

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

IN THE MATTER OF:

) **FINAL ORDER**

)

) OAH Case No.: 1102575

) Agency Case No.: M-11-0018

**ERIC STELZER,  
Respondent**

**HISTORY OF THE CASE**

On May 2, 2011, the Division of Finance and Corporate Securities (Division) issued an Order Revoking Mortgage Loan Originator License, Order Declining to Renew Mortgage Loan Originator License and Notice of Right to a Public Hearing to Eric Stelzer (Respondent). On May 17, 2011, Respondent requested a hearing.

On October 24, 2011, the Division referred the hearing request to the Office of Administrative Hearings (OAH). Administrative Law Judge (ALJ) Dove L. Gutman was assigned to preside at hearing.

On December 2, 2011, a pre-hearing telephone conference was held. ALJ Gutman presided. Assistant Attorney General Raul Ramirez represented the Division. Respondent represented himself. On December 5, 2011, ALJ Gutman issued a Pre-Hearing Order scheduling the contested case hearing for April 9, 2012.

On March 12, 2012, Mr. Ramirez, on behalf of the Division, filed a Motion for Summary Determination, along with Exhibits A through K.<sup>1</sup> Respondent did not file a Response.

On April 3, 2012, ALJ Gutman issued her Ruling on Motion for Summary Determination and Proposed Order (Proposed Order) granting the Motion for Summary Determination. The Proposed Order cancelled the contested case hearing scheduled for April 9, 2012. Respondent made a timely filing of written exceptions to the Proposed Order with the Division on April 18, 2012.

After review of the Proposed Order and the records herein, the Division adopts the ALJ's Proposed Order as the Final Order and denies the exceptions requested by Respondent.

**ISSUES**

1. Whether Respondent violated ORS 86A.224(1)(c).
2. Whether Respondent violated ORS 86A.183(1)(a).

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<sup>1</sup> The Motion for Summary Determination was mailed to Respondent on March 9, 2012.

3. Whether Respondent failed to meet the requirements of ORS 86A.212(1)(d).
4. Whether Respondent failed to meet the requirements of ORS 86A.218(1)(a).
5. Whether Respondent's renewal application shall be denied.
6. Whether Respondent's Mortgage Loan Originator License shall be revoked.

### **EVIDENTIARY RULING**

Exhibits A through K were admitted into the record without objection.

### **LEGAL STANDARD FOR SUMMARY DETERMINATION**

Motions for Summary Determination are governed by OAR 137-003-0580, which provides in pertinent part:

(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

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(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling or a final order in accordance with OAR 137-003-0665 if the administrative law judge has the authority to issue a final order without first issuing a proposed order.

### **FINDINGS OF FACT**

1. On April 15, 1998, the Division issued to Corvallis Mortgage Company, Inc.,

(Corvallis Mortgage) an Oregon mortgage broker license, ML-1510, NMLS #277594. (Ex. A.)

2. Corvallis Mortgage held an Oregon mortgage broker license until January 1, 2011, when it failed to renew its license. (Ex. A.) Respondent was the sole owner of Corvallis Mortgage. (Ex. B.) Respondent was listed in the Division's records as a loan originator for Corvallis Mortgage between April 3, 2002 and August 1, 2010. (Ex. C.)

3. At all times material, Respondent was licensed with the Oregon Real Estate Agency (OREA) to conduct professional real estate activity in Oregon. Respondent was also licensed as a mortgage broker in Oregon. (Exs. D, F.)

4. On May 21, 2009, the Department of Justice (DOJ) received a complaint against Respondent in connection with an Oregon real estate transaction. The DOJ forwarded the complaint to OREA and the Division for review. (Ex. E.)

5. On April 12, 2010, OREA issued a Notice of Intent to Revoke (Notice) Respondent's Oregon real estate license. The Notice alleged that during the period of July 2006 through December 2008, Respondent engaged in dishonest conduct substantially related to his fitness to conduct professional real estate activity and demonstrated incompetence or untrustworthiness in performing an act for which he was required to hold a real estate broker's license, in violation of ORS 696.301(12) and ORS 696.301(14). (Ex. F.) The allegations arose from a verbal agreement between Respondent and an Oregon couple, the Schills, to enter into a life estate contract in connection with the sale of the couple's property to Respondent. The allegations charged that Respondent failed to reduce the verbal agreement to writing before the closing of the transaction; that Respondent failed to disclose the agreement to the lender; and that Respondent backdated a life estate agreement to October 26, 2006 when he prepared the document in December 2008. (Ex. F.) On April 30, 2010, Respondent requested a hearing to contest the Notice. (Ex. D.)

6. On September 9, 2010, Respondent filed an application with the Division for a mortgage loan originator's license through Nationwide Mortgage Licensing System (NMLS). The application included the following questions:

#### Regulatory Action

(I) Has any State or federal agency or foreign financial regulatory authority ever:

1. Found you to have made a false statement or omission or been dishonest, unfair or unethical?

2. Found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?

3. Found you to have been a cause of a financial services-

related business having its authorization to do business denied, suspended, revoked or restricted?

4. Entered an order against you in connection with a financial services-related activity?

5. Revoked your registration or license?

6. Denied or suspended your registration or license, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?

7. Barred you from association with an entity regulated by such commissions, authority, agency, or officer, or from engaging in a financial-services-related business?

8. Issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?

(J) Have you ever had an authorization to act as an attorney, accountant, or State or federal contractor that was revoked or suspended?

(K) Are you now the subject of a regulatory action proceeding that could result in a “yes” answer to any part of (I) or (J)?

(Ex. G.) Respondent answered “no” to all of the questions in Sections (I), (J), and (K). (Ex. G.)

7. On September 16, 2010, an examiner with the Division issued Respondent an Oregon mortgage loan originator license (NMLS #277921). On September 20, 2010, the examiner learned of the Notice issued by OREA and placed a deficiency on Respondent’s license, requesting that Respondent amend his answer to question (K) and provide an explanation. (Exs. H, K.)

8. Respondent subsequently changed his answer to question (K) to “yes” and explained that he did not feel comfortable answering “yes” to that question as he did not think it applied at that time. (Exs. I, J.)

9. On November 29, 2010, Respondent requested renewal of his loan originator license and authorized a credit report in the NMLS. (Ex. H.)

10. On December 6 and December 7, 2010, the Office of Administrative Hearings held a contested case hearing on the Notice of Intent to Revoke issued by OREA. (Ex. D.)

11. On January 7, 2011, Senior Administrative Law Judge (ALJ) Richard Barber issued a Proposed Order, finding that Respondent violated ORS 696.301(12) by failing to reduce a verbal agreement between himself and the Schills to writing before closing; that Respondent engaged in dishonest conduct, thereby violating ORS 696.301(14), by failing to disclose to the lender his agreement with the Schills; that Respondent engaged in dishonest conduct, thereby violating ORS 696.301(14), by backdating a Life Estate Agreement prepared in December 2008 to October 26, 2006; and that Respondent's real estate license should be revoked. (Ex. D.)

12. On February 3, 2011, the Oregon Real Estate Commissioner adopted ALJ Barber's Proposed Order as the Final Order, finding that Respondent had demonstrated incompetence or untrustworthiness in performing an act for which Respondent was required to hold a license, in violation of ORS 696.301(12); and that Respondent had engaged in dishonest conduct substantially related to Respondent's fitness to conduct professional real estate activity in violation of ORS 696.301(14). (Ex. D.)

13. On December 14, 2011, Kirsten Anderson, an employee of the Division, reviewed Respondent's credit report and determined that additional information was necessary. Ms. Anderson placed a deficiency in the NMLS and sent Respondent an email directing him to supply certain financial information to clarify the items found on the credit report. (Ex. K.)

14. Respondent failed to provide to the Division the financial information requested by Ms. Anderson. The Division is unable to make a financial responsibility determination regarding Respondent. (Ex. K.)

15. Respondent's license renewal has not been approved as a result of his failure to provide the requested financial information. (Ex. K.)

### **CONCLUSIONS OF LAW**

1. Respondent violated ORS 86A.224(1)(c).
2. Respondent violated ORS 86A.183(1)(a).
3. Respondent failed to meet the requirements of ORS 86A.212(1)(d).
4. Respondent failed to meet the requirements of ORS 86A.218(1)(a).
5. Respondent's renewal application shall be denied.
6. Respondent's Mortgage Loan Originator License shall be revoked.

### **OPINION**

The Division contends that it is entitled to summary determination as a matter of law because there are no genuine issues of material fact that Respondent violated ORS 86A.224(1)(c); Respondent violated ORS 86A.183(1)(a); Respondent failed to meet the

requirements of ORS 86A.212(1)(d); Respondent failed to meet the requirements of ORS 86A.218(1)(a); Respondent's renewal application should be denied; and Respondent's mortgage loan originator's license should be revoked.

**1. Whether Respondent violated ORS 86A.224(1)(c).**

ORS 86A.224 provides:

(1) In addition to authority the Director of the Department of Consumer and Business Services has under ORS 86A.095 to 86A.198, the director under this section has the authority, subject to ORS chapter 183, to deny, suspend, place conditions upon, revoke or decline to renew a mortgage loan originator's license or permanently prohibit a person from conducting business as a mortgage loan originator if:

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(c) An applicant makes a false statement or a material misstatement of fact on an application for a mortgage loan originator's license or a licensed mortgage loan originator makes a false statement or a material misstatement of fact on an application to renew a mortgage loan originator's license[.]

"Material" is defined as "being of real importance or great consequence." *Webster's Third New International Dictionary* 1392 (unabridged ed 2002). "Misstatement" is defined as "a false or incorrect statement." *Id.* at 1446.

On September 9, 2010, Respondent filed an application with the Division for a mortgage loan originator's license through NMLS. At that time, Respondent was aware that he was the subject of a regulatory proceeding with OREA that could result in revocation of his real estate license.

On the application, under section (I), Respondent was asked numerous questions, including whether any state agency had revoked his registration or license. Under section (K), Respondent was asked "Are you now the subject of a regulatory action proceeding that could result in a "yes" answer to any part of (I)?" Respondent answered "no" to the questions posed in sections (I) and (K).

By answering "no" to the question posed in section (K), Respondent made an incorrect statement of real importance. As such, Respondent made a material misstatement of fact on the application. Accordingly, Respondent violated ORS 86A.224(1)(c).

**2. Whether Respondent violated ORS 86A.183(1)(a).**

ORS 86A.183 provides:

(1) A mortgage banker, mortgage broker or mortgage loan originator may not:

(a) Engage in dishonest, fraudulent or illegal practices or conduct in a business or profession or engage in unfair or unethical practices or conduct in connection with the mortgage business.

During the period of July 2006 through December 2008, while licensed as a real estate agent and mortgage broker, Respondent failed to reduce a verbal agreement between himself and the Schills to writing before closing a real estate transaction, thereby violating ORS 696.301(12); Respondent failed to disclose his agreement with the Schills to the lender, thereby violating ORS 696.301(14); and Respondent backdated a Life Estate Agreement prepared in December 2008 to October 26, 2006, thereby violating ORS 696.301(14).<sup>2</sup>

Thus, while licensed as a real estate agent and mortgage broker, Respondent engaged in dishonest and untrustworthy conduct in his business and profession. Consequently, Respondent violated ORS 86A.183(1)(a).

### **3. Whether Respondent failed to meet the requirements of ORS 86A.212(1)(d).**

ORS 86A.212 provides:

(1) The Director of the Department of Consumer and Business Services may not issue a mortgage loan originator's license to an applicant unless the director finds, at a minimum, that the applicant:

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<sup>2</sup> ORS 696.301 states, in part:

Grounds for discipline. Subject to ORS 696.396, the Real Estate Commissioner may suspend or revoke the real estate license of any real estate licensee, reprimand any licensee or deny the issuance or renewal of a license to an applicant who has done any of the following:

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(12) Demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license.

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(14) Committed an act of fraud or engaged in dishonest conduct substantially related to the fitness of the applicant or licensee to conduct professional real estate activity, without regard to whether the act or conduct occurred in the course of professional real estate activity.

(d) Has demonstrated financial responsibility sufficient to command the confidence of the community and warrant the determination that the applicant will operate honestly, fairly and efficiently within the purposes of ORS 86A.200 to 86A.239.

On December 14, 2011, Ms. Anderson, a Division employee, reviewed Respondent's credit report and determined that additional information was necessary. Ms. Anderson placed a deficiency in the NMLS and sent Respondent an email directing him to supply certain financial information to clarify the items found on the credit report.

However, Respondent failed to provide the requested financial information to the Division. In addition, while licensed as a real estate agent and mortgage broker, Respondent engaged in dishonest and untrustworthy conduct in his business and profession.

As such, Respondent failed to demonstrate financial responsibility sufficient to command the confidence of the community and warrant the determination that he will operate honestly, fairly and efficiently within the purposes of ORS 86A.200 to 86A.239. Therefore, Respondent failed to meet the requirements of ORS 86A.212(1)(d).

#### **4. Whether Respondent failed to meet the requirements of ORS 86A.218(1)(a).**

ORS 86A.218 provides:

(1) The Director of the Department of Consumer and Business Services shall renew a mortgage loan originator's license if the director finds that:

(a) The licensed mortgage loan originator continues to meet the requirements set forth under ORS 86A.212;

ORS 86A.212 provides:

(1) The Director of the Department of Consumer and Business Services may not issue a mortgage loan originator's license to an applicant unless the director finds, at a minimum, that the applicant:

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(d) Has demonstrated financial responsibility sufficient to command the confidence of the community and warrant the determination that the applicant will operate honestly, fairly and efficiently within the purposes of ORS 86A.200 to 86A.239.

As stated previously, by failing to provide the requested financial information to the

Division, Respondent failed to demonstrate financial responsibility sufficient to command the confidence of the community and warrant the determination that he will operate honestly, fairly and efficiently within the purposes of ORS 86A.200 to 86A.239. Thus, Respondent failed to meet the requirements set forth under ORS 86A.212. Accordingly, Respondent failed to meet the requirements of ORS 86A.218(1)(a).

**5. Whether Respondent's renewal application shall be denied.**

ORS 86A.224 provides:

(1) In addition to authority the Director of the Department of Consumer and Business Services has under ORS 86A.095 to 86A.198, the director under this section has the authority, subject to ORS chapter 183, to deny, suspend, place conditions upon, revoke or decline to renew a mortgage loan originator's license or permanently prohibit a person from conducting business as a mortgage loan originator if:

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(b) The director makes a finding under ORS 86A.212 or 86A.218 that the director believes justifies a decision to deny or decline to renew a mortgage loan originator's license;

(c) An applicant makes a false statement or a material misstatement of fact on an application for a mortgage loan originator's license or a licensed mortgage loan originator makes a false statement or a material misstatement of fact on an application to renew a mortgage loan originator's license[.]

Respondent made a material misstatement of fact on his application for a mortgage loan originator's license. In addition, Respondent failed to meet the requirements of ORS 86A.212(1)(d) and ORS 86A.218(1)(a). Consequently, the Division may deny Respondent's renewal application.

**6. Whether Respondent's Mortgage Loan Originator License shall be revoked.**

ORS 86A.224 provides:

(1) In addition to authority the Director of the Department of Consumer and Business Services has under ORS 86A.095 to 86A.198, the director under this section has the authority, subject to ORS chapter 183, to deny, suspend, place conditions upon, revoke or decline to renew a mortgage loan originator's license or permanently prohibit a person from conducting business as a mortgage loan originator if:

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(b) The director makes a finding under ORS 86A.212 or 86A.218 that the director believes justifies a decision to deny or decline to renew a mortgage loan originator's license;

(c) An applicant makes a false statement or a material misstatement of fact on an application for a mortgage loan originator's license or a licensed mortgage loan originator makes a false statement or a material misstatement of fact on an application to renew a mortgage loan originator's license[.]

As stated previously, Respondent made a material misstatement of fact on his application for a mortgage loan originator's license. In addition, Respondent failed to meet the requirements of ORS 86A.212(1)(d) and ORS 86A.218(1)(a). Therefore, the Division may revoke Respondent's mortgage loan originator's license.

### **EXCEPTIONS**

The Proposed Order provides that exceptions must be based only on the grounds that: a necessary finding of fact is omitted, erroneous, or unsupported by the preponderance of the evidence in the record, a necessary legal conclusion is omitted or is contrary to the law or the Division's rules or written policies, or a prejudicial error occurred.

The Proposed Order instructed that if Respondent wished to file exceptions, he must specify the disputed findings, opinions, or conclusions identified by page and paragraph of the Proposed Order. The nature of the error must be specified and the alternative or corrective language provided. Respondent did not comply with these instructions.

Respondent included several unnumbered general allegations and requests in response to ALJ Gutman's Proposed Order in addition to his exceptions filed with the Division. Respondent alleged that he did not understand the effect of a Motion for Summary Determination and ALJ Gutman's ruling – that there would be no hearing. Respondent understood that the hearing would be when he could provide oral argument and defend himself.

Respondent appeared for the December 2, 2011, prehearing conference for this case where the Division reported that it planned to file a Motion for Summary Determination. The Division filed a Motion for Summary Determination on March 12, 2012 and sent Respondent a copy. Respondent had the opportunity to file a Response raising objections and did not. In addition, he could have taken other steps to receive clarification on the process earlier and did not.

Respondent's acknowledged confusion regarding the administrative process does not constitute a prejudicial error or a necessary finding of fact or legal conclusion that was omitted from the Proposed Order.

Respondent requests that the Division change the Proposed Order from a mortgage broker license revocation to a license suspension. The Division adopts the Proposed Order as the Final Order in this case which includes a license revocation penalty. Respondent is not alleging that the Proposed Order is factually or legally deficient; and therefore, this request to change the order is denied.

Respondent also requests that the “verbiage of dishonest and untrustworthy be stricken from the states arguments.”[sic] The Oregon Real Estate Commissioner’s Final Order found that Respondent violated ORS 697.301(14) for engaging in dishonest conduct substantially related to the fitness of the licensee to conduct professional real estate activity and ORS 696.301(12) for demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license. (Ex. D.)

The Real Estate Commissioner’s Final Order, including the specific language Respondent is referring to, was entered after Respondent, who was represented by counsel, had the opportunity to present evidence and argument at the contested case hearing. ALJ Barber made his findings accordingly, and this final order stands. Respondent is not alleging that this specific language is legally or factually deficient; and therefore, this request is denied.

Respondent’s numbered exceptions and argument and the Division’s response are included below.

1. “Regarding whether I violated ORS 86A.224(1)(c). I agree that I should have hired an attorney and/or reduced out [sic] verbal agreement to writing prior to my taking ownership of the property.”

Whether Respondent should have hired an attorney and/or reduced the verbal agreement he had with the Schills to writing before taking ownership of the property is not relevant to whether he made a material misstatement on his loan originator’s application in violation ORS 86A.224(1)(c). Respondent is not asserting that he hired an attorney and/or reduced the verbal agreement with the Schills to writing, only that he now feels he should have. As such, Respondent’s assertions do not constitute necessary facts that were omitted from the Proposed Order, are of no legal consequence to whether he violated ORS 86A.224(1)(c), and do not identify a prejudicial procedural error in these proceedings. As such, this exception is denied.

2. “Regarding whether I violated ORS 86A.183(1)(a). I dispute the charges made that I failed to notify the lender regarding the existence of the life estate when no such written agreement contract between myself and the Schill’s [sic] existed. The agreement we had was vague, and not at all agreed upon by either of us at the time I took ownership. The argument of backdating a document was simply an option I tried to present the Schill’s [sic] in 2008, two years after the date I took ownership. This document was not signed by me, or notarized, or recorded, or accepted by the Schill’s [sic]. It was simply an offer to the Schill’s [sic] to consider.”

Respondent appears to disagree with several of the findings of fact contained in the Oregon Real Estate Commissioner's Final Order, but he does not offer evidence that any necessary facts were omitted, erroneous, or unsupported by the preponderance of the evidence in the Proposed Order issued in this case.

On December 6 and December 7, 2010, the OAH held a contested case hearing on the OREA's Notice of Intent to Revoke wherein Respondent appeared, was represented by counsel, and had an opportunity to present evidence and argument. (Ex. D.) Following the hearing, ALJ Barber issued a Proposed Order finding, among other things, that Respondent:

- 1) failed to reduce a verbal agreement between himself and the Schills to writing before closing which demonstrated incompetence or untrustworthiness in performing any act for which the licensee is required to hold a license in violation of ORS 697.301(12) and;
- 2) engaged in dishonest conduct by failing to disclose the life estate agreement with the Schills to the lender and by backdating the life estate agreement in violation of ORS 697.301(14).

*Id.* The Oregon Real Estate Commissioner later adopted ALJ Barber's Proposed Order as the Final Order on February 3, 2011. *Id.* Respondent had an opportunity to present evidence and the arguments he now offers in Exception #2 at the OREA contested case hearing where he was represented by counsel, and ALJ Barber made his findings accordingly. The Oregon Real Estate Commissioner's Final Order that serves as the basis for the violation of ORS 86A.183(1)(a) stands. This exception is denied as Respondent's arguments are unsupported by the preponderance of the evidence in the record.

3. "Regarding whether I failed to meet the requirement of ORS 86A.212(1)(d). I understand that I should have simply re addressed [sic] the information I provided the DFCS in 2009 when the complaint was filed. The DFCS asked me to address a complaint filed by the Schill's [sic] in which my property was foreclosed upon and the Schill's [sic] asked to vacate the premises. The request by the DFCS to address why a foreclosure appeared on my credit report is a repeated question that they already knew the answer to. I should have simply sent in another explanation."

Respondent choose not to provide the information the Division requested to complete a review of his application, and it is irrelevant to the violation of ORS 86A.212 that he now understands he should have addressed the request. Respondent is not asserting that he provided the requested information to the Division, only that he now feels he should have. As such, this statement does not constitute a necessary fact omitted from the Proposed Order.

Respondent's argument that the Division's request to address why a foreclosure appeared on his credit report was a repeated question that the Division already had the answer is unsupported and incorrect. The mortgage loan originator's license application asked the following questions:

#### Regulatory Action

- (I) Has any State or federal agency or foreign financial regulatory authority ever:

1. Found you to have made a false statement or omission or been dishonest, unfair or unethical?
2. Found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?
3. Found you to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted?
4. Entered an order against you in connection with a financial services-related activity?
5. Revoked your registration or license?
6. Denied or suspended your registration or license, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?
7. Barred you from association with an entity regulated by such commissions, authority, agency, or officer, or from engaging in a financial-services-related business?
8. Issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?

(J) Have you ever had an authorization to act as an attorney, accountant, or State or federal contractor that was revoked or suspended?

(K) Are you now the subject of a regulatory action proceeding that could result in a “yes” answer to any part of (I) or (J)?

(Ex. G.) On September 9, 2010, Respondent answered “no” to all of the questions in Sections (I), (J), and (K). (Ex. G.)

On December 14, 2010, Ms. Anderson reviewed Respondent’s credit report, determined that additional information was necessary to complete a review of his application, and placed a deficiency in NMLS with a request that Respondent supply financial information to clarify an item listed on his credit report, a foreclosure. Respondent failed to provide the requested information. (Ex. K.) As demonstrated, the mortgage loan originator application questions (I) and (K) and the Division’s request for additional information regarding an item listed on Respondent’s credit report constitute different and separate requests.

The explanation Respondent previously provided to the Division for his license application did not mention a foreclosure. (Ex. K.) In addition, even if Respondent had previously notified the Division of the foreclosure, the credit report does not indicate the property address or other identifying information to allow the Division to determine that the disclosure on the credit report was one that was previously disclosed.

All mortgage loan originator license applicants are required to respond truthfully to all license application questions and requests for information (Ex. G.) regardless of whether the applicant is the subject of an open Division investigation.

This exception is denied as Respondent's first assertion is irrelevant to the violation of ORS 86A.212(1)(d), and thus does not constitute a necessary finding of fact omitted, and his second assertion is unsupported by the preponderance of the evidence in the record.

4. "Regarding whether I failed to meet the requirements of ORS 86A.218(1)(a). It was my understanding at the time that I was not being charged or investigated for violations that would result in an answer of (yes) to the NMLS questionnaire form[.]"

Respondent's argument that, at the time he completed his license application, he understood he was not being charged or investigated for violations that would result in a "yes" answer on certain license application questions is unfounded and contrary to the evidence in the record. On April 12, 2010, OREA issued a Notice of Intent to Revoke Respondent's Oregon real estate license (Ex. F.), and on April 30, 2010, Respondent requested a hearing. (Ex. D.) Several months later, on September 9, 2010, Respondent filed an application for a mortgage loan originator's license. The fact that a Notice of Intent to Revoke was issued to Respondent, and he requested a hearing on that Notice, shows that he was aware that he was the subject of an investigation that could result in a "yes" answer to question K. As such, this exception is denied.

#### **RULING**

The Motion for Summary Determination is hereby GRANTED.

Respondent's written exceptions are DENIED.

The contested case hearing scheduled for April 9, 2012 is cancelled.

## ORDER

The Division of Finance and Corporate Securities issued the following order: The Order Revoking Mortgage Loan Originator License, Order Declining to Renew Mortgage Loan Originator License and Notice of Right to a Public Hearing issued on May 2, 2011 is AFFIRMED.

DATED AND MAILED this 7 day of May, 2012.

/s/ Patrick M. Allen  
Patrick M. Allen, Director  
Department of Consumer and Business Services

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this Order. Judicial review is to the Oregon Court of Appeals pursuant to the provisions of ORS 183.482.