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**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
BEFORE THE DIRECTOR OF THE DEPARTMENT
OF CONSUMER AND BUSINESS SERVICES**

In the Matter of:

DM-11-0063

**Option Mediation Services and Shawn
Kalfus,**

**Final Order to Cease and Desist and Order
Assessing Civil Penalty Entered by Default**

Respondents.

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On July 8, 2011, the Director of the Department of Consumer and Business Services for the State of Oregon (hereafter the “Director”), acting by and pursuant to the authority of the Oregon Mortgage Lending Law, ORS 86A.100 *et seq.*, and the Oregon Debt Management Service Providers Law, ORS 697.602 *et seq.*, issued Administrative Order No. DM-11-0063 to Cease and Desist, Proposed Order Assessing Civil Penalties and Notice of Right to a Hearing (hereinafter “the Order”) against Option Mediation Services and Shawn Kalfus.

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On July 11, 2011, Option Mediation Services and Shawn Kalfus were duly served with true copies of the Order by regular, first-class mail and by certified mail, postage prepaid, and addressed to the following address: 4924 Balboa Blvd., Suite 557, Encino, California 91316. A green card evidencing receipt of the orders sent by certified mail was signed and returned. Option Mediation Services has not made a written request for a contested case hearing in this matter and the time to do so has expired.

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FINDINGS OF FACT

The Director FINDS that:

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1. By information and belief, respondent Option Mediation Services (hereinafter “Option Mediation”) is a California company with its principal place of business located at 4924 Balboa Boulevard, Encino, California 91316. Option Mediation is not listed with the





1 Oregon Secretary of State or the California Secretary of State.

2 2. Option Mediation is not an Oregon licensed mortgage broker and is not registered as
3 a debt management service provider in Oregon.

4 3. Respondent Shawn Kalfus (hereinafter "Kalfus") is not an Oregon licensed mortgage
5 broker or a licensed mortgage loan originator and has never been listed with the Director as a
6 mortgage loan originator for Option Mediation.

7 4. Kalfus is not registered as a debt management service provider in Oregon.

8 5. At all times relevant to this matter, consumer "B.A", identified herein, was an Oregon
9 resident and was party to a residential mortgage loan secured by real estate located in Oregon.

10 6. At all times relevant to this matter, Option Mediation marketed residential loan
11 modification services through the website <http://optionmediation.com>.

12 7. An individual identifying himself as Shawn Kalfus with Option Mediation contacted
13 B.A. in January 2010 and told her that, due to the type of residential mortgage loan she had, her
14 mortgage company was required to restructure her loan.

15 8. On behalf of Option Mediation, Kalfus provided a contract and additional related
16 documents to B.A. offering to assist her in renegotiating her mortgage program and/or loan
17 structure.

18 9. Based on respondents' representations, B.A. accepted this offer and signed and
19 returned the contract to Option Mediation on or about January 26, 2010.

20 10. As the contract instructed, B.A. also submitted her personal nonpublic financial
21 information, including details about her residential mortgage loan, together with an advance
22 \$1,500 fee paid by credit card to Option Mediation.

23 11. B.A. received a letter from Option Mediation offering "a personal guarantee" that
24 if the company failed in its attempts at a loan restructuring, B.A. would be issued a full refund
25 within ten business days.

26 12. Kalfus confirmed receipt of B.A.'s \$1,500 payment and her signed documents on



1 February 1, 2010 and assured B.A. that someone from Option Mediation would contact her to
2 follow up.

3 13. On February 12, 2010, B.A. received a letter from her mortgage company
4 requesting the same information and documentation she had already sent to Option Mediation.
5 She forwarded this letter to Kalfus.

6 14. B.A. reported that someone at Option Mediation told her that she did not need to
7 make her mortgage payments until the company was finished with her loan. B.A. requested
8 something confirming this in writing. She was told by Option Mediation that someone would
9 contact her to follow up. Again, no one from Option Mediation contacted her.

10 15. On March 9, 2010, B.A. received a call from her mortgage company inquiring if
11 she was going to make her mortgage payment, and she responded that Option Mediation was
12 taking care of renegotiating her loan. Her mortgage company informed her that they had not
13 received any information or documentation from Option Mediation regarding her loan, and her
14 mortgage payment was still due. B.A. tried contacting Kalfus many times again and did not
15 receive a response.

16 16. On April 2, 2010, B.A. wrote a letter to Kalfus stating that, after numerous
17 unreturned phone calls, and failure to perform services, she was requesting the immediate return
18 of the \$1,500 she paid to the company and her financial information.

19 17. Respondents have failed and refuse to perform on their promise made in exchange
20 for the advance fees paid by B.A. to negotiate a modification of her residential mortgage loan.

21 18. On behalf of the Director, the Division of Finance and Corporate Securities
22 (hereinafter the "Division") notified respondents in writing that they were required to comply
23 with the licensing requirements of the Oregon Mortgage Lender Law or the registration
24 requirements of the Debt Management Service Providers Act to collect and retain fees in
25 exchange for offering to assist Oregon consumers in adjusting the terms of their residential real
26 estate loans.

1 19. The Division also requested, in writing, that respondents refund the fees collected
2 from B.A., as they did not perform their promise to obtain a modification of the terms of B.A.’s
3 residential real estate real loan.

4 20. Respondents failed to refund the fees that they collected from B.A. after written
5 notice from the Director advising respondents that their loan modification activities were in
6 violation of Oregon law, and the time for doing so has expired.

7 **CONCLUSIONS OF LAW**

8 The Director CONCLUDES that:

9 1. Option Mediation and Kalfus acted as a “mortgage broker” as defined by ORS
10 86A.100(5)(a)(C) when they offered to negotiate the terms of B.A.’s residential mortgage loan
11 in exchange for receiving compensation.

12 2. Option Mediation and Kalfus engaged in a “residential mortgage transaction in this
13 state” as defined by ORS 86A.103(2) when they offered to negotiate a mortgage loan for
14 Oregon resident B.A. secured by B.A.’s Oregon residential real property.

15 3. Option Mediation and Kalfus violated ORS 86A.103(1) when they engaged in
16 residential mortgage transaction in this state without first being licensed as a mortgage broker.

17 4. Kalfus acted as a “loan originator” as defined by ORS 86A.100(4)(a), formerly
18 ORS 59.840(4), when he offered to negotiate the terms of B.A.’s residential mortgage loan in
19 exchange for compensation.

20 5. Option Mediation failed to notify the Director of the employment of loan
21 originator Kalfus in violation of ORS 59.969(1).

22 6. Option Mediation and Kalfus performed a “debt management service” as defined by
23 ORS 697.602(2)(c) when they offered to modify the terms and conditions of B.A.’s existing
24 mortgage loan in exchange for payment of an advance fee.

25 7. Option Mediation and Kalfus violated ORS 697.612(1)(a) when they performed a
26 debt management service without first registering with the Director under ORS 697.632.





1 8. The \$1,500 fee collected by Option Mediation and Kalfus from B.A. exceeded the
2 amount permitted by ORS 697.692(1).

3 9. Option Mediation and Kalfus violated ORS 697.662(7)(a) when they collected fees
4 from B.A. that exceeded the amounts permitted by ORS 697.692(1).

5 **ORDERS**

6 NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

7 The Director, pursuant to ORS 86A.127 and ORS 697.825, hereby ORDERS Option
8 Mediation and Kalfus to CEASE AND DESIST from violating Oregon’s Mortgage Lender Law
9 and Oregon’s Debt Management Service Providers law.

10 The Director, pursuant to ORS 86A.992, formerly ORS 59.996, and ORS 697.832, may
11 assess civil penalties of up to \$5,000 per violation against individuals who violate the Oregon
12 Mortgage Lender Law and the Debt Management Service Providers law. Pursuant to these
13 provisions, the Director hereby proposes to ORDER Option Mediation to pay the State of
14 Oregon a civil penalty totaling \$15,000. This civil penalty is based on a \$5,000 for the
15 violations of ORS 86A.103(1) (unlicensed mortgage broker) and ORS 697.612(1) (unregistered
16 debt management service provider), \$5,000 for the violation of ORS 697.662(7)(a) (debt
17 management service provider unlawful fees) and \$5,000 for the violation of ORS 59.969
18 (failure to notify the Director of the employment of a loan originator).

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1 The entry of this Order in no way further limits remedies which may be available to the Director
2 under Oregon law.

3 Dated this 12 day of August, 2011.

4 SCOTT L. HARRA, Acting Director
5 Department of Consumer and Business Services

6 /s/ David C. Tatman
7 David C. Tatman, Administrator
8 Division of Finance and Corporate Securities

9 NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained
10 by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the service of
11 this Order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of
12 Appeals.

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Division of Finance and Corporate Securities
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