

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

In the Matter of:

Case No. DM-19-0070

ATLANTIC PACIFIC SERVICE,
RESPONDENT.

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

On November 26, 2019, 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 Notice of Administrative Order DM-19-0070 (“Notice”) on Atlantic Pacific Service (“Respondent”). The Notice provided notice that the Director issued an order to cease and desist and proposed to assess civil penalties for violations of Oregon Revised Statutes (“ORS”) 697.602 to 697.842 (the “Oregon Debt Management Service Provider Law”), ORS 86A.095 to 86A.198 (the “the Oregon Mortgage Lender Law”), and the Oregon Administrative Rules (“OAR”) promulgated under those laws.

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 were 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 Notice also informed Respondent that, under ORS 697.825(2)(e) and 86A.139(2), a person who does not file a timely request for a contested case hearing may not obtain judicial review of a final order.

The Director did not receive from Respondent a request for a hearing and did not conduct a hearing. The Director finds that the record in this proceeding proves a prima facie case.

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350 Winter Street NE, Suite 410
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1 Now, therefore, after considering the relevant portions of the Division’s file relating
2 to this matter, the Director finds and orders as follows.

3 **FINDINGS OF FACT**

4 The Director FINDS that:

5 1. At all relevant times, Respondent purported to operate out of an office located
6 at 3580 Wilshire Boulevard, Suite 900, Los Angeles, California 90010.

7 2. At all relevant times, an individual identified herein as KM was an Oregon
8 resident and party to a residential mortgage loan secured by a single-family residential
9 dwelling located in Salem, Oregon.

10 3. At all relevant times, Respondent maintained a website located at
11 www.atlanticpacificservice.com (the “Website”). The Website is publicly accessible in
12 Oregon.

13 4. Respondent advertises a number of financial services on the Website,
14 including loan modifications, mortgage restructuring, loans, debt settlement, and credit
15 repair.

16 5. In or about October 2018, KM and Respondent discussed loan modification
17 services in connection with KM’s mortgage.

18 6. On October 17, 2018, Respondent, through an employee identified as “senior
19 loan consultant” Don Lawrence, sent an email to KM in which he stated that a typical
20 “Hardship Loan Modification Program” may “Cut Your Payments down by up to 50%”
21 and “Reduce Your Rate to as low as 2% Fixed,” among other things.

22 7. In or about early November 2018, Mr. Lawrence, on behalf of Respondent,
23 sent KM documentation indicating that Respondent would accept KM as a client if KM
24 signed and returned a Proposed Settlement Terms Form and a Terms and Conditions Fee
25 Agreement (collectively, the “Contract”). Respondent also required the payment of a
26 “retainer fee” prior to performing any work.





1 8. The Proposed Settlement Terms Form proposed new terms for KM’s
2 mortgage, including a reduction of interest rate from 4.750% to 2% fixed annual
3 percentage rate and a concomitant reduction in her monthly payment from \$1,725.58 to
4 \$1,034.14.

5 9. In the Terms and Conditions Fee Agreement, Respondent agreed to “prepare
6 and file a Federal Regulatory Complaint with a federal government agency and prepare a
7 Settlement Package to that Complaint for your Lender/Services” in exchange for a
8 “REFUNDABLE Retainer FEE of \$2,400” as well as a “contingency fee of 10% of any
9 monetary recovery obtained from any source if awarded to [KM].” (Capitalized words in
10 original.) KM signed this document on November 6, 2018.

11 10. Included with the Contract was a document entitled “100% Money Back-
12 Guarantee,” in which Respondent promised it would offer KM a “100% full refund
13 within 3 days” of a written request in the event that Respondent is unable to obtain a loan
14 modification that KM finds acceptable after a three (3) month trial period. KM signed
15 this document on November 6, 2018.

16 11. Respondent provided an invoice to KM for “Loan Restructure,” “Arbitration,”
17 and “Filing Fees” in the amount of \$2,400. Respondent offered a “Payment Plan” for KM
18 to pay \$800 in each month of November 2018, December 2018, and January 2019.

19 12. KM made each of the foregoing monthly payments to Respondent for a total
20 of \$2,400.

21 13. Later in November 2018, Respondent, through an employee identified as
22 “Processor” Melissa Garcia, sent KM a request for the following documents: bank
23 statements from September and October 2018; pay stubs from October 2018; and tax
24 returns from 2016 and 2017. Respondent, through Ms. Garcia, also requested that KM
25 sign and return an Authorization to Represent Form, a Notice to Cease & Desist, a
26 Uniform Borrower Assistance Form, a Hardship Affidavit, and a Dodd-Frank



1 Certification. KM signed those documents on November 27, 2018.

2 14. Respondent failed to perform any services for KM.

3 15. Respondent failed to refund any fees KM paid.

4 16. On April 17, 2019, KM filed a complaint with the Oregon Department of
5 Justice relaying the foregoing information and stating that she had paid for but not
6 received services from Respondent. KM also indicated that Respondent ceased returning
7 her telephone calls. Shortly thereafter, the Oregon Department of Justice referred this
8 matter to the Division.

9 17. On July 16, 2019, a Division investigator sent a written request to Respondent
10 for the production of documents. That request directed Respondent to produce certain
11 identified documents, including a list of Oregon clients and the file for KM, by August 2,
12 2019. Respondent failed to comply with that request.

13 18. Respondent is not and never has been registered with the Oregon Secretary of
14 State to conduct business in Oregon.

15 19. Respondent is not and never has been registered with the Division to provide
16 debt management services in Oregon.

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

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

21 **CONCLUSIONS OF LAW**

22 The Director concludes that:

23 22. By sending the Contract to KM and by agreeing to perform, or by representing
24 that it could or would perform, the services contained in the Contract, Respondent
25 conducted business in Oregon.

26 23. Under ORS 697.602(2)(c), “debt management service” includes an activity for



1 which a person receives money or other valuable consideration or expects to receive
2 money or valuable consideration in return for modifying or offering to modify terms and
3 conditions of an existing loan from or obligation to a third party.

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

9 25. Respondent performed “debt management services,” as defined in ORS
10 697.602(2)(c) and (d), respectively, when Respondent received money or expected to
11 receive money in return for: offering to modify the terms and conditions of KM’s existing
12 loan or obligation to her mortgage loan servicer; and attempting to obtain as an
13 intermediary on KM’s behalf a concession from a creditor including, but not limited to, a
14 reduction in the principal, interest, penalties, or fees associated with her residential
15 mortgage loan debt.

16 26. Under ORS 697.602(3), “debt management service provider” means a person
17 that resides or does business in this state and provides or performs, or represents that the
18 person can or will provide or perform, a debt management service in return for or in
19 expectation of money or other valuable consideration.

20 27. Respondent acted as “debt management service provider,” as defined in ORS
21 697.602(3), when it conducted business in Oregon and provided or performed, or
22 represented that it could or would provide or perform, the debt management services
23 contained in the Contract in return for or in the expectation of money.

24 28. Under ORS 697.632(1), debt management service providers shall be
25 registered with the Director unless exempt from registration.

26 29. Under ORS 697.612(1)(b)(A), a person that has not registered with the



1 Director under ORS 697.632 may not engage in business in this state in the course of
2 which the person receives money or other valuable consideration or expects to receive
3 money or other valuable consideration for soliciting or receiving an application from a
4 consumer for a debt management service.

5 30. By engaging in business in Oregon and receiving money as a result of
6 soliciting or receiving an application from consumer KM to provide debt management
7 services without registering with the Director under ORS 697.632 as a debt management
8 service provider, Respondent violated ORS 697.612(1)(b)(A).

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

11 32. By charging KM an initial “retainer fee” of 2,400, Respondent charged KM an
12 initial fee in excess of \$50, in violation of ORS 697.692(1)(a).

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

20 34. By charging KM a fee payable in installments of \$800 per month, Respondent
21 charged KM a fee in excess of \$65 per month, in violation of ORS 697.692(1)(d).

22 35. Under ORS 697.662(12)(b), a debt management service provider or a person
23 required to obtain a registration as a debt management service provider under ORS
24 697.612 may not publish, distribute, or broadcast or cause to be published, distributed, or
25 broadcast an advertisement, presentation, or other communication or promotional
26 material that identifies the debt management service provider or person by a name other



1 than the name that appears on the registration that the Director issued or the assumed
2 business name that the debt management service provider or person registered under ORS
3 chapter 648.

4 36. The Contract and the Website are advertisements or other communication or
5 promotional material.

6 37. By publishing or distributing or by causing to be published or distributed the
7 Contract and the Website, in which Respondent did not identify itself with a name
8 registered with the Director or a registered assumed business name, Respondent violated
9 ORS 697.662(12)(b).

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

16 39. By publishing or distributing or by causing to be published or distributed the
17 Contract, which included material that misrepresented the nature of the services that
18 Respondent would perform – as Respondent could not, was not licensed to, and otherwise
19 failed to perform the services it promised to perform in the Contract – Respondent
20 violated ORS 697.662(12)(d)(A). By publishing or distributing or by causing to be
21 published or distributed the Website, which included material that misrepresented the
22 nature of the services that Respondent would perform – as Respondent could not was not
23 licensed to perform the services outlined on the Website – Respondent violated ORS
24 697.662(12)(d)(A).

25 40. Under ORS 697.642(1), a debt management service provide shall file with the
26 Director a bond issued by one or more corporate sureties authorized to do business in this



1 state.

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

5 42. Under ORS 697.732(1)(d), the Director may subpoena witnesses and require a
6 person that the Director is investigating to produce documents that the Director deems
7 material to the investigation.

8 43. By failing to comply with the demand for documents issued on July 16, 2019,
9 Respondent violated ORS 697.732(1)(d).

10 44. Under ORS 697.825(1)(a), the Director may, if the Director has reason to
11 believe that a person violated, is violating, or is about to violate ORS 697.612, 697.642 to
12 697.702 or 697.752, a rule adopted under ORS 697.632 or an order issued under ORS
13 697.652 or 697.732, issue an order to cease and desist from the violation.

14 45. Because the Director has reason to believe that Respondent has violated and is
15 violating ORS 697.612(1)(b)(A), ORS 697.692(1)(a), ORS 697.692(1)(a), ORS
16 697.692(1)(d), ORS 697.662(12)(b), ORS 697.662(12)(d)(A), ORS 697.642(1), and ORS
17 697.732(1)(d), the Director may issue an order to cease and desist against Respondent.

18 46. Under ORS 697.832(1), the Director may impose a civil penalty on a person
19 in an amount not to exceed \$5,000 for each violation of ORS 697.612 or 697.642 to
20 697.702, rules adopted under ORS 697.632 or order issued under ORS 697.825.

21 47. Because Respondent has violated ORS 697.612(1)(b)(A), ORS 697.692(1)(a),
22 ORS 697.692(1)(d), ORS 697.662(12)(b), ORS 697.662(12)(d)(A), ORS 697.642(1), and
23 ORS 697.732(1)(d), the Director may impose a civil penalty on Respondent in an amount
24 not to exceed \$5,000 for each violation.

25 48. Under ORS 86A.100(5)(a)(C), “mortgage broker” means a person that for
26 compensation, or in the expectation of compensation, either directly or indirectly makes,



1 negotiates, or offers to make or negotiate a mortgage loan.

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

6 50. KM’s residential mortgage loan secured by real property is a “mortgage loan”
7 under ORS 86A.100(6).

8 51. Respondent acted as a “mortgage broker” under ORS 86A.100(5)(a)(C) when
9 Respondent, for compensation or in the expectation of compensation, offered to make or
10 negotiate a modification to the terms and conditions of KM’s mortgage loan.

11 52. Under ORS 86A.100(8), “residential mortgage transaction” includes a
12 transaction in which a mortgage or equivalent consensual security interest is created or
13 retained in property upon which four or fewer residential dwelling units are situated.

14 53. Under ORS 86A.103(2), a person “engages in residential mortgage
15 transactions in this state” when any act constituting the business of a mortgage banker or
16 mortgage broker and involving a residential mortgage transaction originates from this
17 state or is directed to and received in this state or when the real estate that is the subject
18 of the activities of the mortgage banker or mortgage broker is located in this state.

19 54. Respondent engaged in a “residential mortgage transaction in this state,” as
20 that term is used under ORS 86A.103(2), by acting as a mortgage broker when
21 Respondent offered to make or negotiate a modification to the terms and conditions of
22 KM’s residential mortgage loan secured by a single-family residential dwelling located in
23 Oregon pursuant to the Contract.

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



1 56. By engaging in a residential mortgage transaction in this state as a mortgage
2 broker without being licensed under ORS 86A.095 to 86A.198, Respondent violated ORS
3 86A.103(1).

4 57. Under ORS 86A.154(2), it is unlawful for any person, directly or indirectly, in
5 connection with the conduct of a mortgage banker or mortgage broker business knowingly
6 to make any untrue statement of a material fact or to omit to state a material fact necessary
7 in order to make the statements made, in the light of the circumstances under which they
8 are made, not misleading.

9 58. Respondent made the following untrue statements of material fact or omitted to
10 state material facts necessary to make the statements made, in light of the circumstances
11 under which they were made, not misleading:

12 A. Representing to KM that Respondent could perform the services contained in
13 the Contract, as Respondent could not, was not licensed to, and otherwise failed to perform
14 the services it promised to perform in the Contract; and

15 B. Representing that the fees Respondent charged KM were refundable and
16 promising a “100% Money-Backed Guarantee,” as Respondent failed to perform any
17 services and then failed to refund any of KM’s money.

18 59. By making the foregoing untrue statements of material facts or omitting to state
19 material facts necessary to make those statements not misleading, Respondent violated
20 ORS 86A.154(2).

21 60. Under ORS 86A.127(4), if the Director has reasonable cause to believe that
22 any person has been engaged, is engaging, or is about to engage in any violation of any
23 provision of ORS 86A.095 to 86A.198, then the Director may issue an order, subject to
24 ORS 86A.139, directed to the person, and to any other person directly or indirectly
25 controlling the person, to cease and desist from the violation or threatened violation

26 61. Because the Director has reasonable cause to believe that Respondent has

1 violated ORS 86A.103(1), the Director may issue an order against Respondent to cease
2 and desist from that violation.

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

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

9 **ORDERS**

10 Now, therefore, the Director issues the following ORDERS:

11 Order to Cease and Desist

12 64. Pursuant to ORS 697.825(1)(a) and ORS 86A.127(4) the Director hereby
13 ORDERS Respondent, and all entities owned or controlled by Respondent, its successors
14 and assignees, to CEASE AND DESIST from violating ORS 697.612(1)(b)(A), ORS
15 697.692(1)(a), ORS 697.692(1)(d), ORS 697.662(12)(b), ORS 697.662(12)(d)(A), ORS
16 697.642(1), ORS 697.732(1)(d), ORS 86A.103(1), and ORS 86A.154(2).

17 Order Assessing Civil Penalties

18 65. Pursuant to the authority of ORS 697.832(1) an ORS 86A.992(1), for the
19 foregoing violations of the Oregon Debt Management Service Provider Law, ORS 697.602
20 to 697.842, and the Oregon Mortgage Lender Law, ORS 86A.095 to 86A.198, the Director
21 hereby ORDERS the assessment of CIVIL PENALTIES against Respondent in the amount
22 of twenty-five thousand dollars (\$25,000) as follows:

23 A. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for engaging in
24 unlicensed activity in Oregon, including: receiving money for soliciting or receiving an
25 application from a consumer for a debt management service without being registered as
26 a debt management service provider; and engaging in a residential mortgage transaction



1 without being licensed as a mortgage broker, in violation of ORS 697.612(1) and ORS
2 86A.103(1), respectively;

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

6 C. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for making
7 misrepresentations and fraudulent statements, including: publishing or distributing, or
8 causing to be published or distributed, the Contract and the Website, in which Respondent
9 did not identify itself with a name registered with the Director in violation of ORS
10 697.662(12)(b) and which included material misrepresentations regarding the nature of
11 the services that Respondent would perform in violation of ORS 697.662(12)(d)(A); and
12 by making untrue statements of material fact or omitting to include material facts in
13 promising to perform the services outlined in the Contract and promising a “100% Money-
14 Back Guarantee” in violation of ORS 86A.154.

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

18 E. A CIVIL PENALTY of five thousand dollars (\$5,000.00) for failing to comply
19 with the demand for the production of documents issued on July 16, 2019, in violation of
20 ORS 697.732(1)(d).

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FINAL ORDER

66. 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.

IT IS SO ORDERED.

Dated this 6th day of January, 2020.

LOUIS SAVAGE, Acting 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. Respondents 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. Note that under ORS 697.825(2)(e) and 86A.139(2), a person who does not file a timely request for a contested case hearing may not obtain judicial review of a final order.

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