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

6 **BEFORE THE DIRECTOR OF THE DEPARTMENT**
7 **OF CONSUMER AND BUSINESS SERVICES**

8 In the Matter of:

DM-13-0156

9 Prospect Mortgage LLC, NMLS # 3296,
10 Respondent.

**Order to Cease and Desist and
Consent to Entry of Order**

11 The Director of the Department of Consumer and Business Services for the State of
12 Oregon (hereinafter “the Director”) conducted an investigation of Prospect Mortgage Company
13 LLC (Prospect) and determined that Prospect engaged in activities constituting a violation of
14 ORS 86A.100 et seq. and OAR 441-850-0005 through 441-885-0010 (hereinafter collectively
15 cited as the “Oregon Mortgage Lender Law”). Prospect now wishes to resolve and settle this
16 matter with the Director.

17 Prospect neither admits nor denies the allegations in the Notice Order but wishes to
18 resolve and settle this matter with the Director.

19 As evidenced by the authorized signature subscribed on this order, Prospect consents to
20 entry of this order upon the Director’s Findings of Fact and Conclusions of Law as stated
21 hereinafter.

22 **FINDINGS OF FACTS**

23 The Director finds that:

24 1. At all times material to this Order, Prospect Mortgage LLC (Prospect) was a Delaware
25 corporation with its principle place of business located at 15301 Ventura Boulevard, Suite
26 D300, Sherman Oaks, California.





1 2. At all times material to this Order, Prospect’s National Mortgage Licensing System
2 (NMLS) number was 3296 and its Oregon Mortgage License (ML) number was 2006. Prospect
3 is still an active corporation and is currently licensed and registered in Oregon and through
4 MNLS.

5 3. On or about October of 2011, DP and AP sought to refinance their mortgage on their
6 residential property located in Oregon and sought the refinance through Prospect’s Lake
7 Oswego, Oregon branch.

8 4. On February 8, 2012, DP and AP signed a Request for Transcript of Tax Return (form
9 4506-T) so that Prospect could obtain the couples’ 2009 and 2010 tax returns. The only dates on
10 the form signed by the couple were 12/31/2010 and 12/31/2009.

11 5. DP and AP did not give Prospect permission to obtain the couple’s 2011 tax information.

12 6. On May 18, 2012, when DP and AP were at closing, Prospect asked them to sign form
13 4506-T for the tax year 2011. However, Prospect already had the couple’s 2011 tax information.
14 The couple signed a new form 4506-T that contained the dates 12/31/2011 and 12/31/10.

15 7. AP requested that Prospect provide her a copy of the documentation used to obtain the
16 couples’ tax information. Prospect provided a copy of the form 4506-T that was signed by the
17 couple on February 8, 2012.

18 8. The document revealed that sometime after the couple had originally signed the document
19 in February, the 2011 date was typed on form 4506-T without the couples’ knowledge or consent.

20 9. During the investigation by the Division of Finance and Corporate Securities (Division),
21 Prospect’s corporate office located in California stated that they had conducted an internal
22 investigation of the complaint by AP.

23 10. Prospect’s corporate investigation revealed that there was a misunderstanding between the
24 loan officer and the loan processor regarding the consent of AP and DP to the release of their 2011
25 tax information.

26 //

1 11. Prospect's corporate investigation further revealed that the loan processor ordered the
2 couple's 2011 tax information with the understanding that the couple had consented to the release
3 of the 2011 tax information.

4 12. Information from Prospect's corporate division revealed that the loan file did not contain a
5 copy of the altered document.

6 13. Since this complaint was brought to Prospect's attention, Prospect has taken corrective
7 action regarding the employees involved so that a similar incident does not occur.

8
9 **CONCLUSIONS OF LAW**

10 The Director concludes that:

11 1. By altering form 4506-T after the borrowers had signed the document and without the
12 consent of the borrowers, Prospect engaged in unfair or unethical practices or conduct in
13 connection with the mortgage business in violation of ORS 86A.115(2).

14 **ORDERS**

15 **NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDER:**

16 1. The Director, pursuant to ORS 86A.127, hereby orders Prospect to Cease and
17 Desist from violating Oregon's Mortgage Lender Law.

18 2. The Director, pursuant to ORS 86A.992, may assess a civil penalty in an amount
19 not to exceed \$5,000 per violation against any person who violates or who procures, aids or abets
20 in the violation of any provision of ORS 86A.095 to 86A.198 or any rule or order issued under
21 ORS 86A.124 or 86A.242.

22 3. The Director, pursuant to ORS 86A.992(2), hereby orders Prospect to pay a
23 civil penalty of \$5,000 for committing one violation of ORS 86A.115(2).

24 4. However, the Division will suspend \$2,500 of the civil penalty, leaving a civil penalty
25 due and owing of \$2,500. This provision is valid so long as Prospect does not violate any provision
26 of the Oregon Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 or any rule, order,



1 or policy issued by the Division. If Prospect is found to have committed any such violation, then the
2 suspended portion of the assessed civil penalty will become immediately due and payable. If
3 Respondent does not violate the Oregon Mortgage Lender Law, OAR 441-850-0005 through 441-
4 885-0010 or any rule, order, or policy issued by the Division in three years from the date of the Order,
5 the suspended portion of the civil penalty is waived.

6 5. The entry of this Order in no way further limits remedies that may be available
7 to the Director under Oregon Law.

8 Dated this 11th day of September, 2014.

9
10 PATRICK M. ALLEN, Director
11 Department of Consumer and Business Services

12 /s/ David Tatman
13 David C. Tatman, Administrator
14 Division of Finance and Corporate Securities

15
16 **ENTITY CONSENT TO ENTRY OF ORDER**

17 I, _____, state that I am an officer of Prospect Mortgage Company LLC
18 (Prospect) and I am authorized to act on its behalf. I have read the foregoing order and that I
19 know and fully understand the contents hereof. I have been advised of the right to a hearing
20 and of the right to be represented by counsel in this matter. Prospect voluntarily and without
21 any force or duress consents to the entry of this order expressly waiving any right to a hearing
22 in this matter. Prospect understands that the Director reserves the right to take further actions
23 to enforce this order or to take appropriate action upon discovery of other violations of the
24 Oregon Mortgage Lender Law. Prospect will fully comply with the terms and conditions
25 stated herein.
26



1 Prospect further assures the Director that neither Prospect, nor its officers, directors,
2 employees, or agents will effect mortgage transactions in Oregon unless such activities are in
3 full compliance with the Oregon Mortgage Lender Law. Prospect understands that this consent
4 order is a public document.

5 Dated this 3rd day of September 2014, at Sherman Oaks,
6 California.

7
8 By /s/ David Chernek
9 General Counsel
10 Title

11 **ENTITY ACKNOWLEDGMENT**

12 State of California)
13)ss.
14 County of Los Angeles)

15 There appeared before me this 3rd day of September, 2014,
16 David Chernek who was first duly sworn on oath, and stated that (s)he was and is an officer of
17 Prospect and that he is authorized and empowered to sign this Consent to Entry of Order on
18 behalf of Prospect and to bind Prospect to the terms hereof.

19 /s/ Nelly D. Tirado
20 Notary Public for the State of: California
21 My commission expires: June 11, 2016

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