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

In the Matter of:

DM-11-0033

Harvest Capital Risk Mitigation Group, LLC
fka Harvest Capital Loan Modifications, LLC,
Jack Smith, and Gary E. Lacefield dba Risk
Mitigation Group,

**Order to Cease and Desist,
and Consent to Entry of Order as to Harvest
Capital Risk Mitigation Group LLC and
Jack Smith**

Respondents.

10 WHEREAS the Director of the Department of Consumer and Business Services for
11 the State of Oregon (“Director”) conducted an investigation of Harvest Capital Risk
12 Mitigation Group, LLC fka Harvest Capital Loan Modifications, LLC, (Harvest Capital) and
13 Jack Smith (Smith) and determined that Harvest Capital and Smith engaged in activities
14 constituting violations of Oregon Revised Statutes (“ORS”) 86A.100 *et seq.* and Oregon
15 Administrative Rules (“OAR”) 441-850-0005 through 441-885-0010 (collectively “Oregon
16 Mortgage Lender Laws and Rules”) and ORS 697.602 to 697.842 and OAR 441-910-0000
17 through 441-910-0120 (collectively “Oregon Debt Management Service Provider Laws and
18 Rules”). The matter involving Gary E. Lacefield dba Risk Mitigation Group was settled
19 under separate cover.

20 WHEREAS Harvest Capital has been an inactive entity since July 27, 2012, and
21 Smith, individually and on behalf of Harvest Capital, neither admits or denies the allegations
22 in the Notice Order but wishes to resolve and settle this matter with the Director;

23 NOW THEREFORE, as evidenced by the authorized signature subscribed on this
24 Consent Order, Smith individually and on behalf of Harvest Capital hereby consents to entry
25 of this order upon the Director’s Findings of Fact and Conclusions of Law as stated
26 hereinafter.





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FINDINGS OF FACT

The Director finds that:

1. As of September 7, 2012, Harvest Capital and Smith were not and have not previously been licensed with the Oregon Division of Finance and Corporate Securities (“Division”) to conduct business as a “mortgage broker”, as that term is defined in ORS 86A.100(5)(a)(C), in Oregon.

2. As of September 7, 2012, Harvest Capital and Smith were not and have not previously been registered with the Division to provide “debt management services”, as that term is defined in ORS 697.602(2)(c), in Oregon.

3. On or about March 21, 2009, Harvest Capital and Smith entered into an agreement with Oregon consumer EM (“EM Agreement”) whereby Harvest Capital and Smith, in exchange for an advance fee of \$2,980, agreed to provide EM loan modification services on a mortgage loan on residential real property located in Oregon.

4. Pursuant to the terms of the EM Agreement, EM made four payments through Duvera Financial, a third party billing agent, in the amount as follows: \$595 on March 19, 2009; \$795 on April 13, 2009, \$795 on May 11, 2009; and \$795 on June 11, 2009.

CONCLUSIONS OF LAW

The Director concludes that:

5. Respondents acted as a “mortgage broker” under ORS 86A.100(5)(a)(C) when Respondent for compensation, or in the expectation of compensation, either directly or indirectly made, negotiated, or offered to make or negotiate a modification to the terms and conditions of a mortgage loan.

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1 refund the entire \$2,980 to the consumer. There is no penalty for early
2 payment.

3 b. Payments shall be sent to the address set out in a September 5, 2013, e-mail
4 from the consumer and provided to Jack Smith with this Consent Order.

5 c. Respondent shall provide bimonthly (every two months) statements, due no
6 later than the 15th of the month, to the Oregon Division of Finance and
7 Corporate Securities beginning in November 2013 and continuing until the
8 consumer refund is paid in full. If the refund is paid in full earlier than 5
9 months, then a finally accounting will be required at the time of the final
10 payment. The reports shall evidence timely compliance, list the dates and
11 amounts Respondents have paid to EM, and include copies of the front of the
12 checks payable to EM showing that Respondents are in compliance with the
13 terms of this order. The signed notarized consent order, along with the first
14 quarterly statement, must be received by the Division by the close of business
15 on September 30, 2013.

16 Civil Penalty

17 13. The Director, pursuant to ORS 86A.992 and ORS 697.832, may assess a civil
18 penalty of up to \$5,000 for each violation of the Oregon Mortgage Lender Law and \$5,000 for
19 each violation of the Oregon statutes regulating debt management service providers.

20 14. Pursuant to these provisions, the Director hereby orders and Respondents agree to
21 pay a civil penalty to the State of Oregon totaling \$2,020. The civil penalty is based upon:
22 \$1,010 for engaging in unlicensed mortgage broker activity under ORS 86A.103(1), and for
23 engaging in unregistered debt management service provider activities in violation of ORS
24 697.612(1); \$1,010 for collecting and retaining advance fees in excess of \$100 in violation of
25 ORS 697.692(1).

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1 actions to enforce this Consent Order or to take appropriate action upon discovery of other
2 violations of the Oregon Mortgage Lender Laws and Rules and that I will fully comply with
3 the terms and conditions stated herein.

4 I understand that this Consent Order is a public document.

5 Dated this 30th day of September 2013.

7 /s/ Jack Smith
8 Jack G. Smith

10 **NOTARY ACKNOWLEDGMENT**

11 State of Texas)
12)ss.
13 County of Denton)

14 This instrument was acknowledged before me on 09/30, 2013 by Jack G. Smith.

16 /s/ Jennifer Cordova
17 Notary Public – State of Texas
18 My Commission Expires: 08-08-2015

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21 Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

