative Rule (OAR) 441-860-0040 details the requirements for supervision by the licensee, and section 2 (a) specifically discusses written procedures for supervision.

We issue an examination report to each licensee that includes our findings and a score or rating at the conclusion of the examination process. Scores below satisfactory require a second examination. A score of marginal is revisited within one year, and a score of poor is revisited within six months when a second score is below satisfactory. We generally refer the licensee to the Enforcement Section for further investigation and possible action.

The division is dedicated to assisting our licensees with any questions or concerns that will help the licensee to be successful throughout the examination process. We encourage communication before, during, and after the examination. ■



Enforcement updates

Diamond Financial Group of America and Kevin Covington M-07-0018

Consent order - Oct. 31, 2007, and a civil penalty of \$2,500. Cease-and-desist order of revocation and barring from control positions, order imposing civil penalties, and consent to entry of order.

On Nov. 8, 2007, 44-year-old **Corey Pritchett**, a self-described pastor, was convicted in Multnomah County on 32 felony counts, including theft and securities and real estate fraud. He was sentenced to 94 months in state prison. Pritchett used various real estate-based scams to bilk at least nine victims, mostly low-income people, out of at least \$43,000. In one scheme, Pritchett told his victims he would use their investment money to purchase homes that he would repair, renovate, and sell for a profit. He pocketed the money instead. In another instance, Pritchett sold a home that he did not own. In another case, he sold two people the same house on the same day. As a result, some victims were evicted and forced to live in their vehicles or homeless shelters. Pritchett gained the trust of many of his victims by identifying himself as a religious pastor who ran charities to help those in need of food and housing.

On Dec. 11, 2007, **Michael Rich**, the former president and chief executive officer of Pac Equities, Inc. in Bend, Ore., was found guilty by a jury in U.S. District Court on 25 counts related to securities and real estate fraud. Rich will be sentenced in April. His wife, Phyllis Rich, former chief operating officer of Pac Equities, Inc., is currently serving 51 months in federal prison for similar crimes. Michael Rich, through Pac Equities, purported to manage profitable real estate development projects, including a subdivision in Phoenix, Ariz., a resort complex in Ocean Shores, Wash., and four endeavors in Oregon: a high-density townhouse development in Salem, a dairy in Culver, commercial buildings in Redmond, and an industrial park in Alpine. The couple solicited more than 300 people to invest more than \$18 million in real estate development projects and loans with the promise of annual returns. Michael Rich misrepresented several things about his educational background, his employment history and experience, and the nature and security of the contracts. Most of the invested money was lost. ■

Administrator's message, *continued* . . .

Finally, I would like to update you on some personnel changes in the division. Berri Leslie, Mortgage Lending Program manager, has announced that she will be leaving DFCS at the end of February for a position with the Washington Department of Financial Institutions. We will be recruiting for her replacement immediately. We were also sorry to

lose Tim Spencer, senior examiner, in January and we will be announcing his replacement shortly.

We always enjoy hearing from you and the exchange of ideas about mortgage lending. Feel free to contact me at david.c.tatman@state.or.us. ■

David Tatman
Administrator, Division of Finance & Corporate Securities

Continuing education:

Know before you go!

Think that great course on marketing is continuing education? Does the flyer say it's approved? It might not be.

The Oregon Mortgage Lending Education Board has come across some cases in which instructors are advertising their approval without having one. Every time you sign up to take a "continuing or entry-level course," look for the course name and approval number, then go to <http://oregonmleb.com> and click on approved courses to check the status.

Don't get caught without the required hours for continuing education. Recent cases have cost up to \$5,000 per closed loan. Look for upcoming classes covering ethics and fraud. Some are reduced in price by a subsidy from the OMLEB. Simply fill out a class survey and save. For more information, visit <http://oregonmleb.com>. ■

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Editing

Berri Leslie, DFCS
Mark Peterson,
Communications

Design and production

Shonnie Emerson,
Communications

Web: <http://dfcs.oregon.gov>



**Division of Finance &
Corporate Securities**

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New loan originator search mechanism

The mortgage lending portion of the division Web site will soon feature a new mechanism to search for loan originators and mortgage companies. You will be able to search for loan originators by their last name or search for a specific company. The information available on both active and inactive loan originators will now include their employment history and their continuing

education due date as well as a continuing education calculator to help you determine education requirements. We think this new feature will be useful for consumers and the industry.

Also, we are working to include administrative actions with this registry. ■