

1
2 STATE OF OREGON
3 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
4 DIVISION OF FINANCIAL REGULATION

5 In the Matter of

Case No. M-18-0093

6 MANHATTAN FINANCIAL GROUP,
7 INC., A Foreign Business Corporation,

FINAL ORDER TO CEASE AND
DESIST, FINAL ORDER ASSESSING
CIVIL PENALTIES AND
EXAMINATION FEES, AND FINAL
ORDER SUSPENDING LICENSE,
ENTERED BY DEFAULT

8 Respondent.

9 On November 14, 2018, the Director of the Department of Consumer and Business
10 Services for the State of Oregon (“Director”), by and through the Division of Financial
11 Regulation (“Division”), served Notice of Administrative Order M-18-0093 (“Notice”) on
12 Manhattan Financial Group, Inc. (“Respondent”), providing notice that the Director
13 intended to issue an order to assess civil penalties and examination fees and to suspend
14 Respondent’s mortgage lending license for violations of Oregon Revised Statutes (“ORS”)
15 86A.095 to 86A.198 and Oregon Administrative Rules (“OAR”) 441-850-0005 through
16 441-885-0010 (collectively, the “Oregon Mortgage Lender Law”).¹

17 The Notice offered Respondent an opportunity for a hearing if requested within
18 20 days of service of the Notice. The Notice further informed Respondent that if a
19 hearing was not conducted because Respondent did not timely request a hearing or
20 otherwise defaulted, then the designated portion of the Division’s file and all materials
21 submitted by Respondent in this case would automatically become part of the contested
22 case record for the purpose of proving a prima facie case.

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

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

26 ¹ On November 13, 2018, the Division sent Respondent a courtesy copy of the Notice via electronic mail.

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

3 **FINDINGS OF FACT**

4 The Director FINDS that:

5 1. Respondent is a California corporation with a principal place of business at 600
6 La Terraza Boulevard, 3rd Floor, Escondido, California 92025.

7 2. At all relevant times, Respondent has held Nationwide Mortgage Licensing
8 System (NMLS) license number 10095.

9 3. At all relevant times, Respondent has held Oregon mortgage lending license
10 number ML-4749 authorizing it to conduct business as a mortgage broker.

11 4. On or about February 16, 2018, the Division began to conduct a routine
12 examination of Respondent under ORS 86A.124(1).

13 5. During the examination of Respondent, the Division corresponded with
14 Respondent to request a number of documents. On or about February 20, 2018, the Division
15 requested that Respondent provide – among other items – personnel files and criminal
16 records checks for employees Clint Bradshaw (“Bradshaw”), Wade Willers (“Willers”),
17 and Elise Everett (“Everett”); and Respondent’s supervision plan under OAR 441-860-
18 0040. The Division requested these documents again on or about February 23, March 7,
19 and March 21, 2018. Respondent never provided these documents to the Division.

20 6. On or about April 6, 2018, the Division sent Respondent a copy of its
21 examination report (the “Examination Report”). That correspondence indicated that
22 Respondent was required to respond to the items in the Comments and Recommendations
23 section of the Examination Report in writing, including the steps that Respondent would
24 take to ensure compliance with the Oregon Mortgage Lender Law.

25 7. The Comments and Recommendations section of the Examination Report
26

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1 identified the following items requiring Respondent's response:²

2 A. Respondent failed to identify a manager or control person to supervise its
3 branch office at its office located at 1001 SW 5th Avenue, Suite 1100, Portland,
4 Oregon 97204.

5 B. Respondent failed to provide documents the Division requested multiple
6 times between January 25 and March 21, 2018, as part of the Division's routine
7 examination.

8 C. Respondent failed to provide personnel ledgers for Bradshaw, Everett, and
9 Willers.

10 D. Respondent failed to provide a copy of the criminal records check for
11 Bradshaw, Everett, and Willers.

12 E. Respondent failed to include in its supervision plan any complaint process.

13 F. Regarding a loan applicant identified herein as MD, Respondent: failed to
14 provide a copy of each executed loan application form signed by the borrower and
15 the mortgage loan originator, including MD's Uniform Residential Loan
16 Application;³ provided copies of documents identifying MD's loan as a conventional
17 loan when in fact the loan was a Federal Housing Administration ("FHA") loan;
18 failed to include a full copy of the credit report Respondent accessed on or about
19 March 15, 2017, as part of MD's application; and provided a copy of a rate lock
20 agreement that fails to specify that the lock may be subject to change if any of the
21 loan factors change.

22 G. Regarding a loan applicant identified herein as DK, Respondent: failed to
23 provide a copy of each executed loan application form signed by the borrower and
24

25 ² Other items were included in the Examination Report but were addressed by Respondent or did not
require further action by Respondent.

26 ³ Respondent ultimately provided this document to the Division on or about July 5, 2018, after the Division
had completed its examination and after the Division made several requests for this document.



1 the mortgage loan originator, including DK’s Uniform Residential Loan Application;
2 provided copies of documents identifying DK’s loan as a conventional loan when in
3 fact the loan was an FHA loan; and provided a copy of a rate lock agreement that
4 fails to specify that the lock may be subject to change if any of the loan factors
5 change.

6 H. Regarding a loan applicant identified herein as JW, Respondent: provided
7 copies of documents identifying JW’s loan as a fixed-rate mortgage when in fact the
8 loan was an adjustable-rate mortgage; provided a copy of a rate lock agreement that
9 fails to specify that the lock may be subject to change if any of the loan factors
10 change; and failed to include a full copy of the credit report Respondent accessed on
11 or about March 20, 2017, as part of JW’s application.

12 I. Regarding a loan applicant identified herein as KM, Respondent: failed to
13 prepare and maintain in KM’s file a copy of the executed lock agreement with respect
14 to one property for which a mortgage application was submitted; provided copies of
15 a rate lock agreement that fail to specify that the locks may be subject to change if
16 any of the loan factors change and which identifies two of KM’s loan applications as
17 conventional loans when in fact the loans were Veterans Affairs loans; and failed to
18 include a full copy of the credit report Respondent accessed on or about April 3, 2017,
19 as part of KM’s application.

20 J. Regarding a loan applicant identified herein as MB, Respondent: provided
21 a rate lock agreement that failed to specify that the lock may be subject to change if
22 any of the loan factors change and which identifies the loan type as FHA when in fact
23 the loan was a conventional loan.

24 K. Regarding a loan applicant identified herein as JP, Respondent: provided a
25 rate lock agreement that failed to specify that the lock may be subject to change if
26 any of the loan factors change.



1 8. On or about April 6, 2018, the Division issued an invoice (number 147630-121)
2 to Respondent for \$1,725 for examination fees. The invoice indicated the Division spent
3 23.0 hours to conduct the examination at a rate of \$75 per hour, and that payment was due
4 by May 6, 2018.

5 9. On or about May 11, 2018, the Division received a check dated April 25, 2018
6 (check number 8571) submitted by Respondent (the “Check”) to pay the \$1,725
7 examination fees under invoice number 147630-121. The Check was not honored due to
8 non-sufficient funds.

9 10. On or about May 17, 2018, the Division sent Respondent a letter indicating that
10 Respondent had not replied to the Division’s April 6, 2018, letter, requesting that
11 Respondent provide a response to the Examination Report no later than May 31, 2018, and
12 indicating that failure to do so may result in the assessment of civil penalties or action
13 against Respondent’s license.

14 11. On or about June 5, the Division sent Respondent a letter indicating that
15 Respondent had still not replied to the Examination Report. The Division requested that
16 Respondent reply no later than June 30, 2018, and indicated again that failure to do so may
17 result in the assessment of civil penalties or action against Respondent’s license. The
18 Division further noted that the Check had been returned for insufficient funds, and the
19 Division demanded payment in valid funds for those fees.

20 12. Respondent never responded fully to the Examination Report nor did
21 Respondent pay in valid funds the \$1,725 for its examination fees.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

24 13. At all relevant times, Respondent has been a “mortgage broker,” as defined
25 under ORS 86A.100(5)(a).

26 14. By failing to make and maintain records that are required by rule or order and



1 by failing to produce the same to the Division for examination, Respondent violated ORS
2 86A.112(1). Such records include personnel records (OAR 441-865-0050(1)), state
3 criminal records checks (OAR 441-860-0045(3)), procedures for handling consumer
4 complaints (OAR 441-860-0040(3)(f)), copies of each executed loan application with
5 signatures of both the borrower and the mortgage loan originator (OAR 441-865-
6 0060(1)(a)), and copies of every credit report accessed in connection with a loan
7 application (OAR 441-865-0060(1)(i)).

8 15. By failing to appoint or identify a branch manager at 1001 SW 5th Avenue,
9 Suite 1100, Portland, Oregon 97204, Respondent failed to personally supervise or
10 designate a control person to supervise a branch office, in violation of OAR 441-860-
11 0040(2).

12 16. By failing to maintain personnel ledgers for Bradshaw, Everett, and Willers,
13 Respondent violated OAR 441-865-0050(1).

14 17. By failing to maintain and provide the Division with copies of state criminal
15 record check documents of Bradshaw, Everett, and Willers, Respondent violated OAR
16 441-860-0045(3).

17 18. By failing to establish procedures for handling consumer complaints and
18 develop procedures to identify the types of consumer complaints that must be forwarded
19 to a supervisor for review, Respondent violated OAR 441-860-0040(3)(f).

20 19. By failing to maintain a copy of MD and DK's loan application form with the
21 signatures of both the borrower and mortgage loan originator, Respondent violated OAR
22 441-865-0060(1)(a).

23 20. By generating and providing copies of documents misidentifying the type of
24 mortgages and type of loan amortization applied for by MD, DK, JW, KM, and MB,
25 Respondent acted in a negligent or incompetent manner and thereby violated ORS
26 86A.183(1)(e).



- 1 21. By failing to maintain a copy of every credit report it accessed in connection
2 with the applications of MD, JW, and KM, Respondent violated OAR 441-865-0060(1)(i).
- 3 22. By providing a copy of a rate lock agreement that fails to disclose that the lock
4 may be subject to change if any of the loan factors change with respect to the files of MD,
5 DK, JW, KM MB, and JP, Respondent violated OAR 441-865-0060(1)(c)(D).
- 6 23. By failing to prepare and maintain in KM's file a copy of an executed lock
7 agreement, Respondent violated OAR 441-865-0060(1)(c).
- 8 24. By failing to respond to the foregoing issues as raised in the Examination
9 Report, Respondent violated ORS 86A.127(2).
- 10 25. Under OAR 441-860-0110(2), licensees shall pay an examination charge in the
11 amount of \$75 an hour for each person used in performance of the examination.
- 12 26. By failing to pay the required examination fee of \$1,725 with valid funds,
13 Respondent violated 86A.124(1) and OAR 441-860-0110(1).
- 14 27. Respondent failed to comply with the requirements of 86A.112 to make and
15 keep records prescribed by rule or order of the Director and to produce such records
16 required by the Director. Therefore, under 86A.115(12), the Director may suspend or
17 revoke Respondent's mortgage broker license.
- 18 28. The foregoing violations demonstrate negligence or incompetence in
19 performing acts for which Respondent is required to hold a mortgage broker license.
20 Therefore, under ORS 86A.115(15), the Director may suspend or revoke Respondent's
21 mortgage broker license.
- 22 29. The Director has reasonable cause to believe that Respondent has been engaged
23 and is engaging in violations of the foregoing provisions of ORS 86A.095 to 86A.198.
24 Therefore, under ORS 86A.127(4), the Director may issue an order directed to Respondent
25 to cease and desist from such violations.
- 26 ///

1 **ORDERS**

2 The Director ISSUES the following ORDERS:

3 Order to Cease and Desist

4 30. Pursuant to ORS 86A.127(4), the Director hereby ORDERS Respondent, and
5 all entities owned or controlled by Respondent, its successors and assignees, to CEASE
6 AND DESIST from violating any provision of the Oregon Mortgage Lender Law, ORS
7 86A.095 to 86A.198, or any administrative rule adopted by the Director under those
8 statutes.

9 Order Assessing Civil Penalties and Examination Fees

10 31. Pursuant to the authority of ORS 86A.992(1) the Director may assess CIVIL
11 PENALTIES in an amount not to exceed \$5,000 per violation against any person who
12 violates the Oregon Mortgage Lender Law, ORS 86A.095 to 86A.198, or any rule or order
13 of the Director.

14 32. The Director hereby assesses CIVIL PENALTIES against Respondent in the
15 amount of twenty thousand dollars (\$20,000.00) as follows:

16 A. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for failing to
17 comply with the Division’s routine examination of Respondent, including: failing
18 to make and maintain records that are required by rule or order and by failing to
19 produce the same to the Division for examination; and failing respond to the
20 Examination Report after the Division made repeated requests to do so, in
21 violation of ORS 86A.112(1) and ORS 86A.127(2), respectively.

22 B. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for failing to
23 follow procedures regarding its employees, including: failing to appoint or identify
24 a branch manager or control person for its Portland office; failing to maintain
25 personnel ledgers for its employees; failing to maintain copies of state criminal
26 record check documents of its employees; and failing to establish procedures for

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1 handling consumer complaints and develop procedures to identify the types of
2 consumer complaints that must be forwarded to a supervisor for review, in
3 violation of OAR 441-860-0040(2), OAR 441-865-0050(1), OAR 441-860-
4 0045(3), and OAR 441-860-0040(3)(f), respectively.

5 C. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for failing to
6 comply with the requirements for preparing and maintaining residential borrower
7 files, including: failing to maintain a copy of every credit report it accessed in
8 connection with the applications of MD, JW, and KM; failing to disclose that the
9 rate lock may be subject to change if any of the loan factors change with respect
10 to the files of borrowers MD, DK, JW, KM MB, and JP; failing to prepare and
11 maintain in KM's file a copy of an executed lock agreement; and performing an
12 act as a mortgage loan originator in a negligent or incompetent manner by
13 misidentifying the types of mortgages and types of loan amortization schedules of
14 MD, DK, JW, KM, and MB, in violation of OAR 441-865-0060(1)(i), OAR 441-
15 865-0060(1)(c)(D), OAR 441-865-0060(1)(c), and ORS 86A.183(1)(e),
16 respectively.

17 D. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for failing to pay
18 the required examination fee, in violation of 86A.124(1).

19 33. Pursuant to ORS 86A.124(1), the Director may collect from the person the
20 actual expenses incurred in the examination of a mortgage broker. Pursuant to OAR 441-
21 860-0110(2), licensees shall pay an examination charge in the amount of \$75 an hour for
22 each person used in performance of the examination.

23 34. Therefore, the Director orders the payment to the Division of one thousand
24 seven hundred twenty-five dollars (\$1,725.00) in unpaid examination fees.

25 Order Suspending License

26 35. Because Respondent failed to comply with the requirements of ORS 86A.112

1 to make and keep records prescribed by rule or order of the Director and to produce such
2 records required by the Director; and because Respondent demonstrated negligence or
3 incompetence in performing acts for which it was required to hold a license, the Director
4 may suspend Respondent’s license under ORS 86A.115(12) and ORS 86A.115(15),
5 respectively.

6 36. Therefore, the Director suspends Respondent’s mortgage broker license
7 number ML-4749 for one year from the date a final order is issued in this matter.

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

11
12 IT IS SO ORDERED.

13 Dated this 17th day of December, 2018.

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

16 /s/ Dorothy Bean
17 Dorothy Bean, Chief of Enforcement
18 Division of Financial Regulation

19 **NOTICE OF RIGHT TO JUDICIAL APPEAL**

20 Judicial review of final orders in contested cases is governed by ORS 183.482.

21 Respondent may request judicial review by filing a petition with the Court of Appeals in
22 Salem, Oregon, within 60 days from the date this order is served.

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