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

In the Matter of:	Case No. M-18-0031
MY-KIM BUI, an Individual, Respondent.	FINAL ORDER TO DENY LICENSE APPLICATION, ENTERED BY DEFAULT

On May 15, 2018, the Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), by and through the Division of Financial Regulation ("Division"), served a Notice of Proposed Denial of License Application and Notice of Right to a Hearing ("Notice") on My-Kim Bui ("Respondent").[1]

The Notice offered Respondent an opportunity for an administrative hearing if requested within 60 days of service of the Notice. The Notice further informed Respondent that if a hearing was not conducted because Respondent did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file and all materials submitted by Respondent in this case would automatically become part of the contested case record for the purpose of proving a prima facie case.

The Director did not receive from Respondent a request for a hearing and did not conduct a hearing.

The Director finds that the record of this proceeding proves a prima facie case.

Now, therefore, after considering the relevant portions of the Division's file relating to this matter, the Director finds and orders as follows.

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[1] On June 11, 2018, the Director, by and though the Division, provided Respondent with a supplemental courtesy copy of the Notice via e-mail. That same day, Respondent confirmed receipt of the Notice.

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FINDINGS OF FACT

The Director FINDS that:

1. Respondent's Nationwide Mortgage Licensing System ("NMLS") number is 97166.

2. On January 9, 2017, Respondent submitted an application for an Oregon mortgage loan originator license ("License").

3. In her License application, Respondent responded "yes" to the following disclosure questions:

A. (A)(3) Have you been the subject of a foreclosure action within the past 10 years?

B. (D) Do you have any unsatisfied judgments or liens against you?

C. (K)(2) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?

D. (K)(4) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever entered an order against you in connection with a financial services-related activity?

E. (K)(6) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?

F. (K)(9) Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever entered an order concerning you in connection with any license or registration?

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4. On January 11, 2017, Respondent submitted explanations for the foregoing disclosures ("Initial Explanations"). Respondent amended her explanations four times, submitting her final explanations on February 24, 2017 ("Final Explanations").

Disclosure Explanations – Recent Foreclosure Actions

5. Respondent admitted to being the subject of a single foreclosure action within the past ten years. In each of her disclosure explanations she blamed the lender, Wells Fargo, for wanting "too much" on an attempted short sale of the foreclosed property and for "being uncooperative." Respondent also noted that Wells Fargo had initiated the sale of the property but that no sale date had been set.

6. During an April 2018 interview with the Division ("Division Interview"), Respondent admitted to being the subject of two additional foreclosure actions within the past ten years, each occurring around 2013. Respondent admitted to abandoning all three foreclosed properties and to having no knowledge of what happened to the properties thereafter. Respondent admitted that, despite what she asserted in her disclosure explanations, she did not know whether any of the foreclosed properties were in the process of being sold.

Disclosure Explanations – Unsatisfied Judgments

7. In her Initial Explanations, Respondent disclosed a single unsatisfied judgment against her, in the amount of $1850 ("Judgment One"). She described the matter as a landlord/tenant dispute in which her former tenant had "harassed" her.

8. Around this time, the Division discovered a second unsatisfied judgment against Respondent, in the amount of $2,359.45 ("Judgment Two").

9. In January 2017, the Division placed a license item in NMLS directing Respondent to:

A. Explain why she had not paid the judgments when they were due;

B. Provide copies of the judgments; and

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C. Provide payment plans to satisfy the judgments.

10. On February 6, 2017, Respondent e-mailed the Division regarding Judgment Two. In the beginning of the e-mail, Respondent asserted that the judgment was not against her and that she was unaware of the matter until the Division brought it to her attention. Later in the e-mail, she asserted that she "guess[ed]" that when she didn't appear for court a default judgment was entered against her.

11. In her Final Explanations, Respondent submitted documentation containing case information regarding Judgment Two.[2] The information identified Respondent as a defendant in the matter. The documentation indicated that judgment had been entered against the defendants and remained unsatisfied. Respondent did not provide the Division with a copy of the judgment.

12. In her Final Explanations, Respondent concluded her explanation of Judgment One with "TENANT LANDLORD ISSUE NO JUDGEMENT [sic]."

13. During the Division Interview, Respondent admitted to neither paying nor appealing either judgment. Respondent did not believe she was liable for the judgments but provided no explanation to support that contention.

14. To date, Respondent has provided no further documentation or information regarding the unsatisfied judgments and/or her plans to satisfy them.

Disclosure Explanations – Prior State Regulatory Agency Action

15. In her Initial Explanations, Respondent disclosed that she and the Washington Department of Licensing ("DOL") entered into an agreement pursuant to which Respondent's Washington real estate broker license was suspended for sixty days. Respondent described the matter as relating to a foreclosed property upon which she had successfully bid. She claimed that "the seller got greedy" and initiated legal action

[2] Judgment Two arose from King County Superior Court case number 17-2-01688-8 out of Washington state.

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against her. She claimed that the DOL's action against her stemmed from the "loosing [sic] side['s] revenge to get back at [her] for prevailing in court."

16. In her Final Explanations, Respondent submitted a fully-executed consent order from DOL case number 2008-11-0019-00REA. The consent order contained the following stipulated facts:

A. On July 26, 2005, Respondent listed a rental property with the Multiple Listing Service ("MLS") for "AW" and her husband ("Complainants"). The property was listed for $195,950.

B. In August 2005, Respondent received an offer on the property for $180,000.

C. On August 4, 2005, Respondent recorded a statutory warranty deed on the property, transferring ownership from Complainants to herself. The tax statement accompanying the deed noted that there was no debt on the property. In fact, Complainants owed approximately $158,000 on the property pursuant to two mortgages.

D. On August 31, 2005, Respondent cancelled the MLS listing for the property.

E. On October 21, 2005, Respondent prepared a Purchase and Sale Agreement ("PSA") to purchase the property herself for $130,000. The PSA noted that Respondent represented both parties to the transaction.[3]

F. In a subsequent lawsuit, Respondent testified that she did not believe she had received any offers on the property.

17. The consent order contained the following stipulated conclusions of law:

A. Respondent's misrepresentation in a tax statement constituted unprofessional conduct under Revised Code of Washington ("RCW")

[3] Respondent later claimed that she had made an error and only represented herself in the transaction.

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18.235.130(4) and (11).[4]

B. Respondent failed to adequately document her transactions with Complainants, in violation of RCW 18.86.030(1)(a).[5]

18. Under the terms of the consent order, Respondent's Washington real estate broker license was suspended for sixty days.

Quitclaim Activities on Respondent's Primary Residence

19. In her Final Explanations, Respondent submitted a preliminary title report from CW Title. Respondent provided the title report to demonstrate that she had no unsatisfied judgments against her.

20. The title report noted that numerous matters of record were found against persons with names similar to Respondent.[6] The report directed Respondent to submit a "properly completed identity affidavit", after which time CW Title would issue a supplemental report.

21. The title report identified five transfers of ownership of Respondent's primary residence via quitclaim deed from 2012 through 2016. The Division directed Respondent to explain these activities.

22. On or around February 14, 2017, Respondent submitted a letter to the Division explaining the foregoing activities. In her letter, Respondent asserted that:

A. The quitclaim transactions only occurred between she and Pearl Property Management Inc. ("PPM"), Respondent's solely-owned-and-operated

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[4] Under RCW 18.235.130, "The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(4) Incompetence, negligence, or malpractice that results in harm or damage to another or that creates an unreasonable risk of harm or damage to another;

(11) Misrepresentation in any aspect of the conduct of the business or profession."

[5] Under RCW 18.86.030(1), "Regardless of whether a broker is an agent, the broker owes to all parties to whom the broker renders real estate brokerage services the following duties, which may not be waived:

(a) To exercise reasonable care and skill."

[6] In fact, the case documents Respondent submitted regarding Judgment Two identified Respondent as "Kim Bui."

rental property company;

B. She transferred ownership of her primary residence to PPM in order to preserve it as a trust asset and avoid the probate process; and

C. She transferred ownership back to herself in order to obtain a home equity line of credit, after which time she transferred ownership back to PPM.

23. The title report also identified additional quitclaim transfers of ownership not addressed by Respondent, including transactions involving Respondent's sister, brother-in-law, and Zhomes, LLC, another rental property company owned by Respondent. During the Division Interview, Respondent claimed not to recall the purpose of those transactions or even that they had occurred.

24. During the Division Interview, Respondent admitted that she had not submitted an identity affidavit to CW Title and had not been issued a supplemental report.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

25. Respondent made the following false statements or material misstatements of fact in her License application:

A. She claimed to have been the subject of a single foreclosure action in the past ten years, failing to disclose two additional foreclosure actions;

B. She claimed that the subject property of a foreclosure action had not been sold, without knowing whether or not that was accurate; and

C. She asserted in her explanation regarding Judgment One that there was actually no judgment against her, without providing any documentation or information to support her assertion.

26. Because Respondent made the foregoing false statements and material misstatements of fact in her License application, the Director may deny her License

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application pursuant to ORS 86A.224(1)(c).

27. Pursuant to ORS 86A.212(1)(d), Respondent has not demonstrated financial responsibility sufficient to command the confidence of the community and warrant the determination that she will operate honestly, fairly, and efficiently within the purposes of ORS 86A.200 to 86A.239 for the following reasons:

A. She has abandoned three properties to foreclosure actions in the past ten years;

B. She has been evasive and inconsistent in her explanations regarding the foreclosure actions;

C. Her disclosure explanations regarding the foreclosure actions demonstrate her failure to take accountability for them;

D. She has two unsatisfied judgments against her;

E. She has been evasive and inconsistent in her explanations regarding the judgments;

F. She has failed to respond to the Division's request for basic documentation and information regarding the judgments, including her plans to satisfy them;

G. Her disclosure explanations regarding Judgment One demonstrates her failure to take accountability for it;

H. The findings and conclusions of the DOL consent order evince the same carelessness, evasiveness and inconsistency that Respondent has demonstrated in her communications with the Division;

I. Her disclosure explanations regarding the events underlying the DOL consent order demonstrate her failure to take accountability for them;

J. Her reliance on an incomplete title report to support her disclosure explanations demonstrates either significant carelessness or an intention to

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mislead the Division;

K. Her failure to disclose, and inability to explain, numerous transfers of ownership of her primary residence occurring within the past several years demonstrates either significant carelessness or an intention to mislead the Division; and

L. Her explanations for the transfers of ownership which she did disclose suggest that the transactions which were, at best, misleading.

28. Because the Director has made the foregoing findings under ORS 86A.212, the Director may deny Respondent's License application pursuant to ORS 86A.224(1)(b).

29. The Director is not satisfied that the information contained in Respondent's application is accurate and complete.

30. Because the Director is not satisfied that the information contained in Respondent's application is accurate and complete, the Director may deny her License application pursuant to ORS 86A.212(3)(a).

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ORDERS

Now therefore, the Director issues the following Orders:

31. As authorized by ORS 86A.212(3)(a) and 86A.224(1)(b) and (c), the Director hereby DENIES Respondent's application for an Oregon mortgage originator loan originator license.

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

SO ORDERED this 20th day of August, 2018.

CAMERON C. SMITH, 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

Judicial review of final orders in contested cases is governed by 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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