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

In the Matter of: EASTSIDE CAPITAL VENTURES, INC., a Pennsylvania Corporation; JOSHUA A. TURNER, an individual, and JAMARI DAVIS, an individual, Respondent.	Case No. M-20-0039 FINAL ORDER TO CEASE AND DESIST AND ORDER ASSESSING CIVIL PENALTIES, ENTERED BY DEFAULT

On November 9, 2020, the Division of Financial Regulation ("Division") acting on behalf of the Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), served Notice of Administrative Order M-20-0039 ("Notice Order") on Eastside Capital Ventures, Inc ("Eastside"), Joshua A. Turner ("Turner") and Jamari Davis ("Davis"), who are collectively referred to in this Order as the "Respondents." The Notice Order provided notice that the Director issued an order to cease and desist and proposed an order assessing civil penalties against Respondents for violations of Oregon Revised Statutes ("ORS") 86A.095 to 86A.198 ("Oregon Mortgage Lender Law"); and ORS 697.602 et seq. and Oregon Administrative Rules ("OAR") 441-910-0000 through 441-910-0200 (collectively, "Oregon Debt Management Service Provider Law").

The Notice offered Respondent an opportunity for a hearing if requested within 20 days 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.

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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.

FINDINGS OF FACT

The Director FINDS that:

1. Respondent Eastside is a Pennsylvania corporation incorporated on September 2, 2011. Eastside's Articles of Incorporation indicate that at the time of its incorporation, Eastside's principal place of business was located at 58 Tiffany Lane, Lebanon, PA 17042 ("58 Tiffany Lane"). However, on knowledge and belief Eastside currently operates out of an office located at 3619 Walnut Street, Suite #3, Harrisburg, PA 17109 ("3619 Walnut Street, Suite #3").

2. Eastside has never been licensed by the Division under the Oregon Debt Management Service Provider Law or the Oregon Mortgage Lender Law.

3. Eastside maintains a website at http://eastsidecapitalfp.com ("The Eastside Website"). Eastside's website advertises a number of financial services aimed at persons suffering financial hardships. One of the services Eastside purports on its website to offer is "Loan Modification & Loan Balance Reduction." In this connection, Eastside holds out the prospect of achieving a rate of interest on home mortgages of 3 percent to 4.2 percent and reduction of loan balances by as much as 85 percent. The Eastside Website further states in connection with loan modifications: "We have a staff of financial consultants that will offer you a wide range of options that are best for you—not us."

4. The Eastside Website is accessible to consumers in Oregon, and does not disclose that Eastside is not licensed to perform Mortgage or Debt Management Service Provider ("DMSP") activities in Oregon.

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Respondents Turner and Davis

5. Upon information and belief, Respondent Turner is the organizer, owner, and control person of Respondent Eastside.

6. Turner is not licensed as a mortgage broker or registered as a DMSP in Oregon, or in any other jurisdiction.

7. Respondent Davis owned the real property located at 58 Tiffany Lane, Lebanon, PA 17042 at the time Respondent Turner incorporated Respondent Eastside. Davis sold the real property located at 58 Tiffany Lane on January 29, 2019. On February 26, 2019, Davis leased the office space located at 3619 Walnut Street, Suite #3 that Respondents Eastside and Turner currently operate out of.

8. Davis registered the Eastside Website, is listed as the account holder with the domain name registry service Domain.com, and paid for the registration of the website.

9. Davis is licensed as an MLO in Pennsylvania, but is not licensed as an MLO or mortgage broker in Oregon and is not registered as a DMSP in Oregon.

Oregon Consumer RA

10. In January of 2020, an Oregon consumer identified in this Order as RA found the Eastside Website when he was looking for a way to deal with mounting debts. RA was 88 years old at the time of the events described in this Order, and was experiencing financial distress due to medical bills.

11. RA contacted Respondent Eastside by email to learn what Eastside could do for him.

12. An employee of Respondent Eastside, identified in this Order as EB, contacted RA by telephone from the phone number (315) 636-4384 in response to RA's email. EB asked RA some initial questions about RA's mortgage, and within a few minutes stated that RA had been qualified for a mortgage loan modification. EB told RA that Eastside would be able to get RA's interest rate reduced from 4.3 percent to 2.7 percent, and that

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Eastside would get RA's mortgage loan term extended from its current 30-year term to a 40-year term.

13. EB sent documents by email from the email address info@eastsidecapitalfp.com with instructions for RA to complete the forms and fax them back to fax number (866) 241-7792. One of the forms EB requested RA fill out required RA's complete address in Oregon and credit card number.

14. EB told RA that Eastside would charge a total fee of $1,195 which would be paid in two installments—one up-front installment of $695 and a second $500 installment at the end of the transaction.

15. Eastside charged RA's credit card $695. EB then provided RA with additional forms to fill out and submit to RA's mortgage lender. RA followed EB's instructions and submitted the forms. However, after reviewing the forms, RA's mortgage lender informed RA that RA did not qualify for a loan modification.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

Unlicensed Mortgage Broker Activities

16. ORS 86A.103(1) forbids any person from engaging "in residential mortgage transactions in this state as a * * * mortgage broker" without a license.

17. Under ORS 86A.100(5)(a), a "mortgage broker" includes any person who, "for compensation, or in the expectation of compensation, either directly or indirectly makes, negotiates, or offers to make or negotiate a mortgage loan."

18. By offering to modify the terms of RA's residential mortgage loan in exchange for a fee, while not being licensed as a mortgage broker in Oregon, Respondent Eastside violated ORS 86A.103(1).

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Prohibited Mortgage Broker Activities

19. ORS 86A.154(2) prohibits persons engaged in mortgage broker activities from engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person."

20. By listing "Loan Modification & Loan Balance Reduction" on the Eastside Website as one of the services provided by Respondent Eastside, by advertising Respondent's services without disclosing that Eastside is not licensed in Oregon, and by holding Respondent Eastside out as capable of changing the terms of Oregon consumer RA's mortgage, Respondent Eastside engaged in a deceitful course of business against Oregon consumer RA, in violation of ORS 86A.154(2).

Prohibited Advertisements

21. ORS 86A.163(1) forbids any mortgage banker or mortgage broker from using or causing to be published "any advertisement that * * * contains any false, misleading, or deceptive statements or representations."

22. Eastside violated ORS 86A.163(1) by broadcasting and publishing the Eastside website—along with its deceptive statements about the services provided by Eastside and omissions regarding Eastside's licensing—to consumers in Oregon.

Aiding and Abetting in Mortgage Lender Law Violations

23. ORS 86A.992(1) forbids any person from aiding or abetting in the violation of any provision of ORS 86A.095 to 86A.195.

24. As the organizer, owner, and control person of Eastside, Respondent Turner aided and abetted Eastside's violation of the Oregon Mortgage Lender Law as follows:

A. Turner caused Eastside to engage in "real estate transactions in this state as a * * * mortgage broker" without a license, in violation of ORS 86A.103(1);

B. Turner caused Eastside to engage in the deceitful course of business described in paragraph 20 above, in violation of ORS 86A.154(2); and

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C. Turner caused Eastside to publish and broadcast the Eastside website as described in paragraph 22 above, in violation of ORS 86A.163(1).

25. By registering and paying for the Eastside website, Respondent Davis aided and abetted in Eastside's violation of ORS 86A.163(1).

Unregistered DMSP Activity

26. ORS 697.612(1)(a) forbids persons not registered with the Director from performing debt management services in Oregon.

27. Under ORS 697.602(2)(c) "Debt Management Service" includes, among other things, "modifying or offering to modify terms and conditions of an existing loan from or obligation to a third party," if that activity is done for money or other valuable consideration.

28. By offering to modify RA's loans in exchange for a fee without being registered with the Director as a debt management service provider, Eastside violated ORS 697.612(1)(a).

Improper Written Agreement

29. Under ORS 697.652(1)(d), a DMSP may not perform debt management services without first entering into a written agreement with the consumer that itemizes the fees the DMSP will charge, and explains how the DMSP calculated the amount of the fees.

30. By failing to provide RA with the itemization of fees required by ORS 697.652(1)(d), Respondent Eastside violated ORS 697.652(1)(d).

Failure to Perform Budget Analysis

31. Under ORS 697.652(2), A debt management service provider may not contract to perform debt management services for a consumer without first giving the consumer an analysis of the consumer's budget that is separate from the agreement and that evaluates whether the debt management services being offered are advantageous to the consumer.

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32. By failing to provide RA with a separate budget analysis, Respondent Eastside violated ORS 697.652(2).

Excessive Fees

33. Under ORS 697.692, a DMSP may charge a consumer only the fees itemized in ORS 697.692(1).

34. Under ORS 697.692(1)(a), an initial fee charged by a DMSP may not exceed $50.

35. By charging and collecting in advance from RA a fee for its services in excess of $50, Respondent Eastside violated ORS 697.692(1)(a).

36. Under ORS 697.692(1)(d), the fee of a DMSP who does not hold funds on behalf of a consumer (a) may not exceed 15 percent of the consumer's indebtedness, and (b) must be payable in monthly installments not to exceed $65 per month.

37. By charging and collecting in advance from RA a lump sum for its services that was not payable in monthly installments of $65 or less, Respondent Eastside violated ORS 697.692(1)(d).

Prohibited DMSP Activities

38. Under ORS 697.662(12)(d)(A), a DMSP or a person required to register as a DMSP may not "Publish, distribute, or broadcast, or cause to be published, distributed, or broadcast an advertisement, presentation, or other communication or promotional material that * * * misrepresents, directly or indirectly * * * the nature of a service the debt management service provider or person will perform."

39. The Eastside Website represents that Eastside has a "staff of financial consultants" that can help customers achieve a rate of interest on home mortgages of 3 percent to 4.2 percent and reduction of loan balances by as much as 85 percent. This misrepresents the services actually offered by Eastside because, in actuality, Eastside does not have financial consultants on staff, and the only "service" Eastside provides is an

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application to apply for a mortgage modification. Accordingly, Eastside violated ORS 697.662(12)(d)(A).

40. Respondent Eastside, through the Eastside website, published and broadcast the misrepresentations described above in Oregon, in violation of ORS 697.662(12)(d)(A).

41. Respondent Turner, as the organizer, owner, and control person of Eastside, caused Eastside to publish and broadcast the misrepresentations described above in Oregon, in violation of ORS 697.662(12)(d)(A).

Cease and Desist Authority

42. Under ORS 86A.127, because the Director has reason to believe that Respondents Eastside, Turner, and Davis have engaged in violations of the Oregon Mortgage Lender Law, the Director may issue an order to Respondents Eastside, Turner, and Davis to cease and desist from violations of ORS 86A.095 to ORS 86A.198.

43. Under ORS 697.825(1)(a), because the Director has reason to believe that Respondents Eastside and Turner have engaged in violations of the Oregon Debt Management Service Provider Law, the Director may issue an order to Respondents Eastside and Turner to cease and desist from violations of the Oregon Debt Management Service Provider Law.

Civil Penalties Authority

44. Under ORS 86A.992(1), the Director may impose a civil penalty not to exceed $5,000 against "any person who violates or who procures, aids, or abets in the violation of any provision of ORS 86A.095 to 86A.198."

45. Under ORS 697.832(1), the Director may impose a civil penalty in an amount not to exceed $5,000 for each violation of ORS 697.612 and ORS 697.642 to ORS 697.702.

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ORDERS

Now therefore, the Director issues the following Orders:

Cease and Desist

46. As authorized by ORS 86A.127, the Director ORDERS Respondents Eastside and Turner to CEASE AND DESIST from violating ORS 86A.103(1), 86A.154(2), and 86A.163(1).

47. As authorized by ORS 86A.127, the Director ORDERS Respondent Davis to CEASE AND DESIST from violating ORS 86A.992(1).

48. As authorized by ORS 697.825(1)(a), the Director ORDERS Respondent Eastside to CEASE AND DESIST from violating ORS 697.612, 697.652, 697.662, and 697.692.

49. As authorized by ORS 697.825(1)(a), the Director ORDERS Respondent Turner to CEASE AND DESIST from violating ORS 697.662.

Civil Penalties

50. As authorized by ORS 86A.992(1) (Oregon Mortgage Lender Law violations) and ORS 697.832(1) (DMSP violations), the Director hereby ORDERS that Respondents Eastside, Turner, and Davis be subject to CIVIL PENALTIES in the following amounts:

A. Against Respondent Eastside and Turner, jointly and severally, $10,000 as follows:

   (a) $2,500 for violating ORS 86A.103(1);

   (b) $5,000 for violating ORS 86A.154(2) and 86A.163(1); and

   (c) $2,500 for violating ORS 697.662(12)(d)(A).

B. Against Respondent Eastside, $12,500 as follows:

   (a) $2,500 for violating ORS 697.612(1)(a);

   (b) $5,000 for violating ORS 697.652(1)(d) and (2); and

   (c) $5,000 for violating ORS 697.692(1).

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C. Against Respondent Davis, $5,000 for aiding and abetting Eastside's violation of ORS 86A.163(1).

51. 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.

NOTICE OF RIGHT TO JUDICIAL APPEAL

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

SO ORDERED this 27th day of January, 2021.

Andrew Stolfi, Director
Department of Consumer and Business Services

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

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