# STATE OF ALASKA DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION OF BANKING and SECURITIES 550 WEST SEVENTH AVENUE, SUITE 1850 ANCHORAGE, ALASKA 99501 PHONE: (907) 269-8140

# STATE OF ALASKA DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION OF BANKING AND SECURITIES

	)
In the matter of:	ORDER NO: C5000-10-013-C
SHELTON BARBER	) FINAL ORDER TO CEASE AND DESIST ) IMPOSING A CIVIL PENALTY
	) )
Respondent.	)
<u>F</u>	<b>,</b>

The Director of the Department of Commerce, Community, and Economic Development, Division of Banking and Securities ("Department"), has conducted an investigation into the conduct of Shelton Barber ("Barber") and has determined that Mr. Barber violated certain provisions of AS 06.60<sup>1</sup> et seq. ("the Alaska Mortgage Lending Regulation Act").

# I. BACKGROUND

- 1. On August 25, 2010, the Department entered into a Consent Order (Order No. C5000-10-003) with Mr. Barber that imposed a civil penalty of sixty-three thousand five hundred dollars (\$63,500.00), with thirty-one thousand seven hundred fifty dollars (\$31,750.00) suspended.
- 2. Upon further investigation and consideration of the record, the Department determined that the civil penalty imposed on Mr. Barber in 2010 was not appropriate and therefore should be vacated and replaced with a Notice of Intent to Issue Order to Cease and Desist and Imposing a Civil Penalty and Notice of Final Order ("Notice of Intent").

Shelton Barber FINAL ORDER TO CEASE AND DESIST IMPOSING A CIVIL PENALTY Order No. C5000-10-013-C Page 1 of 4

<sup>&</sup>lt;sup>1</sup> All state statutory citations refer to the 2008 version of the Alaska Mortgage Lending Regulation Act, which was in effect at the time of the conduct described in the Facts.

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- 3. On May 8, 2014, the Department sent the Notice of Intent by certified mail to Mr. Barber at his last known address in Anchorage, Alaska.
- 4. On May 14, 2014, the Department received the Notice of Intent back from the United States Postal Service as "Return to Sender, Unable to Forward."
- 5. Mr. Barber made no request for a hearing within 30 days of the Department mailing he Notice of Intent.

## II. FACTS

- 1. Mr. Barber has a last known address in Anchorage, Alaska.
- 2. On July 1, 2008, the Alaska Mortgage Lending Regulation Act became effective and required all individuals previously operating as a mortgage lender, broker or originator to be licensed in Alaska by March 1, 2009.
- 3. In order to become licensed as an originator, the Alaska Mortgage Lending Regulation Act required an individual to complete an application and pass a competency test.
- 4. On December 23, 2008, Mr. Barber entered into an employment contract with First Rate Financial, LLC ("First Rate") to act as an originator.
- 5. First Rate was licensed as a Mortgage Broker/Lender on February 27, 2009 with license number 100098. It was later assigned NMLS number 184451.
- 6. Mr. Barber did not pass the required competency test to obtain an originator license until May 28, 2010.
- 7. From March 1, 2009 to May 28, 2010, Mr. Barber continued to work at First Rate with the expectation that he would receive monetary compensation for originating loans. During this time, Mr. Barber continued to perform originator duties such as interviewing consumers, accepting applications, and negotiating the terms or conditions of a loan.
  - 8. From April 21, 2009 to February 26, 2010, Mr. Barber originated at least 10

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mortgage loans at First Rate without an originator license for which he received compensation.

### III. **CONCLUSIONS OF LAW**

- 1. From March 1, 2009 to May 28, 2010, Mr. Barber operated as an "originator" as that term was defined in AS 06.60.990(21).
- 2. From March 1, 2009 to May 28, 2010, Mr. Barber worked as an originator at First Rate without an originator license in violation of AS 06.60.010(b).
- 3. From April 21, 2009 to February 26, 2010, Mr. Barber originated and was compensated for at least 10 mortgage loans at First Rate without an originator license in violation of AS 06.60.010(b).
- 4. Pursuant to AS 06.60.420, Mr. Barber is subject to a civil penalty because he violated AS 06.60.010(b).

### IV. **ORDER**

The Department, pursuant to AS 06.60.400(a), hereby issues this final order directing Mr. Barber to:

- 1. CEASE AND DESIST from originating mortgage loans without an originator license.
  - 2. Pay a civil penalty in the amount of five hundred dollars (\$500.00).<sup>2</sup>

<sup>21</sup> 22 23

<sup>&</sup>lt;sup>2</sup> Mr. Barber paid five hundred dollars (\$500.00) to the Division on October 26, 2010.

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	1	3. Comply with all provisions of the Alaska Mortgage Lending Regulation		
	2	Act, including associated regulations.		
	3	IT IS SO ORDERED.		
	4 5		SUSAN BELL, Commissioner Department of Commerce, Community and Economic Development	
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<b>느</b>	7	June 17, 2014	/s/ Kevin Anselm	
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