

ORDER SUMMARY – Case Number: C-04-061

Name(s): North American Real Estate Services Inc
Andrew Santoli

Order Number: C-04-061-04-FO01

Effective Date: April 20, 2005

License Number: DFI: 25111 [NMLS: 954129] -North American
Or NMLS Identifier [U/L] [NMLS: 954139] -Santoli
(Revoked, suspended, stayed, application denied or withdrawn)
If applicable, you must specifically note the ending dates of terms.

License Effect: Denial

Not Apply Until:

Not Eligible Until:

Prohibition/Ban Until:

Investigation Costs	\$966.16	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Fine	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$1,470.21	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
No. of Victims:				

Comments:

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NO. C-04-061-04-FO01

FINAL ORDER

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1 On April 20, 2004, the Department served the Statement of Charges, cover letter dated April
2 20, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
3 Adjudicative Hearing for NARES and Santoli, on Respondent NARES's Registered Agent (CT
4 Corporation System) by sending a package containing the documents to 520 Pike Street, Seattle,
5 Washington, 98101 via certified mail, and by sending a package containing the documents and notice
6 of service on the Registered Agent to 5655 Lindero Canyon Road, Suite 202, Westlake Village,
7 California, 91362 (Lindero Canyon Address), the business address provided by Respondents in
8 Respondent NARES's license application to the Department (the last address of Respondent NARES
9 on file with the Director), via registered mail, as required by RCW 19.146.260. The documents sent
10 via certified mail and registered mail were delivered by the United States Post Office on April 21,
11 2004 and April 23, 2004, respectively.

13 On April 21, 2004, the current tenant at the Lindero Canyon address contacted the Department
14 and stated she had signed for a package addressed to Respondent NARES and Respondent Santoli, but
15 that Respondent NARES had moved approximately two months prior. On April 21, 2004, after the
16 attempt at service to the Lindero Canyon address, the Department made a telephone call to Respondent
17 NARES and was informed by the receptionist that Respondent NARES's updated business address
18 was 31255 Cedar Valley Drive, Suite 201, Westlake Village, California, 91362 (Cedar Valley
19 address). On April 22, 2004, the Department served the Statement of Charges, cover letter dated April
20 22, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
21 Adjudicative Hearing for NARES and Santoli, on Respondents by sending packages containing the
22 documents to the Cedar Valley address via Federal Express overnight delivery and by first class mail.
23 On April 23, 2004, the documents sent via Federal Express overnight delivery were delivered. The
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1 documents sent via first class mail were not returned to the Department by the United States Post
2 Office.

3 On April 27, 2004, the Department received a letter purportedly sent on Respondent NARES's
4 behalf. The letterhead listed Respondent NARES's Cedar Valley address. The letter, signed by Denis
5 Santoli and dated April 23, 2004, disputed the allegations in the Statement of Charges, indicated that
6 legal action was being considered against the State of Washington in this matter, and attempted to
7 withdraw Respondent NARES's license application. On May 11, 2004, the Department responded
8 with a letter to Respondent Santoli at Respondent NARES's Cedar Valley address. The Department's
9 response letter stated that the April 23, 2004 letter from Denis Santoli gave the Department no
10 indication that it represented the position of Respondent NARES or Respondent Santoli and, even if it
11 did, the attempted license application withdrawal did not resolve the Statement of Charges. The
12 Department's response letter further stated that if the April 23, 2004 letter were intended as
13 Respondents' response to the Statement of Charges, the Department would construe the April 23, 2004
14 letter as a request for an Adjudicative Hearing but asked Respondents to confirm this request by
15 completing the enclosed blank Application for Adjudicative Hearing for Respondent NARES and
16 Respondent Santoli. To date, the Department has received no further correspondence from
17 Respondent NARES, Respondent Santoli, or Denis Santoli.
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19 On June 18, 2004, the Department made a request to the Office of Administrative Hearings
20 (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the
21 Statement of Charges. On July 2, 2004, OAH issued a Notice of Prehearing Conference by Telephone
22 scheduling a prehearing conference on Wednesday, July 21, 2004 at 9:00 a.m. That Notice stated "If
23 you fail to appear or participate in the prehearing conference, hearing, or any other scheduled stage of
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1 these proceedings, you may lose your right to a hearing as described in RCW 34.05.440.” On July 2,
2 2004, OAH sent the Notice of the July 21, 2004 prehearing conference to Respondent NARES’s Cedar
3 Valley address.

4 On July 21, 2004, ALJ Brian O. Watkins (ALJ Watkins) convened the prehearing conference
5 at 9:00 a.m. Respondents failed to appear. ALJ Watkins telephoned Respondent Santoli at
6 Respondent NARES’s telephone number and, after being told Respondent Santoli was unavailable,
7 left a message with the receptionist that Respondent Santoli was expected to appear for a telephonic
8 prehearing conference and should return the telephone call immediately. ALJ Watkins orally
9 continued the prehearing conference until July 23, 2004 at 9:00 a.m. to allow Respondent Santoli time
10 to contact OAH. On July 23, 2004, ALJ Watkins convened the prehearing conference at 9:00 a.m.
11 Since Respondent Santoli had failed to contact OAH, ALJ Watkins again attempted to reach him via
12 telephone but was only able to reach a voicemail system. The Department moved for an order of
13 default based on Respondents’s failure to appear. On July 26, 2004, ALJ Watkins issued a Default
14 Order that the Department’s Statement of Charges be affirmed. On July 26, 2004, OAH sent the
15 Default Order to Respondent NARES’s Cedar Valley address.
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17 Pursuant to RCW 34.05.440(3), Respondents had seven days from the date of service of the
18 order to file a written motion with OAH requesting that the Default Order be vacated, and stating the
19 grounds relied upon. Respondents did not make a request to vacate during the statutory period.
20 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had twenty days from the date of
21 service of the order to file a petition for review of the Order of Default and Initial Order with the
22 Director. Respondents did not file a petition for review during the statutory period.
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1 B. Record Presented. The record presented to the Director for his review and for entry of
2 a final decision included the following:

- 3 1. Statement of Charges, and cover letters dated April 20, 2004 and April 22, 2004;
- 4 2. Notice of Opportunity to Defend and Opportunity for Hearing;
- 5 3. Blank Application for Adjudicative Hearing for North American Real Estate Service,
6 Inc. and Andrew Santoli, President and Owner;
- 7 4. Documentation of service for Statement of Charges, Notice of Opportunity to Defend
8 and Opportunity for Hearing, Blank Application for Adjudicative Hearing for North
9 American Real Estate Service, Inc. and Andrew Santoli, President and Owner, and
10 cover letters dated April 20, 2004 and April 22, 2004;
- 11 5. Letter from Denis Santoli to the Department dated April 23, 2004;
- 12 6. Letter from the Department to Andrew Santoli dated May 11, 2004;
- 13 7. Request to OAH for Assignment of Administrative Law Judge;
- 14 8. Notice of Prehearing Conference by Telephone dated July 2, 2004, with
15 documentation of service;
- 16 9. Default Order dated July 26, 2004, with documentation of service;

17 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the
18 Director hereby adopts the Statement of Charges, which is attached hereto.

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1 II. FINAL ORDER

2 Based upon the foregoing, and the Director having considered the record and being
3 otherwise fully advised, NOW, THEREFORE:

4 A. IT IS HEREBY ORDERED, That:

- 5 1. Respondent North American Real Estate Services, Inc.'s application for a
6 Mortgage Broker's license is denied; and
7 2. Respondent North American Real Estate Services, Inc. pay an investigation fee in
8 the amount of \$966.16, calculated at \$37.16 per hour for the thirty-six (36) staff
9 hours devoted to the investigation, less the ten (10) staff hours paid out of
Respondents' application deposit.

10 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
11 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
12 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
13 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
14 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
15 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
16 Reconsideration a prerequisite for seeking judicial review in this matter.

17 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
18 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
19 notice specifying the date by which it will act on a petition.
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21 C. Stay of Order. The Director has determined not to consider a Petition to Stay the
22 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial
23 Review made under chapter 34.05 RCW and RCW 34.05.550.

1 D. Judicial Review. Respondents have the right to petition the superior court for
2 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
3 for filing a Petition for Judicial Review, see RCW 34.050.510 and sections following.

4 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
5 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
6 attached hereto.

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9 DATED this 20th day of April, 2005.



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11 STATE OF WASHINGTON
12 DEPARTMENT OF FINANCIAL INSTITUTIONS

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14 _____
15 SCOTT JARVIS
16 DIRECTOR

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

NORTH AMERICAN REAL
ESTATE SERVICES, INC., and
ANDREW SANTOLI, President and Owner,

Respondents.

NO. C-04-061-04-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY LICENSE
APPLICATION AND COLLECT
INVESTIGATION FEE

INTRODUCTION

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 19.146.210, and based upon the facts available as of April 20, 2004, the Director institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents:

- A. **North American Real Estate Services, Inc. (Respondent NARES)** submitted an application to the Department of Financial Institutions of the State of Washington (Department) for a license to conduct business as a Mortgage Broker at the following location:

5655 Lindero Canyon Rd Ste 202
Westlake Village, CA 91362

The application was received by the Department on July 3, 2003.

- B. **Andrew Santoli (Respondent A. Santoli)** was identified as the President and Owner of Respondent NARES in the application.

1 **1.2 Incomplete and Inadequate Response to Department Request Dated September 16, 2003:** On
2 September 16, 2003, the Department sent a detailed request, via first class mail and telefacsimile, to Respondent
3 NARES for additional information and documentation in the form of a written response, to be provided in a
4 single package due to the Department no later than October 9, 2003. Respondent NARES's response, received
5 by the Department September 22, 2003, was inadequate and incomplete as follows:

- 6 A. Respondent NARES continued to include the trade name "Pacific Bancorp" in various
7 documents provided to the Department, despite being informed by the Department that the
8 trade name "Pacific Bancorp" could not be used in the state of Washington.
- 9 B. Respondent NARES failed to provide a list of all personnel by location, including each
10 person's name, title, and status as an employee or an independent contractor.
- 11 C. Respondent NARES failed to provide completed Independent Contractor Agreements for each
12 independent contractor to be used as a loan originator.
- 13 D. Respondent NARES failed to provide the name, address, and telephone number of each third
14 party provider used within the last six months, or intended to be used in the future.
- 15 E. Respondent NARES provided conflicting documents regarding Trust Accounting.
- 16 F. Respondent NARES failed to provide a complete employment history, and individual credit
17 report including a check of public records, for Donna Maeda, listed as Respondent NARES's
18 proposed Designated Broker at the time of application.
- 19 G. Respondent NARES failed to provide completed Individual Background Forms, credit reports
20 including a check of public records, and a pair of fingerprint cards for Ali Vakili and Pamela
21 Ryan, listed as officers of Respondent NARES in its application.
- 22 H. Respondent NARES failed to provide evidence of payment for all "unpaid" collection items
23 listed on the credit report provided for Andrew Santoli.
- 24 I. Respondent NARES failed to provide an original, signed and sealed bond rider including the
25 verbiage "a corporation organized under the laws of the state of Nevada."

1 **1.3 Incomplete and Inadequate Response to Department Request Dated September 23, 2003: On**

2 September 23, 2003, the Department sent a detailed request, via first class mail and telefacsimile, to Respondent
3 NARES for additional information and documentation in the form of a written response, to be provided in a
4 single package due to the Department no later than October 22, 2003. Respondent NARES's response, received
5 by the Department October 10, 2003, was inadequate and incomplete as follows:

- 6 A. Respondent NARES continued to include the trade name "Pacific Bancorp" in various
7 documents provided to the Department, despite providing a written confirmation of an
8 understanding that the trade name could not be used in the state of Washington.
9 B. Respondent NARES failed to provide a list of all personnel by location, including each
10 person's name, title, and status as an employee or an independent contractor.
11 C. Respondent NARES failed to provide completed Independent Contractor Agreements for each
12 independent contractor to be used as a loan originator.
13 D. Respondent NARES failed to provide an original, signed and sealed bond rider including the
14 verbiage "a corporation organized under the laws of the state of Nevada."

14 **1.4 Incomplete and Inadequate Response to Department Request Dated October 10, 2003: On**

15 October 10, 2003, the Department sent a detailed request, via first class mail and telefacsimile, to Respondent
16 NARES for additional information and documentation in the form of a written response, to be provided in a
17 single package due to the Department no later than November 10, 2003. Respondent NARES's responses,
18 received by the Department between November 5, 2003 and December 12, 2003 (after an extension on the
19 November 10, 2003 deadline was granted), were inadequate or incomplete as follows:

- 20 A. Respondent NARES failed to specify whom among its personnel will be titled loan originators
21 (originating loans in the State of Washington).
22 B. Respondent NARES failed to provide an original, signed and sealed surety bond.

22 **1.5 Incomplete and Inadequate Response to Department Request Dated December 18, 2003: On**

23 December 18, 2003, the Department sent a detailed request, via first class mail and telefacsimile, to Respondent

1 NARES for additional information and documentation in the form of a written response, to be provided in a
2 single package due to the Department no later than January 8, 2004. The last paragraph of the Department's
3 request included "NOTE: NO ADDITIONAL EXTENSIONS TO THIS DEADLINE WILL BE GRANTED."
4 Respondent NARES's response, received by the Department January 8, 2004 and stating "...enclosed please
5 find all of the missing items you requested, except the surety instrument that will be arriving soon," was
6 inadequate or incomplete as follows:

- 7 A. Respondent NARES failed to specify whom among its personnel will be titled loan originators
8 (originating loans in the State of Washington).
- 9 B. Respondent NARES failed to provide an explanation for the numerous collection accounts
10 listed on the credit report provided for Andrew Santoli.
- 11 C. Respondent NARES failed to provide evidence of payment for all "unpaid" collection items
12 listed on the credit report provided for Andrew Santoli.
- 13 D. Respondent NARES failed to provide evidence of payment for all "unpaid" collection items
14 listed on the credit report provided for Matthew Santoli, identified as Respondent NARES's
15 proposed Designated Broker subsequent to the time of application.
- 16 E. Respondent NARES failed to provide a credit report, including a check of public records, for
17 Pamela Ryan, listed as an officer of Respondent NARES in its application.
- 18 F. Respondent NARES failed to provide an original, signed and sealed surety bond.
- 19 G. Respondent NARES failed to provide an original, signed and sealed bond rider extending
20 coverage to include Independent Contractors.

21 **1.6 Surety Bond:** The Department has requested that Respondent NARES provide an original signed and
22 sealed surety bond and an original signed and sealed bond rider extending coverage to include Independent
23 Contractors (see paragraph 1.5 above). To date, Respondents have failed to file these surety instruments with
24 the Department.

1 **1.7 Credit Rating:** Credit reports provided to the Department for Respondent Andrew Santoli and
2 proposed Designated Broker Matthew Santoli display numerous unpaid collection accounts. The Department
3 has requested that Respondent NARES provide an explanation for the numerosity of these accounts and
4 evidence that each unpaid account has been fully paid (see paragraphs 1.2 and 1.5 above), To date, Respondents
5 have failed to provide these items to the Department.

6 **II. GROUNDS FOR ENTRY OF ORDER**

7 **2.1 Requirement to Provide Information:** Based on the Factual Allegations set forth in Section I above,
8 Respondent has failed to meet the requirements of RCW 19.146.205(1), RCW 19.146.210(1) and WAC 208-
9 660-030(1) by failing to provide an application with information in the written form prescribed by the Director.

10 **2.2 Requirement to Provide Surety Bond:** Based on the Factual Allegations set forth in Section I above,
11 Respondent has failed to meet the requirements of RCW 19.146.205(4) and WAC 208-660-080(1) by failing to
12 file a surety bond or approved alternative meeting the requirements of the Director.

13 **2.3 Requirement to Demonstrate Financial Responsibility, Character and General Fitness:** Based on
14 the Factual Allegations set forth in Section I above, Respondent has failed to meet the requirements of RCW
15 19.146.210(1) and WAC 208-660-160(5) for failing to demonstrate financial responsibility, character, and
16 general fitness such as to command the confidence of the community and to warrant a belief that the business
17 will be operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act.

18 **2.4 Authority to Deny Application for License:** Pursuant to RCW 19.146.210(2) and WAC 208-660-
19 160(2) and (5), the Director shall deny a license application if the applicant has failed to provide information
20 requested by the Department pursuant to the application process, or has failed to file the required surety bond
21 with the Department, or has failed to demonstrate financial responsibility, character, and general fitness such as
22 to command the confidence of the community and to warrant a belief that the business will be operated
23 honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act. Pursuant to WAC
24 208-660-030(2), the Director may deny an application as incomplete if the applicant fails within ten business
25 days to meet a second request from the Director for information without good cause.

1 **2.5 Authority to Collect Investigation Fee:** Pursuant to RCW 19.146.210(2), RCW 19.146.228(3), WAC
2 208-660-060(1) and WAC 208-660-061, upon completion of processing and reviewing an application for a
3 license, the Department will prepare a billing, regardless of whether a license has been issued, calculated at the
4 rate of \$37.16 per hour that each staff person devoted to processing and reviewing the application. The
5 application deposit will be applied against this bill. Any amount left owing to the Department will be billed to
6 and paid promptly by the applicant.

7 **III. NOTICE OF INTENTION TO ENTER ORDER**

8 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth
9 in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under
10 RCW 19.146.210, RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the Director's
intention to ORDER that:

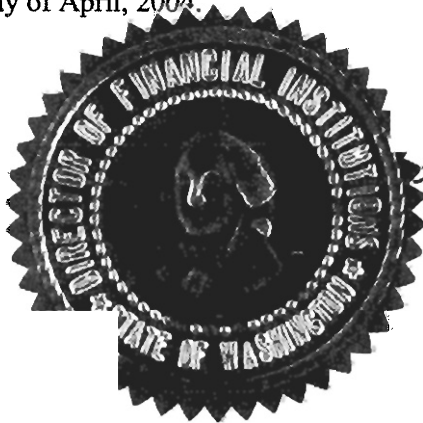
- 11 3.1 Respondent North American Real Estate Services, Inc.'s application for a Mortgage Broker License be
12 denied; and
- 13 3.2 Respondent North American Real Estate Services, Inc. pay an investigation fee in the amount of
\$966.16, calculated at \$37.16 per hour for the thirty-six (36) staff hours devoted to the investigation,
less the ten (10) staff hours paid out of Respondents' application deposit.

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1 **IV. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Deny License Application and Collect
3 Investigation Fee is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW
4 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative
5 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF
6 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of
7 Charges and Notice of Intention to Enter an Order to Deny License Application and Collect Investigation Fee.

8 Dated this 20th day of April, 2004.



CHUCK CROSS

Acting Director and Enforcement Chief
Division of Consumer Services
Department of Financial Institutions

Presented by:

15 Mark T. Olson
16 Financial Examiner