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

In the Matter of: B. L. Perkins, William Wheeler, and Suzanne Hamilton, Respondents.	**OAH Reference No.: 2018-ABC-01207** **Agency Case No.: DM-17-0076** **Final Order to Cease and Desist and Final Order Assessing Civil Penalties Entered by Default as to B. L. Perkins only**

The Director of the Department of Consumer and Business Services for the State of Oregon (Director), having investigated the activities of B. L. Perkins (Perkins) issued Order to Cease and Desist, Proposed Order Assessing Civil Penalties, and Notice of a Right to Hearing in Case No. DM 17-0076 on July 3, 2017 (Proposed Order).

Included in the Proposed Order was a designation by the Director that the Division of Financial Regulation's file on this matter included all materials submitted by the party and was the record in this case. The Director further stated that pursuant OAR 137-003-0075(3), the record contained sufficient evidence of the existence of facts necessary to support a final order by default should the Director issue such an order.

On July 17, 2017, the Division of Financial Regulation (Division) timely received a request for hearing from Perkins.

On January 5, 2018, the Division referred the hearing request to the Office of Administrative Hearings (OAH). On February 26, 2018, a prehearing teleconference was held by Administrative Law Judge Samantha Fair (ALJ Fair). Joanna Tucker-Davis, Assistant Attorney General with the Oregon Department of Justice appeared on behalf of the Division. Cynthia Domas appeared as the Division representative. Perkins appeared. At that time the hearing was scheduled to be held on June 12 through June 15, 2018. It was determined that in order to accommodate Perkins, he could appear by telephone and take rest breaks as needed through out the four day period. ALJ Fair determined that the Division's deadline for

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submitting exhibits and witness list would be May 15, 2018 and that Perkins' deadline for submitting exhibits and witness list would be May 25, 2018.

On April 25, 2018, the Division requested a status conference to discuss prehearing matters. The request was granted by ALJ Fair and a telephone conference was scheduled for May 7, 2018.

On May 7, 2018, a status conference was held by telephone to determine prehearing matters. Joanna Tucker-Davis, Cynthia Domas and Perkins appeared. ALJ Fair reminded the parties of the hearing date of June 12, 2018 through June 15, 2018 and scheduled another prehearing conference for May 18, 2018.

On May 15, 2018 the Division submitted its witness list and exhibits. Perkins did not submit a witness list or exhibits by his deadline of May 25, 2018.

On May 18, 2018, Perkins submitted the documentation discussed during the May 7, 2018, prehearing conference.

On May 25, 2018, a status conference was held by telephone to provide Perkins the opportunity to present additional documentation for the record. ALJ Fair explained to Perkins that he would be allowed to take longer breaks, including longer breaks to facilitate his need for rest. ALJ Fair again reminded the parties of the hearing dates and that the hearing was scheduled to convene on June 12, 2018.

On June 11, 2018, the day before the hearing, Perkins called OAH to request a postponement of the hearing. ALJ Fair convened a telephone conference that morning to address the request. Perkins, Ms. Tucker -Davis and Ms. Domas appeared. Perkins stated that he was requesting the postponement because he had received the last of three infusions the prior Wednesday. ALJ Fair told Perkins that he could take rest breaks whenever he needed during the four day hearing, that longer lunch breaks would be allowed, and that early releases at the end of the day would be allowed. Perkins indicated that he did not have any pre-scheduled appointments that would interfere with the hearing. Perkins stated that his need for rest was not

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the issue. He indicated that he did not know if he would be "available" for the hearing, that he could probably participate for an hour at a time, and that he could probably appear in the morning but was unsure if he would be "available" to participate in the afternoon. The Division objected to Perkins' request for postponement.

ALJ Fair denied the request but adjusted the hearing time to 9:45 a.m. rather than 9 a.m. as previously scheduled. [1]ALJ Fair issued a written order on June 19, 2018 denying Perkins' request for postponement on the basis that he had failed to show "good cause" for the request under OAR 137-003-0525.

Ms. Tucker-Davis and Ms. Domas both appeared at the Office of Administrative Hearings at 9:45 a.m., on June 12, 2018, ready to proceed with the hearing. ALJ Fair went on the record at 9:45 a.m. as scheduled. ALJ Fair stated that the notice sent out by her office states that the ALJ will wait for fifteen minutes for the parties to appear before declaring a default. ALJ Fair checked with her staff to see if Perkins had called in and to insure that his call was sent to the hearing room in case he did call in.

Perkins did not call in and ALJ Fair waited until 10:05 and then called Perkins at the only phone number her office had on file for Perkins. ALJ Fair's phone call went to the voice mail of Phyllis White. ALJ Fair left a voice message that stated who she was and instructed Perkins to call in and provided the call-in number. At 10:15 a.m., ALJ Fair again called the only number she had for Perkins and again her call went to the voice mail of Phyllis White. At this point more than 30 minutes had passed and Perkins had not called in. ALJ Fair then declared a default.

On July 5, 2018, the Division received a statement signed by Perkins. The statement was dated June 18, 2018 but was postmarked July 3, 2018 and received by the Division on July 5, 2018. The letter stated that Perkins had received an infusion the Wednesday prior to the

[1] The parties discovered after the June 11, 2018 telephonic conference that, due to recording difficulties, ALJ Fair's denial of Perkins' request for a postponement of the hearing was not recorded, thus prompting the subsequent written order denying the request.

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hearing date and that he felt ill and that he couldn't get out of bed. In light of the accommodations made by ALJ Fair, including the late start time, ability to participate by telephone, rest breaks whenever needed, and early releases, and consistent with the ruling of ALJ Fair that Perkins failed to demonstrate "good cause" in his request for a postponement the day prior to the hearing, the Division finds that Perkins did not have good cause, as defined under OAR 137-003-0501(7), for failing to appear at the hearing at the scheduled time.

The Director hereby issues the following Findings of Fact, Conclusions of Law, and Final Orders.

FINDINGS OF FACTS

The Director finds that:

1. At all times material to this Order, B. L. Perkins operated a loan modification and debt management modification business located at or near 5353 Lakeview Boulevard, Lake Oswego, Oregon.

2. Perkins has never been licensed to act as a mortgage broker or banker and has never been licensed as a mortgage loan originator in Oregon.

3. Perkins has never been registered as a debt management service provider in Oregon.

KC and MC Transaction

4. At all times material to this order, consumer KC and MC were Oregon residents and were party to a residential mortgage loan secured by real estate located in Oregon.

5. KC and MC met Perkins on or about 2010 through a mutual friend.

6. Perkins told KC and MC that he was the administrator for the Stark Family trust and that he would be able to lower their mortgage payment and refinance their home.

7. Perkins further told KC and MC to stop making their mortgage payment and to start paying him $450 per month for his services. KC and MC paid Perkins an upfront fee of $450 for his services.

8. The monthly payment plan lasted approximately four years and KC and MC paid Perkins approximately $21,600 on the payment plan.

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9. KC and MC initially made monthly payments to Perkins by check but Perkins soon requested that they make the payments in cash.

10. Perkins indicated to KC and MC that he was talking to their bank but no progress was made and KC and MC ended up in foreclosure mediation with Perkins representing them in the mediation process.

11. The foreclosure mediation was set for September 1, 2015. Shortly after the mediation began, Perkins told KC and MC to walk out. KC, MC and Perkins walked out on the mediation session, thereby forfeiting their foreclosure mediation rights. In addition, KC and MC were confused as to why Perkins instructed them to walk out.

12. Perkins then advised KC and MC to file for bankruptcy as a stalling tactic. He told them that this could go on for years. This further confused KC and MC because they wanted to save their home.

13. The bankruptcy cost KC and MC approximately $2,000 and didn't save their home.

14. Perkins also convinced KC and MC to give him $50,000 for an investment opportunity as well as $7,500 to pay property taxes for a friend of Perkins.

15. KC and MC did not receive a refund for any of the money they paid to Perkins.

16. Sometime in late 2015 or 2016, Perkins had a stroke.

17. KC and MC were still in litigation involving the foreclosure of their home. KC and MC were put in contact with attorney William Wheeler (Wheeler). KC and MC were told that Wheeler would be able to assist them in resolving the foreclosure proceeding.

18. KC and MC met with Wheeler on several occasions. KC and MC understood that Wheeler came down to Oregon from Washington to meet with Oregon clients.

19. Wheeler met with KC and MC at restaurants on or around the Janzen Beach area near Portland, Oregon. KC and MC observed clients waiting in line to speak with Wheeler.

20. KC and MC paid Wheeler $3,500 for legal advice and to draft legal documents for them. Wheeler told them that he was a retired attorney and that he did not have a license to go to

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court.

21. KC and MC represented themselves in the court proceeding but did not prevail. KC and MC's home went into foreclosure, but they were able to sell their home through a short sale.

22. MC requested a refund from Wheeler and received a $3,000 refund from Wheeler.

23. The Washington State Bar website lists William Wheeler as a disbarred attorney. His Washington Bar No. is 11557. According to the website, he was disbarred on June 30, 2001, for, among other things, engaging in dishonesty, fraud, deceit or misrepresentation; lack of moral turpitude; violating the oath of an attorney; and engaging in conduct demonstrating unfitness to practice law.

24. According the Oregon State Bar website, Wheeler's Oregon State Bar No. is 801231. He resigned from the Oregon State Bar on October 24, 2000 with a Form B resignation.

25. Perkins has never been licensed to practice law in the state of Oregon.

KS and DS Transaction

26. On or about October of 2014, Oregon residents KS and DS were current on the mortgage for their home located in Oregon and were in a financially sound position. Although they were not experiencing financial difficulty, a relative referred KS and DS to Perkins. The relative assured them that Perkins could do great things for them.

27. KS and DS met with Perkins at his office which was located in a trailer parked next to Perkin's home in Lake Oswego, Oregon. KS and DS observed computers, numerous boxes and documents of what appeared to be files located in the office.

28. Perkins told KS and DS that he was the administrator of the Stark Family Trust and had been working in the mortgage industry for decades.

29. Perkins advised KS and DS that he could get their mortgage payment lowered, reduced or even eliminated. He told KS and DS that if their bank didn't have clear title, he could get $100,000 reduction in their mortgage.

30. KS and DS thought this sounded good so they signed a document on or about November

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23, 2014, allowing Perkins to represent them. Although the document states that it is from the desk of KS and DS, the form was given to the couple by Perkins. KS and DS signed and dated the form but did not draft the form.

31. Perkins advised KS and DS to stop making their monthly mortgage payment and to pay him $350 a month for his service. KS and DS paid Perkins an upfront fee of $350. They paid Perkins approximately $8,000 over approximately two years.

32. Because KS and DS relied on Perkins' advice to stop making their mortgage payments, they eventually ended up in a foreclosure proceeding.

33. On or about August of 2015, KS and DS were engaged in a foreclosure mediation proceeding and were represented by Perkins.

34. During the proceeding, Perkins got up and left when the Plaintiff was unable to produce the original documents of the loan. Perkins' actions caused KS and DS lose their rights to foreclosure mediation.

35. Because mediation had failed, KS and DS were served with legal documents requiring a court appearance.

36. At some point, KS and DS found out that Perkins had a stroke. Perkins, assistant, Suzanne Hamilton (Hamilton), made arrangements for KS and DS to meet an associate of Perkins, William Wheeler. This is the same Wheeler mentioned above in the KC and MC transaction.

37. KS and DS met with Wheeler in a Delta Park hotel room. Wheeler introduced himself as an attorney.

38. Wheeler explained to KS and DS that for $500 he would look over their documents and for another $3,500 he would teach them how to represent themselves in court. KS and DS declined to pay Wheeler for his services and left.

39. Shortly after KS and DS meet with Wheeler, Hamilton called them to ask if they had paid Wheeler. KS and DS stated that Hamilton seemed to take over for Perkins after he

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suffered a stroke.

40. KS and DS gave Perkins an additional $600 to $700 to file a judgment against their bank but a judgment was never filed.

41. KS and DS paid Perkins by checks. The checks were mailed to Hamilton at Perkins' request.

42. While Perkins was recuperating, Hamilton told KS and DS that they needed to send in another $100 so she could obtain an additional form that was needed. KS and DS were unsure what the form was or why it was needed.

43. KS and DS filed for bankruptcy protection and were able to save their home. However, they are now required to make monthly payments of $850 for the next five years in addition to their $1,500 monthly mortgage payment.

CONCLUSIONS OF LAW

The Director concludes that:

1. Perkins acted as a "mortgage broker" under ORS 86A.100(5)(a)(C) when 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 for KC and MC, and KS and DS.

2. Perkins violated ORS 86A.103(1) by engaging in residential mortgage transactions in Oregon without first obtaining a license as a mortgage broker under ORS 86A.095 to 86A.198.

3. Perkins engaged in "residential mortgage transactions in this state" under ORS 86A.103(2) by acting as a mortgage broker when he offered to negotiate a modification to the terms and conditions of KC and MC, and KS and DS's residential mortgage loans secured by property located in Oregon.

4. Perkins acted as a mortgage loan originator, when for compensation or gain, he offered or negotiated the terms for the residential loan for KC and MC and KS and DS without first obtaining a mortgage loan originator's license in violation of ORS 86A.203(1)(a).

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5. Perkins engaged in debt management services when he received money from KC and MC for modifying or offering to modify the terms and conditions of an existing Oregon loan under ORS 697.602(2)(c).

6. Perkins engaged in debt management services when he received money from KS and DS for modifying or offering to modify the terms and conditions of an exiting Oregon loan under ORS 697.602(2)(c).

7. Perkins violated ORS 697.612(1)(a) by performing a debt management service in Oregon for consumers KC and MC, and KS and DS without being registered with the Director to provide such a service.

8. Perkins violated ORS 697.612(1)(b)(E) by receiving money for providing advice, assistance, instruction or instruction material regarding a debt management service to Oregon consumers KC and MC, and KS and DS when Perkins was not registered as Oregon debt management service providers.

9. Perkins violated ORS 697.692(1)(a) by accepting or receiving an initial fee of more than $50 from KC and MC.

10. Perkins violated ORS 697.692(1)(a) by accepting or receiving an initial fee of more than $50 from KS and DS.

11. Perkins misrepresented to KC and MC, and KS and DS that he would provide loan modification services to the two couples, when in fact Perkins failed to provide loan modification services, and failed to provide refunds in violation of ORS 86A.154(3).

12. Perkins misrepresented that he was authorized or competent to perform debt management services or to furnish advice cornering bankruptcy matters when he was not authorized to do so under Oregon laws. These misrepresentations constitute violations of ORS 86A.154(3) and ORS 697.662(2), (11), and (12)(a).

FINAL ORDERS

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

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13. Pursuant to ORS 86A.127(4) and 697.825(1)(a), the Director hereby orders Respondent Perkins and all entities owned or controlled by Respondent Perkins to cease and desist from violating the Oregon statutes regulating mortgage lending, ORS 86A.100 et seq., and debt management service providers, ORS 697.602 to 697.842.

14. Pursuant to ORS 86A.992, the Director may assess a civil penalty in the amount of not more than $5,000 per violation against any person who violates or who procures, aids or abets in the violation of any provision of ORS 86A.095 to 86A.198 or any rule or order issued under ORS 86A.124 or 86A.242. Pursuant to the authority of ORS 697.832, the Director may assess a civil penalty in an amount of not more than $5,000 per violation against any person who violates ORS 697.612 or 697.642 to 697.702, rules adopted under ORS 697.632, or any order issued under ORS 697.825.

15. The Director orders Respondent Perkins to pay civil penalties as follows:

    a. Respondent Perkins shall pay a $10,000 civil penalty for committing two violations ($5,000 per violation) of ORS 86A.103(1) and 697.612(1)(a);

    b. Respondent Perkins shall pay a $5,000 civil penalty for committing one violation of ORS 697.692 (KC and MC);

    c. Respondent Perkins shall pay a civil penalty of $5,000 for committing one violation of ORS 697.692 (KS and DS);

    d. Respondent Perkins shall pay a civil penalty of $10,000 ($5,000 per violation) for committing two violations of ORS 697.612(1)(b)(E);

    e. Respondent Perkins shall pay a civil penalty of $10,000 ($5,000 per violation) for committing two violations of ORS 86A.154(3)(mortgage fraud).

16. Pursuant to ORS 86A.224(2)(c), the Director may order a person subject to regulation under ORS 86A.200 to 86A.239 to pay restitution to a consumer that suffers harm due to the person's acts, omissions, practices or operations or as a result of the person's

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violation of a provision of ORS 86A.200 to 86A.239. The Director hereby orders Respondent Perkins to pay restitution in the amount of $13,950 to KC and MC.

17. Pursuant to ORS 86A.224(2)(c), the Director may order a person subject to regulation under ORS 86A.200 to 86A.239 to pay restitution to a consumer that suffers harm due to the person's acts, omissions, practices or operations or as a result of the person's violation of a provision of ORS 86A.200 to 86A.239. The Director hereby orders Respondent Perkins, to pay restitution in the amount of $5,250 to KS and DS.

Dated this 11th day of July, 2018.

CAMERON SMITH, Director
Department of Consumer and Business Services

/S/ Dorothy Bean
Dorothy Bean, Chief Enforcement Officer
Division of Financial Regulation

NOTICE OF RIGHT TO JUDICIAL REVIEW

You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this order. Judicial review is in accordance with ORS 183.482(1) to the Oregon Court of Appeals.

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