

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:

Case No. M-19-0141

LUKE DOUGLAS KOST, an Individual
and FIDELITY HOME MORTGAGE LLC,
a Domestic Limited Liability Company,

Respondents.

ORDER TO CEASE AND DESIST,
ORDER ASSESSING CIVIL
PENALTY, PERMANENT BAR FROM
OREGON MORTGAGE LENDER
LAW ACTIVITY, AND CONSENT TO
ENTRY OF ORDER

THIS IS A FINAL ORDER

The Director of the Department of Consumer and Business Services for the State of Oregon (“Director”), acting in accordance with Oregon Revised Statutes (“ORS”) 86A.095 et seq. and Oregon Administrative Rules (“OAR”) 441-850-0005 through 441-885-0010 (collectively, “Oregon Mortgage Lender Law”), has conducted an investigation into the activities of Luke Douglas Kost (“Kost”) and Fidelity Home Mortgage LLC (“Fidelity”) (collectively “Respondents”) and determined that Respondents engaged in activities constituting violations of the Oregon Mortgage Lender Law.

Respondents wish to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the authorized signatures subscribed on this Order, Respondents hereby CONSENT to entry of this Order upon the Director’s Findings of Fact and Conclusions of Law as stated hereinafter.

FINDINGS OF FACT

The Director FINDS that:

1. Respondents have a principal place of business located at 5200 Meadows Road, Suite 150, Lake Oswego, OR 97035.

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1 2. On November 3, 2015, Kost was issued an Oregon mortgage loan originator
2 license (“MLO License”).¹ Kost’s Nationwide Mortgage Licensing System (“NMLS”)
3 number is 48243.

4 3. On October 8, 2018, Kost registered MexPat Realtors LLC (“MexPat”) with
5 the Oregon Secretary of State. Kost is the owner, registered agent and registered member
6 of MexPat. Kost notified the Division of Financial Regulation (“Division”) about his
7 ownership of MexPat on November 19, 2019, 408 days after his ownership of MexPat
8 began.

9 4. On November 15, 2018, Fidelity was issued Oregon mortgage broker license
10 number ML-5767 (“Mortgage Broker License”).² Fidelity’s NMLS number is 1806178.
11 At all relevant times, Kost worked as a mortgage loan originator for and has been the sole
12 owner/broker and qualifying individual of record for Fidelity. Respondents did not
13 complete a state criminal records check of Kost prior to his employment as a mortgage
14 loan originator for Fidelity.

15 5. On or around May 23, 2019, Respondents electronically submitted a loan
16 application on behalf of Oregon consumers “K.P.” and “V.P.” The application included
17 disclosure documents that contained electronic signatures of K.P. and V.P. On October
18 30, 2019, a Division financial examiner contacted K.P. by phone and learned that the
19 disclosure documents were not signed by K.P. or V.P. On November 15, 2019, during an
20 in person interview with the Division, Kost explained that he electronically signed the
21 names of K.P. and V.P. on the disclosure documents without the authorization of K.P. or
22 V.P.

23 6. Access Direct LLC is a lead generating company owned by Kost. In or
24 around September 2009, Kost posted two letters of recommendation on the Facebook
25

26 ¹ On December 31, 2019, Kost’s MLO License expired.
² On December 31, 2019, Fidelity’s Mortgage Broker License expired.



1 page of Access Direct LLC. One of the letters of recommendation purported to be from
2 First Fidelity Lending Corporation and stated that Kost had worked at the corporation for
3 four years and further touted Kost's leadership and top performance as a professional in
4 the mortgage/finance industry. The signature on behalf of First Fidelity Lending
5 Corporation was forged. After the Division brought to Kost's attention that the signature
6 was forged, Kost claimed to have been unaware about the forgery and then removed the
7 letter of recommendation from the Facebook page of Access Direct LLC.

8 7. The other letter of recommendation purported to be from LOAN Network and
9 praised the quality of Access Direct LLC's mortgage lead generation business and LOAN
10 Network's relationship with Kost. The signature on behalf of LOAN Network was
11 forged. After the Division brought to Kost's attention that the signature was forged, Kost
12 claimed to have been unaware about the forgery and then removed the letter of
13 recommendation from the Facebook page of Access Direct LLC.

14 8. On August 5, 2019, in response to an email request from a Division financial
15 examiner regarding the whereabouts of Kost in relation to certain mortgage transactions,
16 Kost stated that he had not been to Puerto Vallarta since November 15, 2018. The
17 financial examiner discovered Facebook posts that indicated Kost had travelled to Puerto
18 Vallarta during the time period in question. On November 15, 2019, during the in person
19 interview referenced in Paragraph 5 above, Kost admitted to the Division that he had
20 travelled to Puerto Vallarta during the time period in question and that his original
21 statement to the Division was not true.

22 CONCLUSIONS OF LAW

23 The Director CONCLUDES that:

24 *Cease and Desist*

25 9. Pursuant to ORS 86A.127(4), if the Director has reasonable cause to believe
26

1 that any person has been engaged, is engaging or is about to engage in any violation of
2 any provision of ORS 86A.095 to 86A.198, [the Director] may issue an order, subject to
3 ORS 86A.139, directed to the person, and to any other person directly or indirectly
4 controlling the person, to cease and desist from the violation or threatened violation.

5 10. Pursuant to ORS 86A.224(2)(a), the Director, subject to ORS chapter 183,
6 may order a person that is subject to regulation under ORS 86A.200 to 86A.239 to cease
7 and desist immediately or permanently from violating a provision of ORS 86A.200 to
8 86A.239 or from an act or practice related to mortgage loan origination that the Director
9 deems harmful to a consumer or to the public.

10 *Failure to Notify Director about Significant Event*

11 11. Pursuant to OAR 441-880-0320(6), a mortgage loan originator shall be
12 required to notify the Director within 30 days of changes in the information required on
13 the mortgage loan originator's application form, including, but not limited to address
14 changes, phone number changes, and other information.

15 12. Pursuant to OAR 441-880-0320(7), a mortgage loan originator shall be
16 required to notify the Director within 30 days of changes in the employment status of a
17 mortgage loan originator.

18 13. By failing to notify the Director within 30 days about Kost's ownership of
19 MexPat as described in Paragraph 3 above, Respondents violated OAR 441-880-0320(6)
20 and OAR 441-880-0320(7).

21 *Failure to Complete Criminal Records Check*

22 14. Pursuant to ORS 86A.106(8)(b), an applicant for a license under this section
23 shall certify to the Director in a form and manner the Director specifies by rule that the
24 applicant or licensee has independently verified that every individual the applicant or
25 licensee hired or intends to hire as a mortgage loan originator has undergone a state
26 criminal records check in accordance with ORS 86A.186.



1 15. Pursuant to ORS 86A.186(1), a person that employs or intends to employ an
2 individual as a mortgage loan originator shall conduct a state criminal records check of
3 the individual.

4 16. By failing to conduct a state criminal records check of Kost prior to his
5 employment as a mortgage loan originator with Fidelity as described in Paragraph 4
6 above, Respondents violated ORS 86A.106(8)(b) and ORS 86A.186(1).

7 *Forged Electronic Signatures*

8 17. Pursuant to ORS 86A.154(3), it is unlawful for any person, directly or
9 indirectly, in connection with the conduct of a mortgage banker or mortgage broker
10 business, to engage in any act, practice or course of business which operates or would
11 operate as a fraud or deceit upon any person.

12 18. Pursuant to ORS 86A.183(1)(a), a mortgage banker, mortgage broker or
13 mortgage loan originator may not engage in dishonest, fraudulent or illegal practices or
14 conduct in a business or profession or engage in unfair or unethical practices or conduct
15 in connection with the mortgage business.

16 19. Pursuant to ORS 86A.236(2), a person who is subject to regulation under ORS
17 86A.200 to 86A.239 in connection with the person's activities as a mortgage loan
18 originator may not employ a device, scheme or artifice to defraud or engage in an act,
19 practice or course of business that operates or would operate as a fraud or deceit.

20 20. By forging the borrowers' electronic signatures as described in Paragraph 5
21 above, Respondents violated ORS 86A.154(3), ORS 86A.183(1)(a) and ORS
22 86A.236(2).

23 *Forged Letters of Recommendation*

24 21. Pursuant to ORS 86A.115(2), the Director may by order deny, suspend,
25 condition or revoke a license if the Director finds that the applicant or licensee engaged
26 in dishonest, fraudulent or illegal practices or conduct in any business or profession or

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1 unfair or unethical practices or conduct in connection with the mortgage business.

2 22. Pursuant to ORS 86A.224(4)(a)(D) a person may not knowingly employ a
3 device, scheme or artifice to defraud or engage in an act, practice or course of business
4 that operates or would operate as a fraud or deceit.

5 23. By posting letters of recommendation online that contained forged signatures
6 as described in Paragraph 6 and Paragraph 7 above, Respondents violated ORS
7 86A.115(2) and ORS 86A.224(4)(a)(D).

8 *False Statement to the Director*

9 24. Pursuant to ORS 86A.154(4), it is unlawful for any person, directly or
10 indirectly, in connection with the conduct of a mortgage banker or mortgage broker
11 business to make or file, or cause to be made or filed, to or with the Director any
12 statement, report or document which is known to be false in any material respect or
13 matter.

14 25. Pursuant to ORS 86A.236(4), a person who is subject to regulation under ORS
15 86A.200 to 86A.239 in connection with the person's activities as a mortgage loan
16 originator may not make or file or cause to be made or filed with the Director a statement,
17 report or document that the person knows is false in a material respect or matter.

18 26. By making a false statement to the Division's financial examiner as described
19 in Paragraph 8 above, Respondents violated ORS 86A.154(4) and ORS 86A.236(4).

20 *Civil Penalties*

21 27. Pursuant to ORS 86A.224(3)(a), the Director, in accordance with ORS
22 183.745, may impose a civil penalty in an amount not to exceed \$5,000 for each separate
23 instance of a violation of or failure to comply with the provisions of ORS 86A.200 to
24 86A.239 or a rule or order the Director adopted or issued under ORS 86A.200 to
25 86A.239.

26 28. Pursuant to ORS 86A.992(1), any person who violates or who procures, aids

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1 or abets in the violation of any provision of ORS 86A.095 to 86A.198 or any rule or
2 order of the Director shall be subject to a penalty of not more than \$5,000 for every
3 violation, which shall be paid to the General Fund of the State Treasury.

4
5 **ORDERS**

6 The Director issues the following ORDERS:

7 29. As authorized by ORS 86A.127(4) and ORS 86A.224(2)(a), the Director
8 ORDERS Respondents to CEASE AND DESIST from violating ORS 86A.154(3), ORS
9 86A.154(4), ORS 86A.183(1)(a), ORS 86A.236(2), and ORS 86A.236(4).

10 30. Respondents hereby AGREE not to ever again seek licensure under the
11 Oregon Mortgage Lender Law and are hereby PERMANENTLY BARRED from Oregon
12 Mortgage Lender Law activity.

13 31. Based upon the foregoing and as authorized by ORS 86A.224(3)(a) and ORS
14 86A.992(1), the Director ORDERS that Respondents jointly and severally pay a CIVIL
15 PENALTY of \$10,000 for violating ORS 86A.154(3), ORS 86A.154(4), ORS
16 86A.183(1)(a), ORS 86A.236(2) and ORS 86A.236(4).

17 32. The Director SUSPENDS the collection of \$5,000 of the total CIVIL
18 PENALTY assessed above, so long as Respondents agree to never apply for any license
19 authorized by ORS Chapter 86A, or have any equity interest in, or be an officer or
20 director of, any person that is issued any license authorized by ORS Chapter 86A.
21 Respondents may however own an interest in a publically traded mortgage company not
22 to exceed 1%.

23 33. The remaining \$5,000 CIVIL PENALTY assessed above is not suspended and
24 is due and payable at the time this Order is returned to the Division.

25 34. The entry of this Order resolves all issues resulting from conduct described in
26 this Order. In the event of discovery of additional violations, the entry of this Order in no

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1 way limits further remedies which may be available to the Director under Oregon law.

2 SO ORDERED this 27th day of April, 2020.

3 ANDREW R. STOLFI, Acting Director
4 Department of Consumer and Business Services

5
6 /s/ Dorothy Bean
7 Dorothy Bean, Chief of Enforcement
8 Division of Financial Regulation

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ENTITY CONSENT TO ENTRY OF ORDER

I, Luke Douglas Kost, state that I am an officer of Fidelity Home Mortgage LLC and I am authorized to act on its behalf. I have read the foregoing Consent Order, and I know and fully understand the contents hereof. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter. Fidelity Home Mortgage LLC voluntarily and without any force or duress consents to the entry of this Consent Order expressly waiving any right to a hearing in this matter. Fidelity Home Mortgage LLC understands that the Director reserves the right to take further actions to enforce this Consent Order or to take appropriate action upon discovery of other violations of the Oregon Mortgage Lender Law. Fidelity Home Mortgage LLC will fully comply with the terms and conditions stated herein.

Fidelity Home Mortgage LLC understands that this Consent Order is a public document.

/s/ Luke Douglas Kost

Signature

Luke Douglas Kost

Printed name

Owner-Broker

Office held

ACKNOWLEDGMENT

There appeared before me this 14th day of April, 2020, Luke Douglas Kost, who was first duly sworn on oath, and stated that he was and is an officer of Fidelity Home Mortgage LLC and that he is authorized and empowered to sign this Consent to Entry of Order on behalf of Fidelity Home Mortgage LLC and to bind Fidelity Home Mortgage LLC to the terms hereof.

/s/ Truc T Tran

Signature of Notary Public

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CONSENT TO ENTRY OF ORDER

I, Luke Douglas Kost, state that I have read the foregoing Consent Order and that I know and fully understand the contents hereof; that the factual allegations stated herein are true and correct; that I have been advised of my right to a hearing, and that I have been advised of my right to be represented by counsel in this matter; that I voluntarily consent to the entry of this Consent Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this Consent Order; that I understand that the Director reserves the right to take further actions against me to enforce this Consent Order or to take appropriate action upon discovery of other violations of the Oregon Mortgage Lender Law by me; and that I will fully comply with the terms and conditions stated herein.

I understand that this Consent Order is a public document.

/s/ Luke Douglas Kost

Signature

State of Oregon

County of Multnomah

Signed or attested before me on this 14th day of April, 2020

by Luke Douglas Kost.

/s/ Truc T Tran

Notary Public

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STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:

Case No. M-19-0141

LUKE DOUGLAS KOST, an Individual
and FIDELITY HOME MORTGAGE LLC, a
Domestic Limited Liability Company,

Respondents.

ADDENDUM TO THE ORDER TO
CEASE AND DESIST, ORDER
ASSESSING CIVIL PENALTY,
PERMANENT BAR FROM OREGON
MORTGAGE LENDER LAW
ACTIVITY, AND CONSENT TO
ENTRY OF ORDER

This Addendum is for the purpose of amending the Consent Order entered into by and between Luke Douglas Kost and Fidelity Home Mortgage LLC (collectively “Respondents”) and the Director of the Department of Consumer and Business Services for the State of Oregon (“Director”) on April 27, 2020.

The Consent Order stipulated that Respondents would make a \$5,000 payment at the time the Consent Order was returned to the Division of Financial Regulation (“Division”) to satisfy the non-suspended portion of the assessed CIVIL PENALTY.

On April 21, 2020, Respondents returned the Consent Order to the Division, along with a \$1,000 payment. Respondents informed the Director that, due to financial disruptions caused by the COVID-19 outbreak, they were unable to make the full \$5,000 payment at the time the Consent Order was returned to the Division. Consequently, the Director has decided that Respondents shall make a payment of \$2,000 on or before May 15, 2020 and a payment of \$2,000 on or before May 29, 2020.

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The Director reserves the right to immediately assess and collect the suspended civil penalty upon a determination that Respondents have violated any term of this Addendum.

DATED this 13th day of May, 2020.

ANDREW R. STOLFI, Acting Director
Department of Consumer and Business Services

/s/ Dorothy Bean
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

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ENTITY CONSENT TO ENTRY OF ADDENDUM

I, Luke Douglas Kost, state that I am an officer of Fidelity Home Mortgage LLC and I am authorized to act on its behalf. I have read the foregoing Addendum and I know and fully understand the contents hereof. Fidelity Home Mortgage LLC voluntarily consents to the entry of this Addendum without any force or duress. Fidelity Home Mortgage LLC will fully comply with the terms and conditions stated herein.

/s/ Luke Douglas Kost 5-1-20
 Signature Date

Luke Douglas Kost
 Printed name

Owner Broker
 Office held

CONSENT TO ENTRY OF ADDENDUM

I, Luke Douglas Kost, state that I have read the foregoing Addendum and that I know and fully understand the contents hereof. I voluntarily consent to the entry of this Addendum without any force or duress. I will fully comply with the terms and conditions stated herein.

/s/ Luke Douglas Kost

Signature

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