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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:

Case No. DM-11-0057

American Forensic Loan Auditors,

Respondent.

**FINAL ORDER TO CEASE AND DESIST
AND FINAL ORDER ASSESSING CIVIL
PENALTY**

ENTERED BY DEFAULT

On January 22, 2012, the Director of the Department of Consumer and Business Services for the State of Oregon (“Director”), acting pursuant its authority granted in Oregon Revised Statutes (“ORS”) 86A.100 *et seq.*, and Oregon Administrative Rules (“OAR”) 441-850-0005 through 441-885-0010 (collectively “Oregon Mortgage Lender Law”) and ORS 697.602 to 697.842 and OAR 441-910-0000 through 441-910-0120 (collectively “Oregon Debt Management Service Provider Law”) issued Administrative Order No. DM-11-0057 Order to Cease and Desist, Proposed Order Assessing Civil Penalty and Notice of Right to a Hearing.

On January 24, 2012, Respondent was served a true copy of the Order by certified and first class U.S. mail at PO Box 31382, Palm Beach Gardens, FL 33420 and 1290 Woodbine Way, Apt. 1214, Riviera Beach, FL 33418.

The domestic return receipt for the certified mailing to the Palm Beach Gardens address was signed on February 9, 2012 and has been returned to the Division. The U.S. Post Office website track and confirm site indicates that the certified mailing to the Riviera Beach address,

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 was left on January 27, 2012 at 3:53 pm. None of the mailings have been returned. Respondents
2 have not made a written request for a contested case hearing on this matter and the time to make
3 such request has expired.

4 **NOW THEREFORE**, the Director hereby issues the following Findings of Fact,
5 Conclusions of Law, and Order.

6 **I. FINDINGS OF FACT**

7 The Director FINDS that:

8 **A. Respondent**

9 1. American Forensic Loan Auditors (“Respondent”) lists its address as 3699 Wilshire
10 Blvd., Suite 220, Los Angeles, California, 90010.

11 2. Respondent is not a licensed mortgage banker, broker, or loan originator in Oregon
12 and is not registered as a debt management service provider in Oregon.

13 3. Respondent has not obtained a unique identifier from the Nationwide Mortgage
14 Licensing System and Registry.

15 **B. GRJ transaction**

16 4. At all times relevant to this matter, the individual consumer identified herein as
17 “GRJ” was an Oregon resident. At all relevant times herein, GRJ was a party to a home
18 mortgage loan secured by real estate located in Forest Grove, Oregon.

19 5. On or about June 30, 2010, Respondent and GRJ entered into a contract whereby
20 Respondent agreed to negotiate a loan modification for a loan secured by residential real
21 property located in Forest Grove, Oregon on behalf of GRJ in exchange for valuable
22 consideration.

23 6. In total GRJ paid Respondent \$2,000. On June 30, 2010, GRJ paid Respondent
24 \$1,000. On August 13, 2010, GRJ paid Respondent \$200. On August 20, 2010, GRJ paid
25 Respondent \$200. Between June 30, 2010, and September 30, 2010, GRJ paid Respondent an
26 additional \$400.



1 7. On information and belief, Respondent has not conducted any substantive
2 conversations with GRJ's mortgage lender that have resulted in a modification of GRJ's
3 residential real estate loan.

4 8. On or about February 21, 2011, the Division of Finance and Corporate Securities
5 notified Respondent in writing that it was required to comply with the licensing requirements of
6 the Oregon Mortgage Lender law or the registration requirements of the statutes regarding debt
7 management service providers to collect and retain fees in exchange for offering to assist Oregon
8 consumers in adjusting the terms of their residential real estate loans.

9 9. The Division requested, in writing, that Respondent refund the fees collected from JF
10 within 21 days from February 21, 2011, because it did not perform its promise to obtain a
11 modification of the terms of GRJ's residential real estate loan.

12 10. As of the date of this order, Respondent has failed to refund the fees that it collected
13 from GRJ.

14 II. CONCLUSIONS OF LAW

15 The Director CONCLUDES that:

16 1. Respondent acted as a "mortgage broker" as defined by ORS 86A.100(7)(a)(C) when
17 they offered to negotiate the terms of GRJ's mortgage loan in exchange for compensation.

18 2. Respondent engaged in a "residential mortgage transaction in this state" as defined by
19 ORS 86A.103(2) when they offered to negotiate a home mortgage loan secured by real estate
20 located in Oregon.

21 3. Respondent violated ORS 86A.103(1) when they engaged in a residential mortgage
22 transaction in Oregon without first being licensed as either a mortgage banker or mortgage
23 broker as described herein.

24 4. Respondent acted as a "mortgage loan originator" as defined by ORS 86A.200(4)(a)
25 when they offered to negotiate terms for a residential mortgage loan in exchange for
26 compensation.





1 5. Respondent violated ORS 86A.203(1) when they acted as a mortgage loan originator
2 in Oregon without first obtaining: 1) a mortgage loan originator license under ORS 86A.212; and
3 2) a unique identifier from the Nationwide Mortgage Licensing System and Registry.

4 6. Respondent violated ORS 86A.236(9) when they: 1) conducted or operated a business
5 that requires a mortgage loan originators license; or 2) assisted or enabled another person who
6 does not have a mortgage loan originator’s license to conduct or operate a business that requires
7 a mortgage loan originator’s license.

8 7. The Director may order Respondent to pay \$2,000 in restitution to GRJ pursuant to
9 ORS 86A.224(2)(c) because an Oregon consumer suffered harm from Respondent’s acts,
10 omissions, practices or operations.

11 8. Respondent violated ORS 86A.154(2) when it knowingly made an untrue statement
12 of material fact by telling GRJ that Respondent would attempt to negotiate GRJ’s residential real
13 estate loan when in reality Respondent did not conduct any substantive conversations with GRJ’s
14 mortgage lender that have resulted in a modification of GRJ’s residential real estate loan.

15 9. Respondent performed a “debt management service” as defined by ORS
16 697.602(2)(c) when they offered to modify terms and conditions of an existing loan or obligation
17 in exchange for compensation.

18 10. Respondent violated ORS 697.612(1)(a) when they performed a debt management
19 service without first registering with the Director under ORS 697.632.

20 11. The \$2,000 fee collected by Respondent exceeded the amount permitted by ORS
21 697.692(1).

22 12. Respondent violated ORS 697.662(7)(a) when it collected fees from GRJ that
23 exceeded the amounts permitted by ORS 697.692(1).

24 13. Respondent violated ORS 697.662(4) when it offered to perform a debt management
25 service without evaluating, as part of the budget analysis the debt management service provider
26 must perform under ORS 697.652(2), whether the debt management service is or would be

1 advantageous to the consumer.

2 14. Respondent violated ORS 697.662(5) when it performed a debt management service
3 without having a good faith belief formed after conducting an evaluation described in ORS
4 697.662(4) that the consumer can or will comply with the terms of the agreement described in
5 ORS 697.652.

6 **III. ORDER**

7 NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDER:

8 *A. Cease and Desist Order*

9 1. The Director, pursuant to ORS 86A.127 and ORS 697.825, hereby ORDERS
10 Respondent to CEASE AND DESIST from violating Oregon's Mortgage Lender Law and
11 Oregon's Debt Management Service Providers Law.

12 *B. Order for Restitution*

13 2. The Director, pursuant to ORS 86A.224(2)(c), hereby ORDERS Respondent to pay
14 \$2,000 in RESTITUTION to Oregon consumer GRJ. Payment information will be provided to
15 Respondent upon request.

16 *C. Order Assessing Civil Penalty*

17 1. The Director, pursuant to ORS 86A.992, and ORS 697.832, may assess CIVIL
18 PENALTIES of up to \$5,000 per violation against persons who violate the Oregon Mortgage
19 Lender Law and the Debt Management Service Providers Law. Pursuant to these provisions, the
20 Director, hereby ORDERS Respondent to pay the State of Oregon a CIVIL PENALTY of
21 \$20,000 calculated as follows: \$5,000 for unregistered and unlicensed loan modification activity
22 in violation of ORS 86A.103(1), ORS 86A.203(1), 86A.236(9), and ORS 697.612(1); \$5,000 for
23 mortgage fraud in violation of ORS 86A.154(2); \$5,000 for collecting excessive fees in
24 violation of ORS 697.692(1) and ORS 697.662(7)(a); and \$5,000 for offering to perform a debt
25 management service without a good faith belief that it would actually be beneficial to the
26 consumer in violation of ORS 697.662(4) and ORS 697.662(5).

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



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

3 IT IS SO ORDERED.

4 Dated this 21st day of February, 2012.

5
6 PARTICK ALLEN, Director
 Department of Consumer and Business Services

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

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

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