

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

In the Matter of

Case No. DM-18-0114

**EMPIRE LEGAL SERVICES,
AKA TRUSTEE LOSS MITIGATION,
AKA HAVEN LEGAL SERVICES**

**FINAL ORDER TO CEASE AND
DESIST AND FINAL ORDER
ASSESSING CIVIL PENALTIES,
ENTERED BY DEFAULT**

Respondent.

9 On January 22, 2019, the Director of the Department of Consumer and Business
10 Services for the State of Oregon (the “Director”), by and through the Division of
11 Financial Regulation (the “Division”), served an Order to Cease and Desist, Proposed
12 Order Assessing Civil Penalties, and Notice of Right to an Administrative Hearing
13 (“Notice Order”) on Empire Legal Services, also known as Trustee Loss Mitigation, also
14 known as Haven Legal Services (“Respondent”).

15 The Notice Order was served on the following addresses of Respondent via
16 certified and first-class mail, postage pre-paid:

- 17 A. Empire Legal Services, 2910 Inland Empire Blvd, Suite 116, Ontario, CA 91764;

18 B. Empire Legal Services, 2910 Inland Empire Blvd, Suite 114, Ontario, CA 91764;

19 C. Haven Legal Services, 2910 Inland Empire Blvd, Suite 116, Ontario, CA 91764;

20 and

21 D. Trustee Loss Mitigation, 2910 Inland Empire Blvd, Suite 116, Ontario, CA

22 91764.

On February 8, 2019, in accordance with Oregon Revised Statutes (“ORS”) 60.731(2)(c), the Division served the Notice Order by hand delivery on the Oregon Secretary of State as agent for Respondent.

26 The Notice Order offered Respondent an opportunity for a hearing if requested

1 within 20 days of service of the Notice Order. The Notice Order further informed
2 Respondent that if a hearing were not conducted because Respondent did not timely
3 request a hearing or otherwise defaulted, then the designated portion of the Division's file
4 and all materials submitted by Respondent in this case would automatically become part
5 of the contested case record for the purpose of proving a prima facie case, in accordance
6 with Oregon Administrative Rule ("OAR") 137-003-0670(3)(a)-(b).

7 Respondent has not made a request for a contested case hearing and the time to do
8 so has expired. Therefore, the Director did not conduct a hearing.

9 The Director finds that the record in this proceeding proves a *prima facie* case.

Now, therefore, after consideration of the record, the Director issues the following Findings of Fact, Conclusions of Law, and Final Orders.

FINDINGS OF FACT

13 | The Director FINDS that:

14 1. At all relevant times, Respondent purported to operate out of an office located
15 in Ontario, California.

16 2. At all relevant times, a consumer identified herein as “KN” was an Oregon
17 resident and a party to a residential mortgage loan secured by a single family residential
18 dwelling located in Portland, Oregon.

19 3. In or about November 2017, Respondent sent a written solicitation via mail to
20 KN in which Respondent offered to negotiate a restructured payment plan for KN's
21 residential mortgage loan, including a reduction in the interest rate, monthly payment,
22 and principal balance "by up to 20-50%" (the "Solicitation"). KN did not request or
23 expect to receive the Solicitation.

24 4. The envelope containing the Solicitation indicated that the sender was
25 “Trustee Loss Mitigation” and was marked, “URGENT TIME SENSITIVE.” The body
26 of the Solicitation opened with the word “**Urgent!**” and stated, “This will be our final

1 attempt to contact you.” The Solicitation implored KN to “**CALL IMMEDIATELY.**”
2 (All emphases in original.) The Solicitation included a telephone number to call, but it
3 did not disclose Respondent’s identity or provide a mailing address or any other contact
4 information for Respondent.¹

5 5. After receiving the Solicitation, KN called the telephone number contained
6 therein and spoke to a representative of Respondent. That representative promised to
7 work with KN’s mortgage loan servicer, save her house from foreclosure, and obtain a
8 loan modification with lower monthly payments for KN.

9 6. Following that telephone conversation, Respondent mailed to KN several
10 documents for her to sign and return, including:

11 A. Consulting Services Retainer Agreement. In this document, Respondent
12 promised, among other things, to provide “legal document preparation services.”
13 These services were to include providing written notices to the loan servicer,
14 requesting modification of the terms of the mortgage loan, preparing documents
15 for court proceedings, and providing a limited scope appearance as attorney for
16 eviction defense and/or settlement. This required KN to pay a “Retainer fee” in
17 the amount of \$900.00, which was “non-refundable.” It also required KN to pay
18 \$800.00 per month “to maintain and prosecute [her] file.” This document was
19 signed by a representative for “Haven Legal Services.” The document also
20 referred to Respondent as both “ELS” and “HLS.”

21 B. Borrowers Workout Consent Form. This document authorized Respondent
22 to obtain all documents from KN’s loan service provider.

23 C. Payment Authorization Form. This document authorized payments from
24 KN’s checking account to Respondent’s bank account. (Collectively, the

25 _____
26 ¹ The return address on the envelope for “Trustee Loss Mitigation” was identical to the address contained in
the Services Contracts, as identified below.



1 “Services Contracts.”)

2 7. KN signed the foregoing Services Contracts on or about November 24, 2017.

3 She returned them to Respondent after signing.

4 8. In accordance with the Consulting Services Retainer Agreement, KN paid a
5 total of \$3,300.00 to Respondent, including a \$900.00 retainer fee on or about November
6 22, 2017, and \$800.00 monthly fees on or about each of December 21, 2017, January 20,
7 2018, and January 27, 2018.²

8 9. Respondent never contacted KN’s mortgage loan servicer, never made any
9 attempts to negotiate the terms of her loan, and otherwise failed to perform any work for
10 KN.

11 10. KN’s mortgage loan servicer confirmed that it never received any documents
12 from Respondent and that Respondent neither requested to become nor became an
13 authorized party on KN’s account.

14 11. KN requested a refund from Respondent but did not receive one.

15 12. Respondent is not and never has been registered with the Oregon Secretary of
16 State to conduct business in Oregon.

17 13. Respondent is not and never has been registered with the Division to provide
18 debt management services in Oregon.

19 14. Respondent has never filed with the Director a bond issued by one or more
20 corporate sureties authorized to do business in Oregon.

21 15. Respondent is not and never has been licensed with the Division to engage in
22 residential mortgage transactions as a mortgage broker.

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26 ² Respondent collected two \$800 fees from KN in January 2018 despite the Payment Authorization Form
authorizing a single payment for January 2018.



CONCLUSIONS OF LAW

The Director CONCLUDES that:

3 16. By sending the Solicitation to KN and by agreeing to perform, or by
4 representing that it could or would perform, the services contained in the Solicitation and
5 the Services Contracts, Respondent conducted business in Oregon.

6 17. Under ORS 697.602(2)(c), “debt management service” includes an activity for
7 which a person receives money or other valuable consideration or expects to receive
8 money or valuable consideration in return for modifying or offering to modify terms and
9 conditions of an existing loan from or obligation to a third party.

18. Under ORS 697.602(2)(d), “debt management service” includes an activity
for which a person receives money or other valuable consideration or expects to receive
money or valuable consideration in return for obtaining or attempting to obtain as an
intermediary on a consumer’s behalf a concession from a creditor including, but not
limited to, a reduction in the principal, interest, penalties, or fees associated with a debt.

15 19. Respondent performed “debt management services,” as defined in ORS
16 697.602(2)(c) and (d), respectively, when Respondent received money or expected to
17 receive money in return for: offering to modify the terms and conditions of KN’s existing
18 loan or obligation to her mortgage loan servicer; and attempting to obtain as an
19 intermediary on KN’s behalf a concession from a creditor including, but not limited to, a
20 reduction in the principal, interest, penalties, or fees associated with her residential
21 mortgage loan debt.

22 20. Under ORS 697.602(3), "debt management service provider" means a person
23 that resides or does business in this state and provides or performs, or represents that the
24 person can or will provide or perform, a debt management service in return for or in
25 expectation of money or other valuable consideration.

21. Respondent acted as “debt management service provider,” as defined in ORS

1 697.602(3), when it conducted business in Oregon and provided or performed, or
2 represented that it could or would provide or perform, the debt management services
3 contained in the Solicitation and the Services Contracts in return for or in the expectation
4 of money.

5 22. Under ORS 697.632(1), debt management service providers shall be
6 registered with the Director unless exempt from registration.

7 23. Under ORS 697.612(1)(b)(A), a person that has not registered with the
8 Director under ORS 697.632 may not engage in business in this state in the course of
9 which the person receives money or other valuable consideration or expects to receive
10 money or other valuable consideration for soliciting or receiving an application from a
11 consumer for a debt management service.

12 24. By engaging in business in Oregon and receiving money as a result of
13 soliciting or receiving an application from consumer KN to provide debt management
14 services without registering with the Director under ORS 697.632 as a debt management
15 service provider, Respondent violated ORS 697.612(1)(b)(A).

16 25. Under ORS 697.692(1)(a), a debt management service provider may charge a
17 consumer an initial fee of not more than \$50.

18 26. By charging KN an initial “retainer fee” of \$900, Respondent charged KN an
19 initial fee in excess of \$50, in violation of ORS 697.692(1)(a).

20 27. Under ORS 697.692(1)(d), a debt management service provider may charge a
21 fee equivalent to 15 percent of the amount of debt a consumer owes to one or more
22 creditors at the time the consumer signs a written agreement and places funds in a bank
23 account that the consumer establishes or maintains in the consumer’s own name with an
24 insured institution and designates specifically for making disbursements in connection
25 with a debt management service. The debt management service provider may not charge
26 the fee described in this paragraph in amounts or installments that exceed \$65 per month.

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1 28. By charging KN a monthly fee of \$800 per month, Respondent charged KN a
2 fee in excess of \$65 per month, in violation of ORS 697.692(1)(d).

3 29. Under ORS 697.662(12)(b), a debt management service provider or a person
4 required to obtain a registration as a debt management service provider under ORS
5 697.612 may not publish, distribute, or broadcast or cause to be published, distributed, or
6 broadcast an advertisement, presentation, or other communication or promotional
7 material that identifies the debt management service provider or person by a name other
8 than the name that appears on the registration that the Director issued or the assumed
9 business name that the debt management service provider or person registered under ORS
10 chapter 648.

11 30. By publishing or distributing or by causing to be published or distributed the
12 Solicitation, in which Respondent did not identify itself with a name registered with the
13 Director or a registered assumed business name, Respondent violated ORS
14 697.662(12)(b).

15 31. Under ORS 697.662(12)(d)(A), a debt management service provider or a
16 person required to obtain a registration as a debt management service provider under
17 ORS 697.612 may not publish, distribute, or broadcast or cause to be published,
18 distributed, or broadcast an advertisement, presentation, or other communication or
19 promotional material that misrepresents, directly or indirectly the nature of a service the
20 debt management service provider or person will perform.

21 32. By publishing or distributing or by causing to be published or distributed the
22 Solicitation, which included material that misrepresented the nature of the services that
23 Respondent would perform – as Respondent could not, was not licensed to, and otherwise
24 failed to perform the services it promised to perform in the Solicitation – Respondent
25 violated ORS 697.662(12)(d)(A).

26 33. Under ORS 697.642(1), a debt management service provider shall file with the



1 Director a bond issued by one or more corporate sureties authorized to do business in this
2 state.

3 34. By providing or agreeing to provide debt management services without first
4 filing with the Director a bond issued by one or more corporate sureties authorized to do
5 business in Oregon, Respondent violated ORS 697.642(1).

6 35. Under ORS 697.825(1)(a), the Director may, if the Director has reason to
7 believe that a person violated, is violating, or is about to violate ORS 697.612, 697.642 to
8 697.702 or 697.752, a rule adopted under ORS 697.632 or an order issued under ORS
9 697.652 or 697.732, issue an order to cease and desist from the violation.

10 36. Because the Director has reason to believe that Respondent has violated and is
11 violating ORS 697.612(1)(b)(A), ORS 697.692(1)(a), ORS 697.692(1)(a), ORS
12 697.692(1)(d), ORS 697.662(12)(b), ORS 697.662(12)(d)(A), and ORS 697.642(1), the
13 Director may issue an order to cease and desist against Respondent.

14 37. Under ORS 697.832(1), the Director may impose a civil penalty on a person
15 in an amount not to exceed \$5,000 for each violation of ORS 697.612 or 697.642 to
16 697.702, rules adopted under ORS 697.632 or order issued under ORS 697.825.

17 38. Because Respondent has violated ORS 697.612(1)(b)(A), ORS 697.692(1)(a),
18 ORS 697.692(1)(d), ORS 697.662(12)(b), ORS 697.662(12)(d)(A), and ORS 697.642(1),
19 the Director may impose a civil penalty on Respondent in an amount not to exceed
20 \$5,000 for each violation.

21 39. Under ORS 86A.100(5)(a)(C), “mortgage broker” means a person that for
22 compensation, or in the expectation of compensation, either directly or indirectly makes,
23 negotiates, or offers to make or negotiate a mortgage loan.

24 40. Under ORS 86A.100(6), “mortgage loan” means a loan, extension of credit or
25 retail sales contract, other than a mortgage banking loan, secured by a mortgage or deed
26 of trust or a lien interest on real estate that is created with the consent of the owner of the



1 real estate.

2 41. KN's residential mortgage loan secured by real property is a "mortgage loan"
3 under ORS 86A.100(6).

4 42. Respondent acted as a "mortgage broker" under ORS 86A.100(5)(a)(C) when
5 Respondent, for compensation or in the expectation of compensation, offered to make or
6 negotiate a modification to the terms and conditions of KN's mortgage loan.

7 43. Under ORS 86A.100(8), "residential mortgage transaction" includes a
8 transaction in which a mortgage or equivalent consensual security interest is created or
9 retained in property upon which four or fewer residential dwelling units are situated.

10 44. Under ORS 86A.103(2), a person "engages in residential mortgage
11 transactions in this state" when any act constituting the business of a mortgage banker or
12 mortgage broker and involving a residential mortgage transaction originates from this
13 state or is directed to and received in this state or when the real estate that is the subject
14 of the activities of the mortgage banker or mortgage broker is located in this state.

15 45. Respondent engaged in a "residential mortgage transaction in this state," as
16 that term is used under ORS 86A.103(2), by acting as a mortgage broker when
17 Respondent offered to make or negotiate a modification to the terms and conditions of
18 KN's residential mortgage loan secured by a single family residential dwelling located in
19 Oregon pursuant to the Solicitation and the Services Contracts.

20 46. Under ORS 86A.103(1), it is unlawful for any person to engage in residential
21 mortgage transactions in this state as a mortgage banker or mortgage broker unless the
22 person is licensed under ORS 86A.095 to 86A.198.

23 47. By engaging in a residential mortgage transaction in this state as a mortgage
24 broker without being licensed under ORS 86A.095 to 86A.198, Respondent violated ORS
25 86A.103(1).

26 48. Under ORS 86A.127(4), if the Director has reasonable cause to believe that

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

5 49. Because the Director has reasonable cause to believe that Respondent has
6 violated ORS 86A.103(1), the Director may issue an order against Respondent to cease
7 and desist from that violation.

8 50. Under ORS 86A.992(1), any person who violates or who procures, aids, or
9 abets in the violation of any provision of ORS 86A.095 to 86A.198 or any rule or order
10 of the Director shall be subject to a penalty of not more than \$5,000 for every violation,
11 which shall be paid to the General Fund of the State Treasury.

12 51. Because Respondent has violated ORS 86A.103(1), Respondent is subject to a
13 civil penalty of not more than \$5,000 for that violation under ORS 86A.992(1).

FINAL ORDERS

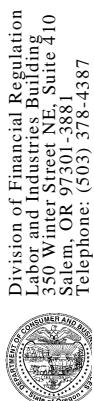
Now, therefore, the Director issues the following ORDERS:

Order to Cease and Desist

17 52. Pursuant to ORS 697.825(1)(a) and ORS 86A.127(4) the Director hereby
18 ORDERS Respondent, and all entities owned or controlled by Respondent, its successors
19 and assignees, to CEASE AND DESIST from violating any provision of ORS 697.602 to
20 697.842 (the “Oregon Debt Management Service Provider Law”); ORS 86A.095 to
21 86A.198 (the “the Oregon Mortgage Lender Law”); or any administrative rule adopted by
22 the Director under those statutes.

Order Assessing Civil Penalties

24 53. Pursuant to the authority of ORS 697.832(1) an ORS 86A.992(1), for the
25 foregoing violations of the Oregon Debt Management Service Provider Law, ORS
26 697.602 to 607.842, and the Oregon Mortgage Lender Law, ORS 86A.095 to 86A.198,



1 the Director hereby ORDERS the assessment of CIVIL PENALTIES against Respondent
2 in the amount of twenty thousand dollars (\$20,000) as follows:

3 A. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for engaging in
4 unlicensed activity in Oregon, including: receiving money for soliciting or
5 receiving an application from a consumer for a debt management service without
6 being registered as a debt management service provider; and engaging in a
7 residential mortgage transaction without being licensed as a mortgage broker, in
8 violation of ORS 697.612(1) and ORS 86A.103(1), respectively;

9 B. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for charging and
10 receiving fees from an Oregon consumer for the performance of debt
11 management services in excess of those permitted under ORS 697.692(1);

12 C. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for publishing
13 or distributing, or causing to be published or distributed, the Solicitation, in
14 which Respondent did not identify itself with a name registered with the Director
15 and which included material misrepresentations regarding the nature of the
16 services that Respondent would perform, in violation of ORS 697.662(12)(b) and
17 ORS 697.662(12)(d)(A), respectively; and

18 D. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for providing or
19 agreeing to provide debt management services for an Oregon consumer without
20 first filing with the Director a bond, in violation of ORS 697.642.

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1 54. This is a “Final Order” under ORS 183.310(6)(b). Subject to that provision,
2 the entry of this Order in no way limits or prevents further remedies, sanctions, or actions
3 which may be available to the Director under Oregon law.

4 IT IS SO ORDERED.

5 Dated this 4th day of March, 2019 in Salem, Oregon.

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

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

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