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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**

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IN THE MATTER OF:

M-11-0015

**CHRISTOPHER LEE DIENER and
DIENER & ASSOCIATES,

RESPONDENTS.**

**FINAL ORDER TO CEASE AND DESIST,
ORDER OF RESTITUTION AND
ORDER ASSESSING CIVIL PENALTIES

ENTERED BY DEFAULT**

On April 11, 2011, 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. M-11-0015 to Cease and Desist, Proposed Order of Restitution, Proposed Order Assessing Civil Penalties and Notice Of Right To Hearing (hereinafter "the Order") against Christopher Lee Diener and Diener & Associates (hereinafter "Respondents").

On May 13, 2011, Respondents were duly served with true copies of the Order by regular, first-class mail and by certified mail, postage prepaid, and addressed to Respondents at the following address: 18881 Von Karman Ave 16th Fl, Irvine, CA, 92616. The Division reasonably relied upon this address because it is the address listed by Respondents with the California State Bar. The copy of the order sent via regular U.S. mail has not been returned and is therefore presumed to have been delivered as addressed. On May 16, 2011, the United States Post Office delivered copies of the proposed order via certified mail, which was signed for by Jennifer Martin. Respondents also acknowledged actual receipt of the order. Respondents have not made a written request for a contested case hearing in this matter and the time to do so has

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
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1 expired.

2 **NOW THEREFORE**, after consideration of the Investigation Report and accompanying
3 exhibits submitted in this matter by Jason Weber, Enforcement Officer, the Director hereby issues
4 the following Findings of Fact, Conclusions of Law, and Final Orders.

5 **FINDINGS OF FACT**

6 1. Respondent Diener & Associates lists its address as 20282 Business Center Drive,
7 Suite 195, Irvine, CA 92612.

8 2. Christopher Lee Diener is an attorney currently licensed to practice law in the state of
9 California, bar no. 187890 (hereinafter "Diener"). Diener lists his address as 18881 Von Karman
10 Ave., 16th Floor, Irvine, CA 92612 and as 20282 Business Center Drive, Suite 195, Irvine, CA
11 92612.

12 3. Diener was admitted to the California State Bar on May 20, 1997. On at least three
13 separate occasions, the State Bar of California has determined that Diener was not been eligible
14 to practice law in California. The most recent period occurred between October 9, 2009 and
15 January 8, 2011. This action was as a direct result of Diener's loan modification activities.

16 4. On October 9, 2009, the State Bar Court of California's Hearings Department entered
17 a decision and order in Case No. 09-TE-14031-RAH in the matter of Christopher Lee Diener.
18 The decision was with regard to Diener's loan modification activities. The Order involuntarily
19 enrolled Diener as an inactive member of the State Bar of California. The order further required
20 Diener to "[r]efund any part of any fees paid in advance that have not been earned." The
21 complete order is available at: <http://members.calbar.ca.gov/courtDocs/09-TE-14031.pdf>.

22 5. On October 7, 2010, a Stipulated Disposition and Order was entered in the State Bar
23 Court of California Case No. 09-O-12029. The Order found that Diener had entered into a
24 contract with at least 15 individuals where he agreed to attempt to modify their home mortgage
25 loans. None of the 15 individuals were located in the state of California. Diener "knew that the
26 individuals and their properties were located in jurisdictions which he was not licensed to





1 practice law.” The complete order is available at: [http://members.calbar.ca.gov/courtDocs/09-](http://members.calbar.ca.gov/courtDocs/09-TE-14031.pdf)
2 TE-14031.pdf .

3 6. The Order suspended Diener from the practice of law for a period of fifteen months.
4 Diener was also placed on probation for a period of four years. The Order required Diener to
5 pay restitution totaling \$33,405 to 15 separate individuals.

6 7. Diener has also been charged with 14 counts of grand theft in Orange County case
7 number 10-CF-0125. Each charge is a felony in the state of California. The charges relate to
8 Diener’s loan modification activities.

9 8. On June 1, 2009, an Oregon resident entered into a contract with Respondents. The
10 contract provided that Respondents would renegotiate the Oregon resident’s mortgage for
11 residential real property located in Troutdale, Oregon.

12 9. Respondents required the Oregon resident to pay a \$3,500 up front fee. Respondents
13 provided the Oregon resident with wiring instructions. The Oregon resident wired \$3,500 to
14 Respondents’ account.

15 10. The Oregon resident was told to stop making house payments and not to contact his
16 mortgage lender. The Oregon resident called Respondents on a weekly basis to check on the status
17 of his loan modification. Respondents did not provide him with any substantive answers but rather
18 told him that they were “working on it.”

19 11. On or about October 13, 2009, after not receiving any information from Respondents
20 regarding the status of his loan modification, the Oregon resident contacted his lender. The lender
21 advised him that they had no record of ever being contacted by Respondents. In summary,
22 Respondents did not negotiate the Oregon resident’s mortgage loan.

23 12. On September 14, 2010, the Division wrote a letter to Respondents advising them of
24 their violation of Oregon Law and requesting that the Oregon resident harmed by their activity
25 receive a full and complete refund. The letter asked Respondents to provide the Division with a
26 list of Oregon consumers that had entered into a loan modification agreement with Respondents.



1 Finally, the letter stated that violations of Oregon’s Mortgage Lender Law are subject to a \$20,000
2 civil penalty and requested a response within 21 days. Respondents did not respond to this letter
3 or issue a refund.

4 13. On March 10, 2011, the Division sent a second letter to Respondents. This letter
5 specifically requested Respondents provide a refund by March 24, 2011. The letter advised
6 respondents that a failure to issue a refund would result in the issuance of this notice order.
7 Respondents acknowledged receipt of this letter but refused to refund the Oregon residents money.

8 14. As a result of Respondents operating in Oregon, an Oregon resident suffered harm in
9 the amount of \$3,500.

10 15. At no time have Respondents been registered with the Oregon Secretary of State.

11 16. At no time have Respondents been licensed or authorized to practice law in Oregon.

12 17. At no time have Respondents been licensed as a mortgage banker or broker in
13 Oregon.

14 18. At no time have Respondents been licensed as mortgage loan originators in Oregon.

15 19. Respondents have not obtained a unique identifier from the Nationwide Mortgage
16 Licensing System and Registry.

17 20. At no time have Respondents been registered as a debt management service provider
18 in Oregon.

19 **CONCLUSIONS OF LAW**

20 Based upon the Findings of Fact, the Director **CONCLUDES** that:

21 21. Respondents acted as “mortgage brokers” as defined by ORS 86A.100(7)(a)(C) when
22 they offered to negotiate a mortgage loan in exchange for receiving compensation.

23 22. Respondents engaged in a “residential mortgage transaction in this state” as defined
24 by ORS 86A.103(2) when they offered to negotiate a home mortgage loan secured by residential
25 real estate located in Oregon.

26 23. Respondents violated ORS 86A.103(1) when they engaged in residential mortgage



1 transactions in this state without first being licensed as either a mortgage banker or mortgage
2 broker.

3 24. Respondents may not rely upon the exemption contained in ORS 86A.100(7)(b)(G)
4 because they are not attorneys licensed in Oregon.

5 25. Respondents acted as “mortgage loan originators” as defined by ORS 86A.200(4)(a)
6 when they offered to negotiate terms for a residential mortgage loan in exchange for receiving
7 \$3,500 in compensation.

8 26. Respondents violated ORS 86A.203(1) when they acted as a mortgage loan originator
9 in Oregon without first obtaining: (a) a mortgage loan originator license under ORS 86A.212;
10 and (b) a unique identifier from the Nationwide Mortgage Licensing System and Registry.

11 27. Respondents may not rely upon the exemption contained in ORS 86A.203(2)(d)
12 because they are not an attorneys licensed or authorized to practice law in Oregon.

13 28. Respondents violated ORS 86A.236(9) when they: (a) conducted or operated a
14 business that requires a mortgage loan originators license; or (b) assisted or enabled another
15 person who does not have a mortgage loan originator’s license to conduct or operate a business
16 that requires a mortgage loan originator’s license.

17 29. The Director may order Respondents to pay \$3,500 in restitution pursuant to ORS
18 86A.224(2)(c) because an Oregon consumer suffered harm from Respondents acts, omissions,
19 practices or operations.

20 30. Respondents performed a “debt management service” as defined by ORS
21 697.602(2)(c) when they offered to modify terms and conditions of an existing loan or obligation
22 in exchange for \$3,500 in compensation.

23 31. Respondents violated ORS 697.612(1)(a) when they performed a debt management
24 service without first registering with the Director under ORS 697.632.

25 32. Respondents may not rely upon the exemption from registration contained in ORS
26 697.612(3)(b) because Respondents are not attorneys licensed or authorized to practice law in

1 Oregon.

2 33. Pursuant to ORS 697.718(1), Respondents are liable to consumers for any
3 ascertainable loss of money or property because they were required to register as a debt
4 management service provider under ORS 697.612 and violated the requirements for providing
5 debt management services in Oregon as set forth in ORS 697.652, 697.662, 697.682, 697.692
6 or 697.707.

7 **ORDERS**

8 **NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS AND**
9 **PROPOSED ORDERS:**

10 The Director, pursuant to his authority under ORS 86A.127 and ORS 697.825 hereby
11 **ORDERS** Respondents shall **CEASE AND DESIST** from violating Oregon’s Mortgage Lender
12 Law and Oregon’s Debt Management Service Providers law.

13 The Director, pursuant to ORS 86A.224(2)(c) hereby **ORDERS \$3,500** in **RESTITUTION**
14 payable to the Oregon consumer that was harmed by Respondents conduct as described herein.
15 This Proposed Restitution Order is joint and several among Respondents. Payment information
16 with regard to the Oregon consumer harmed by Respondents is maintained in the Division’s file
17 for case No. M-11-0015 and will be provided upon request.

18 The Director, pursuant to ORS 86A.992, and ORS 697.832 hereby **ORDERS A CIVIL**
19 **PENALTY of \$20,000.** This civil penalty is based on a \$5,000 civil penalty for each violation
20 of ORS 86A.103(1), ORS 86A.203(1), 86A.236(9), and ORS 697.612(1) described herein. This
21 proposed civil penalty is joint and several among Respondents.

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

3 Dated this 8th day of July, 2011, at Salem, Oregon.

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

6 /s/ David Tatman
7 David 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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