

**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES**

In the Matter of:

KARL KENT SPENCER,
dba Kirby of Greater Oregon,

Respondent.

FINAL ORDER

**DFCS Case No. S-11-0007
(OAH Case No. 1102283)**

HISTORY OF THE CASE

On March 9, 2011, the Division of Finance and Corporate Securities (“Division”), acting on behalf of the Director of the Department of Consumer and Business Services (“Director”), issued an administrative order (“notice order”) notifying Respondent Karl Kent Spencer (“Respondent” or “Spencer”) of allegations of violation of a prior consent order issued on December 10, 2010, case number S-09-0071.

The notice order alleged that Respondent had agreed to the terms of a consent order in case number S-09-0071, in which he agreed to a civil penalty of \$225,000 for violations of the Oregon Securities Law, ORS chapter 59. One hundred sixty thousand dollars of the assessed civil penalty was suspended provided that Respondent made payments in accordance with the terms set forth in the consent order.

The notice order found that Respondent had failed to make the required payments in accordance with the consent order, was in violation of the consent order, and therefore should be assessed the total civil penalty that had been suspended. Respondent was apprised of his right to demand an administrative hearing.

On or about March 31, 2011, Respondent filed a timely demand for an administrative hearing with the Division.

The Division referred the matter to the Office of Administrative Hearings (“OAH”) on April 1, 2011. The case was assigned to Senior Administrative Law Judge Ken L. Betterton.

ALJ Betterton convened a telephone conference on May 31, 2011. Assistant Attorney General Joanna L. Tucker Davis represented the Division. Respondent appeared *pro se*. A hearing was scheduled for September 8, 2011.

On May 31, 2011, the Division filed with the OAH a Motion for Summary Determination. Respondent did not file a response to the motion.

On August 4, 2011, ALJ Betterton issued a Ruling granting the Division’s Motion for Summary Determination and a Proposed Order.

In his Proposed Order, ALJ Betterton notified Respondent that he was allowed to file written exceptions to the Proposed Order if filed with the Division within 30 days following the date of service of the Proposed Order. Because the deadline for filing timely written exceptions to the Proposed Order fell on Saturday, September 3, 2011, and the following Monday was a holiday, the last date for filing exceptions was Tuesday, September 6, 2011.

Respondent did not file exceptions to the Proposed Order and the time for filing such has expired.

ADOPTION OF PROPOSED ORDER

ALJ Betterton issued his Proposed Order on August 4, 2011. The Division's Exhibits A1 through A3 were made part of the record. The Proposed Order, including the Findings of Fact Relevant to the Motion for Summary Determination, is hereby adopted into this Final Order and the Proposed Order is incorporated by this reference. The Proposed Order with Division Exhibits is attached hereto as Exhibit 1.

CONCLUSIONS OF LAW

Respondent Spencer agreed to the terms of the December 10, 2010 consent order issued by the Division.

Respondent failed to comply with the terms of the December 10, 2010 consent order.

In failing to comply with the terms of the consent order, Respondent violated the terms of the December 10, 2010 consent order.

Pursuant to its terms, Respondent must pay the entire previously suspended civil penalty assessed in the December 10, 2010 consent order.

FINAL ORDER

Respondent Karl Kent Spencer is hereby ORDERED to pay a civil penalty of \$225,000 plus interest at the rate of nine percent (9%) simple per annum from December 10, 2010.

IT IS SO ORDERED.

Dated this 19th day of September, 2011 at Salem, Oregon.

/s/ Scott L. Harra
SCOTT L. HARRA, Acting Director
Department of Consumer and Business Services

NOTICE OF RIGHT TO APPEAL

You are entitled to seek judicial review of this order. Judicial review may be obtained by filing a petition for review with the Oregon Court of Appeals within 60 (sixty) days from the service of this final order. Judicial review is pursuant to the provisions of ORS 183.482.

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