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

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Consumer Loan Act of Washington by:

PINNACLE CAPITAL MORTGAGE  
CORPORATION, d/b/a ABSOLUTE MORTGAGE,  
and  
ABSOLUTE MORTGAGE CORPORATION,

Respondents.

NO. C-09-232-10-FO01

FINAL ORDER TO CEASE AND DESIST

PINNACLE CAPITAL MORTGAGE  
CORPORATION, d/b/a ABSOLUTE  
MORTGAGE

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**I. DIRECTOR'S CONSIDERATION**

A. Default. This matter has come before the Director of the Department of  
Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.440(1). On  
September 24, 2009, the Director, through Consumer Services Division Director Deborah Bortner,  
entered a Temporary Order to Cease and Desist against Respondents. A copy of the Temporary Order  
to Cease and Desist is attached and incorporated into this order by this reference. The Temporary  
Order to Cease and Desist was accompanied by a cover letter dated September 24, 2009, a Notice of  
Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing  
for Pinnacle Capital Mortgage Corporation. The Department served the Temporary Order to Cease  
and Desist, cover letter dated September 24, 2009, Notice of Opportunity to Defend and Opportunity  
for Hearing, and blank Application for Adjudicative Hearing for Pinnacle Capital Mortgage  
Corporation on Respondents on September 24, 2009, by First-Class mail and Federal Express  
overnight delivery. The documents sent via First-Class mail were not returned to the Department by

1 the United States Post Office. The documents sent by Federal Express were delivered on September  
2 25, 2009.

3 Respondent Pinnacle Capital Mortgage Corporation did not request an adjudicative hearing  
4 within 20 calendar days after the Department served them with the Notice of Opportunity to Defend  
5 and Opportunity for Hearing, as provided for in WAC 208-08-050(2); and subsequently complied with  
6 the Temporary Order to Cease and Desist.

7 B. Record Presented. The record presented to the Director's designee for her review and  
8 for entry of a final decision included the Temporary Order to Cease and Desist, cover letter dated  
9 September 24, 2009, Notice of Opportunity to Defend and Opportunity for Hearing, and blank  
10 Application for Adjudicative Hearing for Pinnacle Capital Mortgage Corporation, with documentation of  
11 service.  
12

13 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the  
14 Director's designee hereby adopts the Temporary Order to Cease and Desist, which is attached hereto.

## 15 II. FINAL ORDER

16 Based upon the foregoing, and the Director's designee having considered the record and  
17 being otherwise fully advised, NOW, THEREFORE:

18 A. IT IS HEREBY ORDERED, that Respondent Pinnacle Capital Mortgage Corporation,  
19 d/b/a Absolute Mortgage, shall permanently cease and desist from

- 20  
21 (1) Conducting any and all business as a consumer loan company from and through  
22 S&P Lending Group, LLC;

1 (2) Conducting any and all business as a consumer loan company from the office of  
2 S&P Lending Group, LLC, located at 12815 Canyon Road, Suite H, Puyallup,  
3 Washington; and

4 (3) Conducting any and all business as a consumer loan company using a name other  
5 than that appearing on Respondents' licenses.

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

13  
14 A timely Petition for Reconsideration is deemed denied if, within 20 days from the date the  
15 petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written  
16 notice specifying the date by which it will act on a petition.

17 C. Stay of Order. The Director's designee has determined not to consider a Petition  
18 to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition  
19 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

20  
21 D. Judicial Review. Respondent Pinnacle Capital Mortgage Corporation has the right  
22 to petition the superior court for judicial review of this agency action under the provisions of chapter  
23 34.05 RCW. For the requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and  
24 sections following.

1 E. Non-compliance with Order. If you do not comply with the terms of this order, the  
2 Department may seek its enforcement by the Office of Attorney General.

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

6  
7 DATED this 6<sup>th</sup> day of January, 2010.  
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STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

*Deborah Bortner*

DEBORAH BORTNER  
DIRECTOR  
DIVISION OF CONSUMER SERVICES

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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  
Consumer Loan Act of Washington by:

C-09-232-09-TD02

PINNACLE CAPITAL MORTGAGE  
CORPORATION, D/B/A ABSOLUTE  
MORTGAGE, and  
ABSOLUTE MORTGAGE CORPORATION,

TEMPORARY ORDER TO  
CEASE AND DESIST

Respondents.

THE STATE OF WASHINGTON TO:

PINNACLE CAPITAL MORTGAGE CORPORATION  
ABSOLUTE MORTGAGE CORPORATION

COMES NOW the Director of the Washington State Department of Financial Institutions (Director), by and through his designee Deborah Bortner, Division Director, Division of Consumer Services (designee), and finding that the public is likely to be substantially injured by delay in issuing a cease and desist order, enters this Temporary Order to Cease and Desist pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), based on the following:

**I. FACTUAL FINDINGS**

**1.1 Respondents.**

**A. Pinnacle Capital Mortgage Corporation (Respondent Pinnacle)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on September 3, 2008, and continues to be licensed to date. Respondent Pinnacle is licensed to conduct business as a Consumer Loan Company from its main office at 193 Blue Ravine Road, Suite 240, Folsom, California, and at 22 branch locations in Idaho, Oregon, and Washington. Respondent Pinnacle is authorized by the Department to use the trade name of Absolute Mortgage at four branch locations in Washington.

1           **B. Absolute Mortgage Corporation (Respondent Absolute)** is a Washington Corporation which  
2 currently holds consumer loan branch licenses from Respondent Pinnacle at four locations in Washington;  
3 including two locations in Issaquah, one location in Maple Valley, and one location in Bellevue.

4 **1.2 Unlicensed Activity.** On or about September 3, 2009, the Department was contacted by a licensing  
5 coordinator for S&P Lending Group (S&P), a company known to be owned and operated by Shawn L.  
6 Portmann, concerning a consumer loan branch license application S&P had submitted the previous week under  
7 Absolute Mortgage. The licensing coordinator was informed at that time that Absolute Mortgage was a branch  
8 of Pinnacle Capital Mortgage Corporation and that any license application had to be filed through Pinnacle.

9           On or about September 16, 2009, the Department received information that S&P was engaged in the  
10 business of originating residential mortgage loans from their location in Puyallup, Washington. A  
11 representative for the Department called Respondent Pinnacle and asked if Respondent Pinnacle had any plans  
12 to license S&P as a branch at the Puyallup location. A representative for Respondent Pinnacle confirmed that  
13 they intended to submit the branch application for S&P “within 24 hours” and stated that S&P was not and  
14 would not conduct any business on behalf of Respondent Pinnacle until the branch license was issued.

15           On or about September 17, 2009, Respondent Pinnacle filed a branch application for S&P at the  
16 Puyallup location through the NMLS licensing database. As of the date of this Order, however, Respondent  
17 Pinnacle has not filed the remaining paperwork with the Department necessary to process the application. As a  
18 result, no license has been issued to Respondent Pinnacle for S&P or for an office in Puyallup.

19           On or about September 22, 2009, a representative for the Department went to the S&P office in  
20 Puyallup and found the office to be open for business. The Department’s representative met with Shawn  
21 Portmann and requested an application to refinance a residential mortgage loan. Mr. Portmann directed a staff  
22 member to provide the Department’s representative with a Uniform Residential Loan Application and told the  
23 Department’s representative that S&P could assist with obtaining a residential mortgage loan. Page four of the  
24 application identified the company utilizing the form as “Absolute Mortgage” in Bellevue Washington.

25

1 **1.3 Aiding and Abetting Unlicensed Activity.** The facts set forth in section 1.2, above, are incorporated  
2 herein by reference.

## 3 **II. GROUNDS FOR ENTRY OF ORDER**

4 **2.1 Unlicensed Activity.** Based on the Factual Allegations set forth in Section I above, Respondents are in  
5 apparent violation of RCW 31.04.027(2), RCW 31.04.035, RCW 31.04.075, and WAC 208-620-270 for  
6 conducting business from an unlicensed location.

7 **2.2 Aiding and Abetting Unlicensed Activity.** Based on the Factual Allegations set forth in Section I  
8 above, Respondents, in the alternative, are in apparent violation of RCW 31.04.027(2) and WAC 208-620-  
9 570(12) for aiding and abetting an unlicensed person to practice in violation of the Consumer Loan Act or the  
10 Mortgage Broker Practices Act.

11 **2.3 Transacting Business under a Name other than that on License.** Based on the Factual Allegations  
12 set forth in Section I above, Respondents are in apparent violation of RCW 31.04.027(2) and WAC 208-620-  
13 420 for conducting business under a name other than that on their license.

14 **2.4 Requirement to Conduct Business in a Manner that is not Injurious or Illegal.** Based on the  
15 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.165 by  
16 conducting business in an injurious manner that creates a reasonable likelihood of a violation of any provision  
17 of the Act.

## 18 **III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST**

19 **3.1 Authority to Issue Temporary Order to Cease and Desist.** Pursuant to RCW 31.04.165, if it  
20 appears to the director that a licensee is conducting business in an injurious manner, or is violating any  
21 provision of the Act, the director may order or direct the discontinuance of any such injurious or illegal  
22 practice. Pursuant to RCW 31.04.093(7), whenever the director determines that the public is likely to be  
23 substantially injured by delay in issuing a cease and desist order, the director may immediately issue a  
24 temporary cease and desist order. The order may direct the licensee to discontinue any violation of this chapter,  
25 to take such affirmative action as is necessary to comply with this chapter, and may include a summary

1 suspension of the licensee's license and may order the licensee to immediately cease the conduct of business  
2 under this chapter.

3 **IV. ORDER**

4 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue Temporary  
5 Order to Cease and Desist, and pursuant to RCW 31.04.093(7) and RCW 31.04.165, the Director determines  
6 that the Respondents are conducting business in an injurious manner in violation of the provisions of the Act,  
7 and that the public is likely to be substantially injured by a delay in entering a cease and desist order.

8 Therefore, the Director ORDERS that:

9 **4.1** Respondents shall immediately cease and desist conducting any and all business as a consumer loan  
10 company from and through S&P Lending Group, LLC, and any current employee of S&P Lending Group,  
11 LLC. This includes, but is not limited to, assisting borrowers with applying for or obtaining residential  
12 mortgage loans secured by Washington real property and accepting, from either consumers, mortgage brokers,  
13 or other consumer lenders, any applications for residential mortgage loans or home equity lines of credit  
14 secured by Washington real property or from Washington consumers.

15 **4.2** Respondents shall immediately cease and desist conducting any and all business as a consumer loan  
16 company from the office of S&P Lending Group, LLC, located at 12815 Canyon Road, Suite H, Puyallup,  
17 Washington.

18 **4.2** Respondents shall immediately cease and desist conducting any and all business as a consumer loan  
19 company using a name other than that appearing on Respondents' licenses.

20 **4.3** This order shall take effect immediately and shall remain in effect unless set aside, limited, or  
21 suspended in writing by an authorized court.

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1 NOTICE

2 PURSUANT TO CHAPTER 19.146 RCW, YOU ARE ENTITLED TO A HEARING WITHIN 14  
3 DAYS OF REQUEST TO DETERMINE WHETHER THIS ORDER SHALL BECOME PERMANENT. IF  
4 YOU DESIRE A HEARING, THEN YOU MUST RETURN THE ATTACHED APPLICATION FOR  
5 ADJUDICATIVE HEARING INCORPORATED HEREIN BY THIS REFERENCE. FAILURE TO  
6 COMPLETE AND RETURN THE APPLICATION FOR ADJUDICATIVE HEARING FORM SO THAT IT IS  
7 RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN 20 DAYS OF THE DATE  
8 THAT THIS ORDER WAS SERVED ON YOU WILL CONSTITUTE A DEFAULT AND WILL RESULT IN  
9 THE LOSS OF YOUR RIGHT TO A HEARING. SERVICE ON YOU IS DEFINED AS POSTING IN THE  
10 U.S. MAIL, POSTAGE PREPAID, TO YOUR LAST KNOWN ADDRESS. BE ADVISED THAT DEFAULT  
11 WILL RESULT IN THIS ORDER TO CEASE AND DESIST BECOMING PERMANENT ON THE TWENTY-  
12 FIRST (21ST) DAY FOLLOWING SERVICE OF THIS ORDER UPON YOU.

13 WITHIN TEN DAYS AFTER YOU HAVE BEEN SERVED WITH THIS TEMPORARY ORDER  
14 TO CEASE AND DESIST, YOU MAY APPLY TO THE SUPERIOR COURT IN THE COUNTY OF  
15 YOUR PRINCIPAL PLACE OF BUSINESS FOR AN INJUNCTION SETTING ASIDE, LIMITING, OR  
16 SUSPENDING THIS ORDER PENDING THE COMPLETION OF THE ADMINISTRATIVE  
17 PROCEEDINGS PURSUANT TO THIS NOTICE.

18 DATED this 24<sup>th</sup> day of September, 2009.



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DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

1 Presented By:

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4 STEVEN C. SHERMAN  
Financial Legal Examiner

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Approved By:

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8 JAMES R. BRUSSELBACK  
Enforcement Chief

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

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Consumer Loan Act of Washington by:

C-09-232-09-TD02

PINNACLE CAPITAL MORTGAGE  
CORPORATION, D/B/A ABSOLUTE  
MORTGAGE, and  
ABSOLUTE MORTGAGE CORPORATION,

NOTICE OF OPPORTUNITY TO DEFEND  
AND OPPORTUNITY FOR HEARING

Respondents.

9 THE STATE OF WASHINGTON TO: PINNACLE CAPITAL MORTGAGE CORPORATION

10  
11 YOU ARE HEREBY NOTIFIED that a Temporary Order to Cease and Desist has been filed by the  
12 Department of Financial Institutions, a true and correct copy of which is attached and made a part hereof.

13 YOU ARE HEREBY NOTIFIED that you may file an application for an adjudicative hearing before the  
14 Washington State Department of Financial Institutions to contest the Temporary Order to Cease and Desist.

15 YOUR APPLICATION MUST BE RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS  
16 WITHIN 20 DAYS FROM THE DATE YOU RECEIVED THIS NOTICE. Service of this notice is deemed  
17 complete upon deposit in the United States mail. If you demand a hearing, you will be notified of the time and  
18 place for the hearing at least seven days in advance of the hearing date.

19 At the hearing, you may appear personally, and by counsel, if you desire. The hearing will be as informal  
20 as is practical within the requirements of the Administrative Procedure Act (see chapter 34.05 RCW). The  
21 hearing will be recorded. The primary concern will be getting to the truth of the matter insofar as the Temporary  
22 Order is concerned. Technical rules of evidence will not be binding at the hearing except for the rules of privilege  
23 recognized by law. You have the right to present evidence and witnesses in your own behalf, and to cross-  
examine those witnesses presented in support of the Temporary Order to Cease and Desist. You may require the

1 attendance of witnesses by subpoena. If you are limited English-speaking or hearing impaired, you have the right  
2 to have an interpreter appointed at no cost to you, as discussed below.

3 INTERPRETER AVAILABILITY. If you or a witness for you is a person who, because of non-English-  
4 speaking cultural background, cannot readily speak or understand the English language, or if you or a witness for  
5 you is a person who, because of a hearing impairment or speech defect, cannot readily understand or communicate  
6 in spoken language, including persons who are deaf, deaf and blind, or hard of hearing, AND YOU NEED AN  
7 INTERPRETER, then a qualified interpreter will be appointed at no cost to you or to the witness. You may  
8 request the appointment of a qualified interpreter by indicating your request on the attached Application for  
9 Adjudicative Hearing form.

10 YOU ARE FURTHER NOTIFIED that if the Department of Financial Institutions does not RECEIVE the  
11 Application for Adjudicative Hearing form within twenty (20) days from the date you received this notice, this  
12 will constitute a waiver of your right to a hearing and the Director will find that you do not contest the allegations  
13 of the Temporary Order to Cease and Desist. Upon such a finding by the Director, a permanent Order to Cease  
14 and Desist will be immediately entered disposing of this matter as described in the Temporary Order to Cease and  
15 Desist. If you desire a hearing in this matter, please return the attached Application for Adjudicative Hearing to:

16 Department of Financial Institutions, Division of Consumer Services  
17 Attn: Fatima Batie  
18 PO Box 41200  
19 Olympia, Washington 98504-1200

20 Dated this 24<sup>th</sup> day of September, 2009.



21 *Deborah Bortner*

22 DEBORAH BORTNER  
23 Director  
24 Division of Consumer Services  
Department of Financial Institutions