STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES

In the Matter of:

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Division of Finance and Corporate Securities Labor and Industries Building 350 Winter Street NE, Suite 410 Satem, OR 97301-3881 Pinnacle Capital Management Corporation, David Pierce Kilkenny, and Steve Douglas Valenta Jr.,

## M-12-0050-2

Order to Cease and Desist, Order Assessing Civil Penalty, and Consent to Entry of Order as to David Pierce Kilkenny

Respondents.

12 WHEREAS the Director of the Department of Consumer and Business Services for the 13 State of Oregon ("Director") conducted an investigation of Pinnacle Capital Management Corporation, David Pierce Kilkenny, and Steve Douglas Valenta Jr., and determined that 14 15 Pinnacle Capital Management Corporation, David Pierce Kilkenny, and Steve Douglas Valenta 16 Jr. engaged in activities constituting violations of Oregon Revised Statutes ("ORS") 86A.100 et seq. and Oregon Administrative Rules ("OAR") 441-850-0005 through 441-885-0010 17 18 (collectively "Oregon Mortgage Lender Laws and Rules"); and 19 WHEREAS David Pierce Kilkenny wishes to resolve and settle this matter with the Director; 20 21 NOW THEREFORE, as evidenced by the authorized signature subscribed on this 22 Consent Order, David Pierce Kilkenny hereby consents to entry of this order upon the 23 Director's Findings of Fact and Conclusions of Law as stated hereinafter: 24 /// 25 ///

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1	FINDINGS OF FACT
2	The Director FINDS that:
3	1. Based on a search of the California Secretary of State website on May 21, 2012,
4	Pinnacle Capital Management Corporation ("Pinnacle") is a domestic California corporation,
5	first filed with the California Secretary of State on July 9, 1999 (Entity Number: C2142753)
6	and active as of the date of the search.
7	2. Based on a search of the Oregon Secretary of State Corporations Division website on
8	May 21, 2012, Pinnacle is registered as a foreign business corporation, first registered with the
9	Oregon Secretary of State Corporations Division on June 5, 2008 (Registry Nbr. 525447-99)
10	and active as of the date of the search.
11	3. Based on a search of the Division's records on May 21, 2012, Pinnacle first obtained
12	a mortgage lending license with the Division on August 4, 2008 and has been continuously
13	licensed through the date of the search.
14	4. Based on a search of the Division's records on May 21, 2012, David Pierce Kilkenny
15	("Kilkenny") is an Oregon licensed mortgage loan originator sponsored by Pinnacle from
16	August 13, 2010 through the date of this search.
17	5. Based on a search of the Division's records on May 21, 2012, Steve Douglas Valenta
18	Jr. ("Valenta") is a State of Washington licensed mortgage loan originator sponsored by
19	Pinnacle from October 7, 2008 to December 15, 2011 and sponsored by Northwest Funding
20	Group, Inc. from February 20, 2012 through the date of this search.
21	6. Based on a search of the Division's records on May 21, 2012, at no time has Valenta
22	been licensed with the Division as a mortgage loan originator.
23	7. For the period from approximately January 25, 2011 through December 1, 2011,
24	Valenta completed eight different Uniform Residential Loan Applications for consumers on
25	eight different residential real properties located in Oregon.
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8. Two of the Uniform Residential Loan Applications referenced in Paragraph 7 above
 were completed by Valenta ("Kilkenny Applications") with the name of the loan originator
 listed as Kilkenny.

4 9. Kilkenny did not perform any loan origination services related to the Kilkenny5 Applications.

6 10. Kilkenny was aware that Valenta was not licensed as a mortgage loan originator
7 with the Division.

8 11. Kilkenny was aware that Valenta had used his name on the Kilkenny Applications
9 and Kilkenny accepted the loan originations fees for those loans and passed them on to
10 Valenta.

11 12. Kilkenny did not notify anyone at Pinnacle or the Division that Valenta had
12 improperly received loan origination fees for the Kilkenny Application loans.

13 13. Pinnacle failed to properly supervise its Vancouver, WA branch office and the
14 activities of its employees Kilkenny and Valenta to prevent the violations of unlicensed
15 activity and aiding and abetting as described in this consent order.

## **CONCLUSIONS OF LAW**

The Director concludes that:

14. Valenta acted as a "mortgage loan originator", as that term is defined in ORS 86A.200(4)(a), when he, for compensation, took applications for residential mortgage loans or offered or negotiated terms for eight residential mortgage loans where the subject real property was located in Oregon.

15. Valenta committed eight violations of ORS 86A.203(1)(a) when he, on eight occasions as described in paragraph 14 above, engaged in the business as a mortgage loan originator in Oregon without first obtaining and maintaining a mortgage loan originator's license from the Division.

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1 16. Kilkenny committed two violations of ORS 86A.992(1) when he, on two occasions,
 aided or abetted Valenta in his violations of ORS 86A.203(1)(a) by accepting mortgage loan
 origination fees for Valenta's loan originations and paying those fees to Valenta for his
 unlicensed activity without notifying the Division or Pinnacle of Valenta's unlicensed activity
 or that Valenta had used Kilkenny's name on the loan applications to avoid the licensing
 requirement.

7 17. Pinnacle violated Oregon Administrative Rule ("OAR") 441-860-0040(1) by
8 failing to diligently supervise and control Valenta, as an employee of Pinnacle, by failing to
9 ensure that he obtained a mortgage loan originator's license prior to conducting activities that
10 required Valenta to be licensed.

## ORDERS

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

13 18. Pursuant to ORS 86A.127(4), the Director hereby orders that Kilkenny cease and
14 desist from violating any provision of the Oregon Mortgage Lender Laws and Rules, or other
15 orders issued by the Division.

19. Pursuant to ORS 86A.992, the Director may assess a civil penalty of up to \$5,000 for each violation of the Oregon Mortgage Lender Laws and Rules. Pursuant to ORS 86A.992, the Director hereby orders Kilkenny to pay a civil penalty \$2,000 to the State of Oregon for two violations of ORS 86A.992(1);

20. The entry into this Consent Order in no way limits any other remedies which may be available to the Director under Oregon Law.

Dated this  $30^{\text{th}}$  day of July, 2012.

PATRICK M. ALLEN, Director Department of Consumer and Business Services

/s/ David Tatman David C. Tatman, Administrator Division of Finance and Corporate Securities

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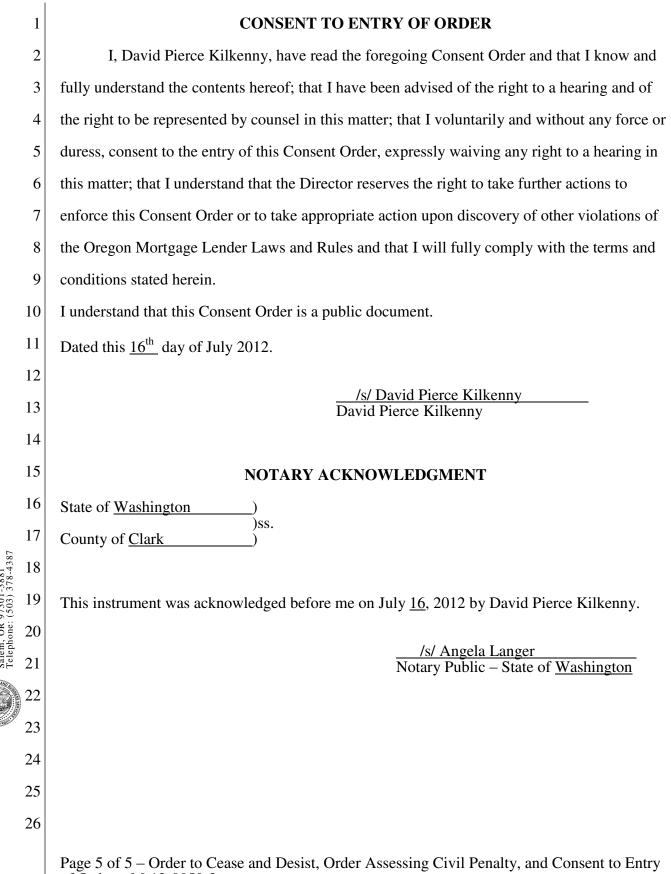
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