

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Mortgage Banker License of: No. 09F-BD006-BNK

3 **PACIFIC COAST MORTGAGE, INC. #1,**
4 **AND ZACHARY P. ARNOLD, PRESIDENT**
6991 East Camelback Road, Suite C-250
5 Scottsdale, AZ 85251

CONSENT ORDER

Petitioners.

7 On July 15, 2008, the Arizona Department of Financial Institutions (“Department”) issued an
8 Order to Cease and Desist; Notice of Opportunity for Hearing; and Consent to Entry of Order,
9 ordering Petitioners to cease violating Arizona law. Wishing to resolve this matter in lieu of an
10 administrative hearing. Petitioners do not contest the following Findings of Fact and Conclusions of
11 Law, and consent to the entry of the following Order.

12 FINDINGS OF FACT

13 1. Petitioner Pacific Coast Mortgage, Inc. #1 (“Pacific Coast #1”) is an Arizona corporation
14 authorized to transact business in Arizona as a mortgage banker, license number BK 0905081,
15 within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of Pacific Coast #1’s business is that of
16 making, negotiating, or offering to make or negotiate a mortgage banking loan or a mortgage loan
17 secured by Arizona real property within the meaning of A.R.S. § 6-941(5).

18 2. Petitioner Zachary P. Arnold (“Mr. Arnold”) is the President of Pacific Coast #1, and is
19 authorized to transact business in Arizona as a mortgage banker within the meaning of A.R.S. § 6-
20 941(5), as outlined within A.R.S. § 6-943(F).

21 3. Pacific Coast #1 and Mr. Arnold are not exempt from licensure as mortgage bankers
22 within the meaning of A.R.S. §§ 6-942 and 6-941(5).

23 4. A January 14, 2008, examination of Pacific Coast #1, conducted by the Department,
24 revealed that Pacific Coast #1 and Mr. Arnold:

- 25 a. Failed to include their name and license number as issued on the
26 mortgage banker’s principal place of business license within the text of all

1 regulated advertising or business solicitations and by failing to fully comply
2 with the disclosure requirements of Title I of the Consumer Credit Protection
3 Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures
4 Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under
5 these acts, specifically:

- 6 i. Petitioners' advertising is missing mortgage banking license number
7 BK0905081 on at least nine (9) website advertisements; and
- 8 ii. Petitioners failed to review all advertisements to ensure compliance;
- 9 b. Solicited and transacted business using an unapproved name, specifically:
 - 10 i. Petitioners used an unapproved name on at least five (5) website
11 advertisements; and
 - 12 ii. Petitioners failed to review all advertisements and website domain
13 names to ensure compliance;
- 14 c. Failed to conduct the minimum elements of reasonable employee
15 investigations prior to hiring employees, specifically:
 - 16 i. Failed to obtain a completed Employment Eligibility
17 Verification (Form I-9) before hiring at least three (3) employees;
 - 18 ii. Failed to obtain a dated I-9 before hiring at least ten (10) employees;
 - 19 iii. I-9 completed after hire date on at least two (2) employees;
 - 20 iv. I-9 stale dated on at least two (2) employees;
 - 21 v. Failed to collect and review all of the documents authorized by the
22 Immigration and Control Act of 1986 before hiring at least seven (7)
23 employees;
 - 24 vi. Failed to obtain a timely completed and signed employment
25 application before hiring at least four (4) employees;
 - 26 vii. Failed to consult with an applicant's most recent or next most recent
employer before hiring at least forty (40) employees, on at least four

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- (4) stale dated, and on at least one (1) not dated;
- viii. Failed to inquire regarding an applicant's qualifications and competence before hiring at least fifteen (15) employees; on at least two (2) stale dated, and on at least one (1) not dated;
- ix. Failed to obtain a current credit report from a credit reporting agency before hiring at least five (5) employees, and
- x. Failed to obtain a timely signed statement attesting to all of an applicant's felony convictions, including detailed information regarding each conviction before hiring at least three (3) employees, and three (3) not dated;
- d. Failed to maintain originals or copies of loan transactions, specifically:
 - i. The application was missing from at least one (1) mortgage loan file;
 - ii. The application date was missing from at least one (1) mortgage loan application; and
 - iii. Failed to correct these violations from their last examination;
- e. Failed to comply with the disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated under these acts, specifically:
 - i. Pacific Coast #1 does not document the date its "Servicing Transfer Disclosure" document is presented to the borrower. Without a documented date on this disclosure, the examiners are unable to determine if these disclosures were presented to the borrowers within the required three (3) days of application date;
 - ii. A Servicing Transfer Disclosure was missing from at least three (3) mortgage loan files and at least four (4) disclosures that were not

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presented to the borrowers within the required three (3) days of application date;

- iii. Failed to sign and date one (1) Good Faith Estimate (“GFE”); at least two (2) disclosures that were not presented to the borrowers within the required three (3) days of application date, and at least three (3) with the yield spread premiums missing from the GFE;
 - iv. A Truth-in-Lending Disclosure was missing from at least two (2) mortgage loan files, and at least two (2) disclosures that were not presented to the borrowers within the required three (3) days of application date; and
 - v. Failed to correct these violations from their last examination;
- f. Allowed borrowers to sign regulated documents containing blank spaces, specifically:
- i. Pacific Coast #1 has a statutorily correct “Consent to Complete Documents” disclosure; however, it is improperly used. The disclosure contains a standardized form which includes as “DOCUMENT(S):” the “Uniform Residential Loan Application – Form 1003,” and as “SPECIFIC PROVISION TO BE COMPLETED:,” “Any, except Section VIII, Section X, and all signatures,” whether or not these spaces listed in the disclosure for this document were intentionally left blank. To list “all signatures” as a space to be left blank is improper as the purpose of this disclosure is to advise borrowers that they are not required to sign any documents which contain blanks spaces;
 - ii. Pacific Coast #1 also failed to list any other documents/disclosures requiring signatures which consistently contained blank spaces to be completed at a later date; and

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- iii. Failed to correct these violations from their last examination;
- g. Contracted with or paid compensation to unlicensed, independent contractors; specifically:
 - i. Petitioners paid co-broker fees to the following mortgage broker companies which were not licensed in Arizona during 2006:

1.	Zenith Financial Mortgage	\$ 6,990.00
2.	Burns Financial	\$ 7,067.60
3.	Nu-Start Financial	\$ 3,036.00
4.	Quantum Bancorp	\$ 5,844.38
5.	Tristar Lending	\$ 3,200.00
6.	La Jolla Wealth Management	\$17,149.44
7.	Ocean Mortgage	\$29,736.56
8.	Viva Financial Group, Inc.	\$ 2,300.00
9.	Metro Express Realty and Mortgage	\$ 7,893.80
10.	Maher Financial Group, Inc.	\$ 750.00
 - ii. Petitioners paid co-broker fees to the following mortgage brokers companies which were not licensed in Arizona during 2007:

1.	California Equities	\$5,028.80
2.	Zenith Financial Mortgage	\$3,600.50
3.	Equity National Funding	\$4,362.81
4.	Burns Financial	\$8,373.10
5.	Kevin Richards	\$1,310.00
 - iii. Failed to correct these violations from their last examination;
- h. Failed to maintain correct and complete trust subsidiary ledgers/verification, specifically:

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- i. Petitioners' trust subsidiary ledger is missing the date on which the licensee received the advance fees from the borrower;
- i. Failed to immediately deposit advances or fees into a trust account;
- j. Made false promises, misrepresentations, or concealed essential or material facts in the course of the mortgage banker business, specifically:
 - i. A review of ten (10) mortgage loan files shows a series of misrepresentations, including misrepresentations of owner occupied residences, rental properties, employment, gross monthly income, net rental income, net worth, and the disclosure of properties owned, and property addresses, specifically:
 - 1. Lender Case Number 06-25137-013; and 06-25164-013;
 - 2. Lender Case Number 06-25451-013; and 06-25452-013;
 - 3. Lender Case Number 06-25623-013;
 - 4. Lender Case Number 07-27021-013;
 - 5. Lender Case Number 07-27061-013; and 07-27038-013;
 - 6. Lender Case Number 07-28762-013; and
 - 7. Lender Case Number 06-24216-013.
- k. Misrepresented the truthfulness, honesty and character of two (2) principals of Pacific Coast #1 by failing to disclose final judgments against the principals and their company in personal history statements file with the Department, specifically:
 - i. On June 19, 2006, the Department received correspondence from Teledraft, Inc., requesting permission to purchase fifty percent (50%) of Pacific Coast #1. The three (3) principals of Teledraft, Inc. included personal history statements with this request which failed to disclose a lawsuit brought by the Iowa State Attorney General's Office against Teledraft, Inc. and two (2) of its principals. The charges

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1 included deceptive trade practices against elderly citizens of the State
2 of Iowa. The case was settled through consent on December 9, 2005,
3 including a judgment for the plaintiff for \$45,533.13 for restitution and
4 a civil money penalty of \$200,000.00 against Teledraft, Inc. and its
5 two (2) principals;

6 ii. Question 12 of the Department's personal history statement asks, "Has
7 an order, injunction, or judgment, whether or not final, been entered
8 against you in a civil action on account of fraud, misrepresentation or
9 deceit?" The two (2) Teledraft, Inc. principals in question answered
10 "no" to Question 12, without any further explanation. The Department
11 approved the purchase of 50% of Pacific Coast #1 by Teledraft, Inc.
12 without the benefit of having full knowledge of the principals
13 assuming control; and

14 1. Failed to maintain the minimum required net worth of not less than one
15 hundred thousand dollars (\$100,000.00).

16 **CONCLUSIONS OF LAW**

17 1. Pursuant to A.R.S. §§ 6-941, *et seq.*, the Superintendent has the authority and duty to
18 regulate all persons engaged in the mortgage banker business and with the enforcement of statutes,
19 rules, and regulations relating to mortgage bankers.

20 2. By the conduct set forth in the Findings of Fact, Pacific Coast #1 and Mr. Arnold
21 have violated the following:

22 a. A.R.S. § 6-943(N) and A.R.S. § 6-946(E) by advertising for or soliciting business in
23 any manner without using the license number issued on the mortgage banker's
24 principal place of business license and by failing to comply with the disclosure
25 requirements of Title I of the Consumer Credit Protection Act (15 U.S.C. §§ 1601
26 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§ 2601
through 2617), and the regulations promulgated under these acts;

- 1 b. A.R.S. § 6-943(N) by failing to use their proper name/and or approved names for
2 their website addresses;
- 3 c. A.R.S. § 6-943(O) and A.A.C. R20-4-102, by failing to conduct the minimum
4 elements of reasonable employee investigations prior to hiring employees;
- 5 d. A.R.S. § 6-946(A) and A.A.C. R20-4-1806(B)(6), by failing to maintain originals or
6 copies of loan transactions;
- 7 e. A.R.S. § 6-946(E) and A.A.C. R20-4-1806(B)(6)(e), by failing to comply with the
8 disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.
9 §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§
10 2601 through 2617), and the regulations promulgated under these acts;
- 11 f. A.R.S. § 6-947(A) and A.A.C. R20-4-1808, by allowing borrowers to sign regulated
12 documents containing blank spaces;
- 13 g. A.R.S. § 6-947(B) and A.A.C. R20-4-102, by paying compensation to unlicensed,
14 independent contractors;
- 15 h. A.A.C. R20-4-1806(B)(5), by failing to maintain correct and complete trust
16 subsidiary ledgers/verification;
- 17 i. A.R.S. § 6-946(C), by failing to immediately deposit advances or fees into a trust
18 account;
- 19 j. A.R.S. § 6-947(L), by making false promises, misrepresentations, or concealing
20 essential or material facts in the course of the mortgage banker business;
- 21 k. A.R.S. § 6-945(A), by making misrepresentations about the truthfulness, honesty and
22 character of two (2) principals of Pacific Coast #1 and failing to disclose final
23 judgments against the principals and their company in personal history statements;
24 and
- 25 l. A.R.S. § 6-943(C)(5), by failing to maintain the minimum required net worth of not
26 less than one hundred thousand dollars (\$100,000.00).

1 COPY mailed/delivered same date to:

2 Craig A. Raby
3 Assistant Attorney General
4 Office of the Attorney General
5 1275 West Washington
6 Phoenix, AZ 85007

7 Robert D. Charlton, Assistant Superintendent
8 Judith Moss, Senior Examiner
9 Arizona Department of Financial Institutions
10 2910 N. 44th Street, Suite 310
11 Phoenix, AZ 85018

12 AND COPY MAILED SAME DATE by
13 Certified Mail, Return Receipt Requested, to:

14 Zachary P. Arnold, President
15 Pacific Coast Mortgage, Inc. #1
16 6991 E. Camelback Road, Suite C-250
17 Scottsdale, AZ 85251
18 Petitioners

19 Zachary P. Arnold, President
20 Pacific Coast Mortgage, Inc. #1
21 2266 S. Dobson Road, Suite 200
22 Mesa, AZ 85202
23 Petitioners

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25 _____
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