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

In the Matter of: JULIAN J. RUIZ III, an Individual, Respondent.	Case No. M-18-0048 FINAL ORDER TO CEASE AND DESIST, FINAL ORDER ASSESSING CIVIL PENALTY AND FINAL ORDER REINSTATING CIVIL PENALTY, ENTERED BY DEFAULT

On June 28, 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 an Order to Cease and Desist, Proposed Order Assessing Civil Penalty, Proposed Order Reinstating Civil Penalty, and Notice of Right to a Hearing ("Notice") on Julian J. Ruiz III ("Respondent").

The Notice offered Respondent an opportunity for a hearing if requested within 20 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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FINDINGS OF FACT

The Director FINDS that:

1. Respondent's Nationwide Mortgage Licensing System ("NMLS") number is 1311140.

2. On March 25, 2010, a consent order was entered in Oregon Division of Finance and Corporate Securities ("DFCS")[1] case number M-10-0005 against Respondent ("Consent Order").

3. The Consent Order concluded that Respondent:

A. Engaged in fraud on two occasions by knowingly using false information to obtain mortgage loans, in violation of Oregon Revised Statutes ("ORS") 86A.154(2) and (3); and

B. Assisted a former client in using false information to obtain a mortgage loan, in violation of ORS 86A.154(2).

4. Under the terms of the Consent Order, Respondent was permanently barred and otherwise prohibited from, directly or indirectly:

A. Acting as a mortgage loan originator or loan processor; and

B. Operating as a mortgage broker.

5. Under the terms of the Consent Order, Respondent was assessed a civil penalty of $15,000. The civil penalty was suspended in its entirety provided Respondent satisfied certain conditions, including maintaining compliance with the Consent Order and refraining from further violations of the Oregon Mortgage Lender Law.[2]

6. Under the terms of the Consent Order, if the Director later determined that Respondent failed to comply with the Consent Order, or committed a violation of the Oregon Mortgage Lender Law, the suspended civil penalty would become due and owing

[1] In 2016, DFCS merged with the Oregon Insurance Division and became the Division.

[2] The Oregon Mortgage Lender Law is comprised of ORS 86A.095 et seq. and Oregon Administrative Rules ("OAR") 441-850-0005 through 441-885-0010.

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in its entirety.

7. In or around December 2015, Respondent facilitated the acquisition of a mortgage loan secured by residential property in Oregon.[3] In particular, Respondent:

A. Referred the borrowers ("RK/HK") to a mortgage broker, Advanced Investment Corp. ("AIC");

B. Provided RK/HK with loan documents on behalf of AIC, including the fee agreement, credit application, preliminary report, financial statement and disclosure documents;

C. Explained the terms of the proposed loan to RK/HK, including the loan amount, interest rates, monthly payments, and length of repayment;

D. Completed the loan application with RK/HK and submitted it to AIC;

E. Represented RK/HK in all communications with AIC regarding the loan; and

F. Forwarded AIC's instructions for completing the loan to RK/HK and assisted them in satisfying those instructions, such as by helping them to prepare an insurance binder.

8. In exchange for performing the foregoing duties, Respondent received a fee equivalent to 1.5% of the loan, or $2,250.[4]

9. At no relevant time has Respondent been licensed in Oregon as a mortgage broker or mortgage loan originator.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

10. A loan secured by a mortgage on four or fewer residential dwelling units is a residential mortgage loan under ORS 86A.200(8).

[3] The property contained four or fewer residential dwelling units.

[4] This fee is identified as an "origination fee" in RK/HK's written agreement with AIC. Respondent identified the fee as a "broker fee" in an invoice he provided the title company that handled the loan.

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11. By taking RK/HK's application for a residential mortgage loan, Respondent acted as a mortgage loan originator under ORS 86A.200(4)(a)(A).

12. By performing the duties set forth in Paragraph (7), Respondent offered or negotiated terms for a residential mortgage loan and thereby acted as a mortgage loan originator under ORS 86A.200(4)(a)(B).

13. By acting as a mortgage loan originator without holding a mortgage loan originator's license, Respondent violated ORS 86A.203(1)(a).

14. By acting as a mortgage loan originator, Respondent willfully violated the terms of the Consent Order.

15. By willfully violating the terms of the Consent Order, Respondent violated ORS 86A.183(1)(b).

16. Because the Director has reason to believe that Respondent has been engaged, is engaging or is about to engage in any violation of any provision of ORS 86A.095 to 86A.198, the Director may issue an order to Respondent to cease or desist from the violation or threatened violation of those statutes under ORS 86A.127(4).

17. The Director may issue an order to Respondent to immediately and permanently cease and desist from violating a provision of ORS 86A.200 to 86A.239, under ORS 86A.224(2)(a).

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ORDERS

Now therefore, the Director issues the following Orders:

18. As authorized by ORS 86A.127(4) and ORS 86A.224(2)(a), the Director ORDERS Respondent to CEASE AND DESIST from violating the Oregon Mortgage Lender Law.

19. As authorized by ORS 86A.224(3)(a) and ORS 86A.992(1), the Director ORDERS that Respondent be subject to a CIVIL PENALTY totaling $10,000 as follows:

A. $5,000 for violating ORS 86A.203(1)(a); and

B. $5,000 for violating ORS 86A.183(1)(b) and an order of the Director.

20. The Director further ORDERS that the suspended CIVIL PENALTY of $15,000 to which Respondent was subject pursuant to the Consent Order in DFCS case number M-10-0005 be REINSTATED in its entirety because Respondent:

A. Acted as a mortgage loan originator in violation of the Consent Order; and

B. Committed the foregoing violations of ORS 86A.183(1)(b) and ORS 86A.203(1)(a), which are provisions of the Oregon Mortgage Lender Law.

SO ORDERED this 26th day of July 2018.

CAMERON C. SMITH, Director
Department of Consumer and Business Services

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

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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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