

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Revocation of the Mortgage
3 Banker License of:

No. 08F-BD060-BNK

CONSENT ORDER

4 **PACIFIC COAST MORTGAGE, INC. #2**
5 **DBA PACIFIC COAST CAPITAL AND**
6 **ZACHARY P. ARNOLD, PRESIDENT**
7 6991 East Camelback Road, Suite C-250
8 Scottsdale, Arizona 85251

Respondents.

9 On April 30, 2008, the Arizona Department of Financial Institutions ("Department") issued a
10 Notice of Hearing alleging that Respondents had violated Arizona law. Wishing to resolve this
11 matter in lieu of an administrative hearing, Respondents do not contest the following Findings of
12 Fact and Conclusions of Law, and consent to the entry of the following Order.

13 FINDINGS OF FACT

14 1. Respondent Pacific Coast Mortgage, Inc. #2 dba Pacific Coast Capital ("Pacific Coast
15 #2") is an Arizona corporation authorized to transact business in Arizona as a mortgage banker,
16 license number BK 0906239, within the meaning of A.R.S. §§ 6-941, *et seq.* The nature of Pacific
17 Coast #2's business is that of making, negotiating, or offering to make or negotiate a mortgage
18 banking loan or a mortgage loan secured by Arizona real property within the meaning of A.R.S. § 6-
19 941(5).

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

23 3. Pacific Coast #2 and Mr. Arnold are not exempt from licensure as mortgage bankers
24 within the meaning of A.R.S. §§ 6-942 and 6-941(5).

25 4. An examination of Pacific Coast #2 conducted by the Department, beginning January 14,
26 2008 and concluding March 12, 2008, revealed that Pacific Coast #2 and Mr. Arnold:

a. Failed to conduct the minimum elements of reasonable employee investigations prior

1 to hiring employees, specifically:

- 2 i. Failed to obtain a completed and dated Employment Eligibility Verification
3 (Form I-9) before hiring one (1) employee;
- 4 ii. Failed to consult with an applicant's most recent or next most recent employer
5 before hiring one (1) employee;
- 6 iii. Failed to inquire regarding an applicant's qualifications and competence
7 before hiring one (1) employee; and
- 8 iv. Failed to obtain a current credit report from a credit reporting agency before
9 hiring one (1) employee;

10 b. Failed to maintain originals or copies of loan transactions, specifically:

- 11 i. The application date was missing from at least fifteen (15) mortgage loan
12 applications; and
- 13 ii. The entire loan file was missing for at least six (6) mortgage loan applications;

14 c. Failed to comply with the disclosure requirements of Title I of the Consumer Credit
15 Protection Act (15 U.S.C. §§ 1601 through 1666j), the Real Estate Settlement
16 Procedures Act (12 U.S.C. §§ 2601 through 2617), and the regulations promulgated
17 under these acts, specifically:

- 18 i. Respondents do not document the date its "Servicing Transfer Disclosure"
19 document is presented to the borrower. Without a documented date on this
20 disclosure, the examiners are unable to determine if these disclosures were
21 presented to the borrowers within the required three (3) days of application
22 date;
- 23 ii. A Servicing Transfer Disclosure was missing from one (1) mortgage loan file;
- 24 iii. Failed to date one (1) Good Faith Estimate;
- 25 iv. Failed to date one (1) Servicing Transfer Disclosure; and
- 26 v. A Truth-in-Lending Disclosure was missing from one (1) mortgage loan file;

- 1 d. Allowed borrowers to sign regulated documents containing blank spaces, specifically:
- 2 i. Respondents have a statutorily correct "Consent to Complete Documents"
- 3 disclosure; however, it is improperly used. The disclosure contains a
- 4 standardized form which includes as "DOCUMENT(S):" the "Uniform
- 5 Residential Loan Application – Form 1003," and as "SPECIFIC PROVISION
- 6 TO BE COMPLETED:," "Any, except Section VIII, Section X, and all
- 7 signatures," whether or not these spaces listed in the disclosure for this
- 8 document were intentionally left blank. To list "all signatures" as a space to
- 9 be left blank is improper as the purpose of this disclosure is to advise
- 10 borrowers that they are not required to sign any documents which contain
- 11 blank spaces; and
- 12 ii. Respondents also failed to list any other documents/disclosures requiring
- 13 signatures which consistently contained blank spaces to be completed at a
- 14 later date;
- 15 e. Failed to maintain correct and complete trust subsidiary ledgers/ verification,
- 16 specifically:
- 17 i. Respondents' trust subsidiary ledger is missing the date on which the licensee
- 18 received the advance fees from the borrower;
- 19 f. Failed to immediately deposit advances or fees into a trust account;
- 20 g. Failed to maintain the minimum required net worth of not less than one hundred
- 21 thousand dollars (\$100,000.00);
- 22 h. Made false promises, misrepresentations, or concealed essential or material facts in
- 23 the course of the mortgage banker business, specifically:
- 24 i. A review of forty (40) mortgage loan files shows a series of
- 25 misrepresentations, including misrepresentations of owner-occupied
- 26 residences, rental properties, second homes, homes used to house family

1 members, mortgages owed, employment, gross monthly income, net rental
2 income, business income, net worth, and the disclosure of properties owned,
3 and property addresses, specifically:

- 4 1. Lender Case Number 06-21962-105;
- 5 2. Lender Case Number 06-21969-105;
- 6 3. Lender Case Number 06-23485-105;
- 7 4. Lender Case Number 06-24239-105;
- 8 5. Lender Case Number 06-25172-105;
- 9 6. Lender Case Number 06-26223-105;
- 10 7. Lender Case Number 06-26279-105;
- 11 8. Lender Case Number 06-21131-103;
- 12 9. Lender Case Number 07-26850-102;
- 13 10. Lender Case Number 05-21458-105;
- 14 11. Lender Case Number 06-22140-105;
- 15 12. Lender Case Number 06-24970-105;
- 16 13. Lender Case Number 06-25733-105;
- 17 14. Lender Case Number 07-26796-105;
- 18 15. Lender Case Number 06-24973-105;
- 19 16. Lender Case Number 06-24972-105 (located in loan file lender case
20 number 06-25067-105);
- 21 17. Lender Case Number 07-27011-105;
- 22 18. Lender Case Number 06-22242-105;
- 23 19. Lender Case Number 06-24975-105;
- 24 20. Lender Case Number 06-24971-105;
- 25 21. Lender Case Number 06-22249-105;
- 26 22. Lender Case Number 06-25947-105;

- 1 23. Lender Case Number 06-21834-105;
- 2 24. Lender Case Number 06-25068-105;
- 3 25. Lender Case Number 06-22344-105;
- 4 26. Lender Case Number 06-24032-105;
- 5 27. Lender Case Number 06-26096-105;
- 6 28. Lender Case Number 06-26082-105;
- 7 29. Lender Case Number 05-21568-105;
- 8 30. Lender Case Numbers 06-22421-105 and 06-22423-105;
- 9 31. Lender Case Numbers 06-22402-105 and 06-22420-105;
- 10 32. Lender Case Number 06-22891-105;
- 11 33. Lender Case Number 06-23287-105;
- 12 34. Lender Case Numbers 06-23441-105 and 06-23447-105;
- 13 35. Lender Case Number 06-22890-105;
- 14 36. Lender Case Numbers 06-23486-105 and 06-23245-105;
- 15 37. Lender Case Numbers 06-23564-105 and 06-23578-105;
- 16 38. Lender Case Number 06-23686-105;
- 17 39. Lender Case Numbers 06-23639-105 and 06-23640-105; and
- 18 40. Lender Case Number 06-24747-105; and

19 i. Misrepresented the truthfulness, honesty and character of two (2) principals of Pacific
20 Coast #2 by failing to disclose final judgments against the principals and their
21 company in personal history statements, specifically:

22 i. On June 19, 2006, the Department received correspondence from Teledraft,
23 Inc., requesting permission to purchase fifty percent (50%) of Pacific Coast.
24 The three (3) principals of Teledraft, Inc. included personal history statements
25 with this request, which failed to disclose a lawsuit brought by the Iowa State
26 Attorney General's Office against Teledraft, Inc. and two (2) of its principals.

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

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

12 CONCLUSIONS OF LAW

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

16 2. By the conduct set forth in the Findings of Fact, Pacific Coast #2 and Mr. Arnold
17 violated the following:

- 18 a. A.R.S. § 6-943(O) and A.A.C. R20-4-102, by failing to conduct the minimum
19 elements of reasonable employee investigations prior to hiring employees;
- 20 b. A.R.S. § 6-946(A) and A.A.C. R20-4-1806(B)(6), by failing to maintain originals or
21 copies of loan transactions;
- 22 c. A.R.S. § 6-946(E) and A.A.C. R20-4-1806(B)(6)(e), by failing to comply with the
23 disclosure requirements of Title I of the Consumer Credit Protection Act (15 U.S.C.
24 §§ 1601 through 1666j), the Real Estate Settlement Procedures Act (12 U.S.C. §§
25 2601 through 2617), and the regulations promulgated under these acts;
- 26 d. A.R.S. § 6-947(A) and A.A.C. R20-4-1808, by allowing borrowers to sign regulated

1 documents containing blank spaces;

2 e. A.A.C. R20-4-1806(B)(5), by failing to maintain correct and complete trust
3 subsidiary ledgers/verification;

4 f. A.R.S. § 6-946(C), by failing to immediately deposit advances or fees into a trust
5 account;

6 g. A.R.S. § 6-943(C)(3)(b), by failing to maintain the minimum required net worth of
7 not less than one hundred thousand dollars (\$100,000.00); and

8 h. A.R.S. § 6-947(L), by making false promises, misrepresentations, or concealing
9 essential or material facts in the course of the mortgage banker business.

10 i. Pursuant to A.R.S. § 6-945(A), Respondents' misrepresentation of the truthfulness,
11 honesty and character of two (2) principals of Pacific Coast #2 and the failure to
12 disclose final judgments against the principals and their company in personal history
13 statements is grounds for license suspension or revocation.

14 3. The violations of applicable laws, set forth above, constitute grounds to suspend or
15 revoke Pacific coast #2's and Mr. Arnold's mortgage banker license, number BK 0906239, pursuant
16 to A.R.S. § 6-945(A).

17 4. Respondents misrepresented or concealed essential or material fact in the course of
18 the mortgage broker business by concealing material facts and making misrepresentations to lenders
19 regarding at least forty (40) mortgage loan files, which is grounds for suspension or license
20 revocation pursuant to A.R.S. § 6-945(A).

21 5. The violations, set forth above, constitute grounds for the pursuit of any other remedy
22 necessary or proper for the enforcement of statutes and rules regulating mortgage brokers in Arizona
23 pursuant to A.R.S. §§ 6-123 and 6-131.

24 6. Pursuant to A.R.S. § 6-132, Respondents' violations of the aforementioned statutes
25 are grounds for a civil penalty of not more than five thousand dollars (\$5,000.00) for each violation
26 for each day.

1 ORDER

2 1. Respondents' Mortgage Banker License is hereby revoked.

3 2. Respondents shall not accept any further mortgage banker business.

4 3. Respondents shall immediately hand-deliver their mortgage banker license to the
5 Department.

6 4. The provisions of this Order shall be binding upon Pacific Coast #2 and Mr. Arnold, their
7 employees, agents, and other persons participating in the conduct of the affairs of Pacific Coast #2.

8 5. The provisions of this Order shall be binding upon Respondents, and resolves the Notice
9 of Hearing, subject to Respondents' delivery of their license to the Department and subject to
10 compliance with the requirements of this Order.

11 6. This Order shall become effective upon service, and shall remain effective and
12 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
13 or set aside.

14 SO ORDERED this 11 day of June, 2008.

15 

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17 Felecia A. Rotellini
18 Superintendent of Financial Institutions

19 CONSENT TO ENTRY OF ORDER

20 1. Respondents acknowledge that they have been served with a copy of the foregoing
21 Findings of Fact, Conclusions of Law, and Order in the above-referenced matter, have read the
22 same, are aware of their right to an administrative hearing in this matter, and have waived the same.

23 2. Respondents admit the jurisdiction of the Superintendent and consent to the entry of
24 the foregoing Findings of Fact, Conclusions of Law, and Order.

25 3. Respondents state that no promise of any kind or nature has been made to induce
26 them to consent to the entry of this Order, and that they have done so voluntarily.

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2 Office of the Attorney General
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3 Phoenix, AZ 85007

4 Robert D. Charlton, Assistant Superintendent
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5 Arizona Department of Financial Institutions
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7 AND COPY MAILED SAME DATE by
Certified Mail, Return Receipt Requested, to:

8 Zachary P. Arnold, President
9 Pacific Coast Mortgage, Inc. #2 dba Pacific Coast Capital
6991 E. Camelback Rd., Ste. C-250
10 Scottsdale, AZ 85251
Respondents

11 John Metz, Statutory Agent for:
12 Pacific Coast Mortgage, Inc. #2 dba Pacific Coast Capital
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13 Phoenix, AZ 85029

14 Zachary P. Arnold, President
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15 2266 S. Dobson Rd., Ste. 200
Mesa, AZ 85202
16 Respondents

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