

NEWS RELEASE

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**NC Commissioner of Banks Prohibits Net Branch Company
from Engaging in Mortgage Business in NC**
NARES ordered to reimburse funds to borrowers and pay fines

RALEIGH—The N.C. Commissioner of Banks revoked the mortgage lender license of North American Real Estate Services, Inc. ("NARES"), finding that NARES used a variety of shell companies and fictitious names in order to avoid state regulation. The Commissioner ordered NARES and its affiliated companies to cease and desist from advertising or engaging in the mortgage business in North Carolina. In addition, the Commissioner ordered NARES, its affiliated companies, and the companies' owners, officers, and directors to pay a \$320,000 fine to the State and refund \$60,000 to consumers.

"This case shows how far some mortgage companies will go to escape our regulation," said Chief Deputy Commissioner of Banks Mark Pearce. "This decision holds not only the company responsible, but also the individual owners that profited from the illegal scheme. North Carolina will continue to pursue these companies and shut the door on this type of business."

The Commissioner's ruling found that NARES was one of several corporate entities that operated under the Pacific Bancorp name. The owners and directors of Pacific Bancorp established shell corporations in an effort to cloud their true identity and to shield them from liability. Through this network of shell companies, the Pacific Bancorp entities attempted to obtain licensure in every state. If one company was denied a license, the enterprise would reapply using the name of a different shell. For example, when the Washington Department of Financial Institutions ("WDFI") refused licensure to NARES, the enterprise reapplied to the WDFI under the name, "Americawide."

Through these shell corporations, the owners of Pacific Bancorp attempted to sell to unlicensed individuals a right to do business in North Carolina. These unlicensed individuals would operate with no meaningful controls, undercutting the State's efforts to supervise and regulate the mortgage industry. The company falsely advertised on its website that these branch licenses would enable prospective purchasers to legally make or broker loans in North Carolina. The Commissioner found this scheme to be illegal "net branching," contrary to the Commissioner's declaratory ruling in 2003 (http://www.nccob.org/NR/rdonlyres/FA516B4E-154D-4962-A739-61CED08839BD/0/DeclaratoryRuling2003_01NetBranching.pdf).

Several states, including North Carolina, have expressly prohibited the practice known as “net branching.” In a traditional net branch arrangement, the licensed company effectively rents out its state-issued license in exchange for a franchise-style fee. In this type of relationship, the licensed company provides little-to-no supervision or control over the net branch. NCCOB has taken enforcement actions against a number of net branch companies in recent years, reaching fines and settlements of more than \$1,300,000.

NCCOB charged the Pacific Bancorp entities \$10,000 per violation, the maximum penalty allowed, with the total civil money penalty exceeding \$300,000. NCCOB also ordered NARES to disgorge over \$60,000 in illegal broker fees charged to 13 different borrowers. The Commissioner also ordered that the officers and directors of NARES and its affiliates were jointly and severally liable for the payment of these penalties.

North Carolina has had one of the nation’s leading laws on mortgage licensing, requiring both companies and individuals engaged in the mortgage business to meet and maintain standards for education, testing, and background, and to conduct business under supervision of experienced individuals. NCCOB is working closely with legislators to enact an improved version of this law to meet new federal standards and to further increase protections for borrowers against abusive practices. This bill can be found at: <http://www.ncga.state.nc.us/gascripts/BillLookUp/BillLookUp.pl?Session=2009&BillID=h1523>.

The NARES order is available on NCCOB’s website at <https://www.nccob.org/Online/NMLS/CommissionOrderListing.aspx>.

NCCOB regulates state-chartered banks, thrifts, savings and loans, trust companies, and more than 900 mortgage lenders/servicers/brokers and 9,500 loan officers, as well as numerous consumer finance companies, check-cashers, and other financial services.

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