

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

In the Matter of:

Case No. DM-20-0036

HOMEOWNERS FOUNDATION dba
HOMEOWNERS FOUNDATION, INC., an
Inactive Texas Taxable Entity,
HOMEOWNERS ASSISTANCE
FOUNDATION OF AMERICA, INC., dba
HOMEOWNERS FOUNDATION, INC., an
Inactive Texas Taxable Entity, and PAUL J.
HIGGS dba HOMEOWNERS
FOUNDATION, INC., an Individual,

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

Respondents.

On April 23, 2020, 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 to Assess Civil Penalties, and Notice of Right to a Hearing (“Notice”) on Homeowners Foundation dba Homeowners Foundation, Inc. (“HF”), Homeowners Assistance Foundation of America, Inc. dba Homeowners Foundation, Inc. (“HAFA”) and Paul J. Higgs dba Homeowners Foundation, Inc. (“Higgs”) (collectively, “Respondents”).

The Notice offered Respondents an opportunity for a hearing if requested within 20 days of service of the Notice. The Notice further informed Respondents that if a hearing was not conducted because Respondents did not timely request a hearing or otherwise defaulted, then the designated portion of the Division’s file and all materials submitted by Respondents 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 Respondents a request for a hearing and did not

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1 conduct a hearing.

2 FINDINGS OF FACT

3 The Director FINDS that:

4 1. HF is an inactive Texas taxable entity with a mailing address at 210 Highway
5 79, Suite 201, Hutto TX 78634.

6 2. At all relevant times, Higgs was HF's founder, director and registered agent,
7 with an address at 555 Round Rock West Dr., Suite E-203, Round Rock TX 78681 ("Round
8 Rock Address").

9 3. HAFA is an inactive Texas taxable entity with a mailing address at the Round
10 Rock Address.

11 4. At all relevant times, Higgs was HAFA's president.

12 5. From in or around January 2015 through in or around September 2017,
13 Respondents entered into eighteen agreements with Oregon consumers ("Oregon
14 Consumers") to modify the terms and conditions of their consumer loans ("Oregon
15 Agreements").

16 6. The Oregon Agreements did not:

17 A. List every debt for which Respondents were to provide a debt
18 management service;

19 B. Itemize Respondents' fees and/or explain how Respondents calculated
20 their fees;

21 C. Provide that the Oregon Consumers may examine their accounts in
22 Respondents' office and/or request full and complete written statements of their
23 accounts;

24 D. Estimate the time period necessary to completed the debt management
25 services; and/or

26 E. Identify the refunds to which the Oregon Consumers would be entitled

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1 under different cancellation circumstances.

2 7. Upon information and belief, Respondents did not provide the Oregon
3 Consumers with separate budget analyses that evaluated whether the services Respondents
4 proposed to perform were advantageous to them.

5 8. Respondents did not provide the Oregon Consumers with documentation
6 stating:

7 A. The maximum amount Respondents could charge for their services
8 under the Oregon Debt Management Service Provider Law;

9 B. That canceled debt may constitute income that is subject to state and
10 federal taxation and that they should consult with a tax professional; and/or

11 C. Their rights to review their consumer credit information.

12 9. Respondents charged the Oregon Consumers flat fees in varying amounts, from
13 \$1,880 to \$5,580. The fees were all charged and paid in amounts far greater than \$65 a
14 month.

15 10. Respondents entered into the Oregon Agreements under HF's name and the
16 Oregon Consumers' funds were distributed to HAFA. At all times, both entities were under
17 the direction and control of Higgs.

18 11. At no time have Respondents been registered to perform debt management
19 services in Oregon.

20 CONCLUSIONS OF LAW

21 The Director CONCLUDES that:

22 12. By entering into the Oregon Agreements and offering to modify the terms and
23 conditions of the Oregon Consumers' consumer loans, Respondents performed "debt
24 management services" as defined under ORS 697.602(2)(c).

25 13. By performing debt management services for the Oregon Consumers without
26 being registered with the Director as a debt management service provider, Respondents

1 violated ORS 697.612(1)(a) in eighteen instances.

2 14. By entering into the Oregon Agreements, which lacked the information
3 identified in Paragraph (6), Respondents violated ORS 697.652(1) in eighteen instances.

4 15. By failing to provide the Oregon Consumers with separate budget analyses,
5 Respondents violated ORS 697.652(2) in eighteen instances.

6 16. By charging the Oregon Consumers a monthly fee of more than \$65,
7 Respondents violated ORS 697.692(1)(d) in eighteen instances.

8 17. By failing to provide the Oregon Consumers with documentation containing the
9 disclosures identified in Paragraph (8), Respondents violated ORS 697.707(1), (2) and (3).

10 18. Because the Director has reason to believe that Respondents have engaged in
11 violations of the Oregon Debt Management Service Provider Law, the Director may issue
12 an order to Respondents to cease and desist from violations of ORS 697.612, ORS 697.652,
13 ORS 697.707 and ORS 697.692, under ORS 697.825(1)(a).

14 19. In addition to any other liability or penalty provided by law, the Director may
15 impose a civil penalty on a person in an amount not to exceed \$5,000 for each violation of
16 ORS 697.612 and ORS 697.642 to ORS 697.702, under ORS 697.832(1).

17 **ORDERS**

18 Now therefore, the Director issues the following Orders:

19 20. As authorized by ORS 697.825(1)(a), the Director ORDERS Respondents to
20 CEASE AND DESIST from violating ORS 697.612, ORS 697.652, ORS 697.707 and ORS
21 697.692.

22 21. As authorized by ORS 697.832(1), the Director hereby ORDERS that
23 Respondents be jointly and severally subject to a CIVIL PENALTY of \$50,000 as follows:

24 A. \$20,000 for violating ORS 697.612(1)(a);

25 B. \$10,000 for violating ORS 697.652(1) and (2);

26 C. \$10,000 for violating ORS 697.707(1), (2) and (3); and

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1 D. \$10,000 for violating ORS 697.692(1)(d) and (e).

2 DESIGNATION OF RECORD

3 22. The Director designates the Division's file on this matter, which includes all
4 materials submitted by the party, as the record in this case. In accordance with OAR 137-
5 003-0670(3)(a)-(b), the record contains sufficient evidence of the existence of facts
6 necessary to support a final order by default should the Director issue such an order.

7
8 SO ORDERED this 29th day of June, 2020.

9 ANDREW R. STOLFI, Director
10 Department of Consumer and Business Services

11 /s/ Dorothy Bean
12 Dorothy Bean, Chief of Enforcement
13 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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