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

In the Matter of: James Carter NMLS# 105296 Respondent.	Case No. M-23-0024 FINAL ORDER TO CEASE AND DESIST, ORDER ASSESSING CIVIL PENALTIES, AND ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE, ENTERED BY DEFAULT

On September 26, 2023, the Director of the Oregon Department of Consumer and Business Services for the State of Oregon (the "Director"), through the Division of Financial Regulation (the "Division"), properly served Respondent James Carter ("Carter") an Order to Cease and Desist, Proposed Order Assessing Civil Penalties, Proposed Order Denying Mortgage Loan Originator License, and Notice of Right to a Hearing ("Notice Order") via regular and certified United States mail at Carter's last known address. The Division received a green card signed and dated September 30, 2023, evidencing that the Notice Order sent by certified mail was received. The regular mailing was not returned.

The Notice Order offered Carter an opportunity for a hearing, if requested in writing within 60 days of service. The Notice Order further informed Carter that if a hearing was not conducted because Carter did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file, which includes all materials Carter submitted, would automatically become part of the contested case record to prove a *prima facie* case. Carter has not made a written request for a contested hearing, and the time to do so has expired.

After considering the relevant portions of the Division's file in this matter, the Director finds that the record proves a *prima facie* case. Now, therefore, the Director

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makes the following Findings of Fact and Conclusions of Law and issues the following Orders.

FINDINGS OF FACT

The Director FINDS that:

1. On May 10, 2017, the Division issued an Oregon mortgage loan originator license to Carter (NMLS #105296).

2. On October 27, 2021, Carter's now former employer reported to the Division that he had engaged in concerning mortgage-related activity and, accordingly, was no longer with the company.

Loan to Borrowers KR, FC

3. In October 2020, borrower "KR" applied to refinance her Oregon residential mortgage loan, and Carter served as her loan originator. At that time, Carter was in the personal relationship with KR. It was later determined that a co-borrower was needed for the transaction, and "FC," Carter's mother, acted as the co-borrower on KR's loan.

4. Carter also served as FC's loan originator and took her loan applications. The initial application lists that the subject property was FC's primary residence. FC signed the application on July 1, 2021, and Carter signed as the loan originator on October 29, 2020.

5. Carter took FC's subsequent loan applications for this transaction, and all of the applications list that the subject property was FC's primary residence. He then submitted or facilitated the submission of FC's loan applications to the lender.

6. The subject property was not FC's primary residence, and Carter knew that. He did not contact the lender to inform them that the residency information listed on FC's application was incorrect.

7. KR And FC's transaction closed on or about August 19, 2021.

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Loan to Borrower JC

8. Borrower "JC" worked with Carter as his loan originator on a 2021 residential Oregon purchase transaction. Carter took JC's initial application on June 19, 2021. A Loan Estimate ("LE") was issued on June 21, 2021, which lists a 3.5% interest rate, monthly payments of $1,320, and closing costs of $45,798.

9. Before closing, Carter communicated to JC that his loan terms had changed, but he did not issue an updated LE and Change of Circumstance form to JC through his employing mortgage broker.

10. A Closing Disclosure was issued on September 13, 2021, and it included an interest rate of 6.5%, monthly payments of $1,745, and closing costs of $51,258, which was a significant increase from the terms listed in the LE.

11. Carter's employer later provided a loan to JC with the original terms quoted in the LE.

Regulatory Disclosures

12. The Division learned that Carter had separated from his employer on September 24, 2021 for a reason that requires reporting in NMLS, but he had not updated disclosure question Q-1 on his license.

13. On October 28, 2021, the Division placed a deficiency on Carter's license requesting that he address the issue identified for disclosure question Q-1. He did not address the deficiency or amend his disclosures.

14. Carter's did not apply to renew his license for 2022, and it expired on December 31, 2021.

15. In early 2022, the Division learned that Carter had failed to report pending criminal charges that occurred on October 12, 2021.

16. On January 12, 2023, Carter reapplied for a license and adequately addressed the license disclosure items.

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CONCLUSIONS OF LAW

The Director CONCLUDES that:

17. By listing that the subject property was FC's primary residence on her loan applications when Carter knew it was not, and by signing the application as the loan originator and submitting or facilitating the submission of the application to the lender, Carter knowingly made an untrue statement of material fact, in violation of ORS 86A.236(3). Carter's activity described in this paragraph also constitutes performing an act as a mortgage loan originator in a negligent or incompetent manner, in violation of ORS 86A.236(1).

18. The violations listed in paragraph 17 are grounds to deny Carter's license application under ORS 86A.224(1)(a).

19. By failing to issue an updated LE and Change of Circumstance disclosure through his employing mortgage broker to JC within three days of receiving information sufficient to establish a changed circumstance, Carter violated 12 CFR 1026.19(e)(3)(iv)(B). This violation constitutes performing an act as a mortgage loan originator in a negligent or incompetent manner, in a violation of ORS 86A.236(1), which is grounds to deny Carter's license application under ORS 86A.224(1)(a).

20. By failing to notify the Director of the October 12, 2021 criminal charges that qualify as a "significant event" within 30 days, Carter violated OAR 441-880-0320(3), which is grounds to deny his license application under ORS 86A.224(1)(a).

ORDERS

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

21. The Director, pursuant to ORS 86A.224(2)(a), hereby ORDERS Carter to Cease and Desist from violating ORS 86A.236(1), (3), and OAR 441-880-0320(3).

22. The Director, pursuant to ORS 86A.224(3)(a), may assess civil penalties of up to $5,000 per violation of the laws regulating Oregon mortgage loan originators. The

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Director hereby ORDERS Carter to pay CIVIL PENALTIES totaling $2,000 for the violations of ORS 86A.236(1),(3) and OAR 441-880-0320(3).

23. The Director, pursuant to ORS 86A.224(1)(a), hereby ORDERS that, effective the date a final order is entered in this matter, Carter's application for a mortgage loan originator license is DENIED.

24. This is a "Final Order" under ORS 183.310(6)(b). Subject to this provision, the entry of this Order does not limit further remedies that may be available to the Director under Oregon law.

SO ORDERED this 28th day of November, 2023.

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

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

NOTICE OF RIGHT TO JUDICIAL APPEAL

You are entitled to judicial review of this order in accordance with ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the date this order is served.

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