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

In the Matter of: Smart Housing, LLC and John Kuhlmann Respondents.	MSD-21-0026 FINAL ORDER TO CEASE AND DESIST AND ORDER ASSESSING CIVIL PENALTIES, ENTERED BY DEFAULT

On November 8, 2021, the Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), acting by and through the Division of Financial Regulation ("Division), and pursuant to Oregon Revised Statutes ("ORS") 446.661 et seq. and Oregon Administrative Rules ("OAR") 441-446-0100 through 441-446-0300 (collectively, the "Oregon Manufactured Structure Dealers and Dealerships Law"), issued Administrative Order No. M-21-0026: Order to Cease and Desist, Proper Order Assessing Civil Penalties, and Notice of Right to a Hearing ("the Order") to Smart Housing, LLC ("Smart Housing") and John Kuhlmann ("Kuhlmann").

On November 9, 2021, the Director mailed a true copy of the Order by regular, first-class mail and by certified mail, postage prepaid, to Smart Housing, LLC at 3434 SW Salmon Avenue, Redmond, Oregon 97756 and by separate mailing to Kuhlmann at the same address.

A green card evidencing receipt, signed by Kuhlmann and dated November 12, 2021, was returned.

On December 14, 2021, the Director served a true copy of the Order on the Oregon Secretary of State by regular and certified mail.

The Order offered Smart Housing and Kuhlmann an opportunity for a hearing, if requested in writing within 20 days. The Order further informed Smart Housing and Kuhlmann

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that if a hearing was not conducted because the party did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file would automatically become part of the contested case record to prove a *prima facie* case. Neither Smart Housing nor Kuhlmann has not made a written request for a contested hearing, and the time to do so has expired.

After considering the relevant portions of the Division's file in this matter, the Director finds that the record proves a *prima facie* case.

Now, therefore, the Director makes the following Findings of Fact and Conclusions of Law and issues the following Orders:

FINDINGS OF FACT

The Director FINDS that:

1. Smart Housing was an Oregon limited liability company that was formed on July 22, 2008. Its principal place of business was located at 3434 SW Salmon Avenue, Redmond, Oregon 97756.

2. Kuhlmann was Smart Housing's owner, sole member, and registered agent.

3. Since its formation, Smart Housing has filed for administrative dissolution with the Oregon Secretary of State three times, on September 19, 2014, September 19, 2019, and September 17, 2020.

4. Twice after dissolution, Smart Housing's registration was reinstated, on September 8, 2015 and again on October 8, 2019.

5. As of the date of this order, Smart Housing's registration remains inactive.

6. Smart Housing was licensed as an Oregon manufactured structure dealer from September 17, 2008 through September 30, 2014.

7. In December 2012, representatives from manufactured structure dealer J & M Homes, LLC ("J & M") filed a complaint with the Division reporting concerns regarding Kuhlmann, a former employee.

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8. Kuhlman worked as a salesperson for J & M's Redmond branch location from January 2011 through November 2012. J & M is not affiliated with Smart Housing.

9. The report stated that Kuhlmann misappropriated J & M funds and resources and provided evidence to support the complaint.

10. In May 2014, Kuhlmann agreed to: i) not to act as a "manufactured structure dealer," as defined by, ORS 446.691; ii) surrender Smart Housing's MSD license; iii) not apply for a new Oregon manufactured structure dealer license; and iv) not work as a salesperson for a manufactured structure dealer.

11. The Division received information reporting that Kuhlmann was selling manufactured structures again in 2019.

12. On or about May 21, 2019, Kuhlmann, acting through Smart Housing, purchased a manufacture structure (HID# 397913) for $88,381.

13. Kuhlman sold the manufactured structure (HID #397913) on behalf of Smart Housing to consumer "MB-O" in Redmond, Oregon for $139,000.

14. At the time of the sale, the manufactured structure (HID# 397913) constituted personal property.

15. On or about December 6, 2019, the Division sent a request to Respondents, by email and mail, to provide a manufactured structure dealer activity report of all the transactions that Respondents have engaged in since January 1, 2013. The report was due by December 30, 2019, and the Division did not receive a response.

16. On January 7, 2020, the Division issued a subpoena to Respondents, sent by certified and regular mail, again requesting a report of all Respondent's manufactured structure dealer activity since January 1, 2013. The deadline to respond was January 27, 2020, and the Division did not receive a response.

17. The December 6, 2019 request and the subpoena were sent to Smart Housing's address of record on file with the Oregon Secretary of State and to its registered agent, Kuhlmann.

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18. The green card from the certified mailing was returned as undeliverable, but the name Lisa Kuhlmann was signed as the recipient, then crossed out, and the card was reattached with tape.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

19. Respondents acted as a manufactured structure dealer by selling a manufactured structure (HID# 397913) in Oregon to MB-O on or about August 9, 2019, without a license in violation of ORS 446.670(1)(a).

20. By failing to respond to or comply with the Division's subpoena issued on January 7, 2020, Respondents violated ORS 446.748.

ORDERS

NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

21. Pursuant to ORS 446.748, the Director hereby ORDERS Respondents to CEASE AND DESIST from violating the Oregon Manufactured Structure Dealers and Dealerships Law.

22. The Director, pursuant to ORS 446.995(2)(a), may assess civil penalties of up to $5,000 per violation of the Oregon Manufactured Structure Dealers and Dealerships Law. Pursuant to ORS 446.995(2)(a), the Director ORDERS Respondents to pay a total civil penalty of Ten Thousand Dollars for the violation of ORS 446.670(1)(a) and ORS 446.748.

23. This is a "Final Order" under ORS 183.310(6)(b). Subject to this provision, the entry of this Order does not limit further remedies that may be available to the Director under Oregon law.

Dated this 6th day of January, 2022.

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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NOTICE OF RIGHT TO JUDICIAL APPEAL

You may be entitled to judicial review of this Order under 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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