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

In the Matter of:

DFCS Case No. CA-07-0038
OAH Case No. 1403629

ANGELA MANRING,
MELISSA MANRING,
MICHAEL MANRING, AND
TILAH MANRING AKA TILAH HUDSON,
ALL D/B/A COMMERCIAL TRADE
BUREAU,

FINAL ORDER TO CEASE AND DESIST
AND ASSESSING CIVIL PENALTY

Respondents.

HISTORY OF THE CASE

On October 24, 2007, the Director of the Department of Consumer and Business Services, Division of Finance and Corporate Securities (DFCS) issued an Order Revoking Collection Agency Registration, Order to Cease and Desist, Order Assessing Civil Penalty, and Notice of Right to Hearing to Angela Manring, Melissa Manring, Michael Manring, and Tilah Manring, all d/b/a Commercial Trade Bureau (hereinafter collectively listed as Respondents). On November 8, 2007, the Respondents filed a request for a hearing.

On August 16, 2013, DFCS issued a First Amended Order to Cease and Desist, Proposed Order Assessing Civil Penalty, and Notice of Right to Hearing to the Respondents (First Amended Order), ordering them to cease and desist from violating Oregon statutes and administrative rules regarding collection activities and assessing a civil penalty.

On March 19, 2014, DFCS referred the matter to the Office of Administrative Hearings (OAH). The OAH assigned Administrative Law Judge (ALJ) Rick Barber to preside at hearing. On May 20, 2014, ALJ Barber convened a telephone prehearing conference and scheduled the hearing for September 29 and 30, 2014 and set deadlines for submission of motions, witness lists, and exhibits.

On June 27, 2014, DFCS filed a Motion for Summary Determination (Motion). On July 16, 2017, the OAH assigned ALJ Samantha Fair to rule on the Motion. The record closed on July 14, 2014 without receipt of a response from any of the Respondents.

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
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1 On July 24, 2014, ALJ Samantha Fair issued a Ruling on Motion for Summary
2 Determination and Proposed Order (“Proposed Order”). ALJ Fair concluded that all
3 of the issues were decided and granted summary determination in favor of DFCS.
None of the Respondents filed any exceptions to the Proposed Order.

4 Now, therefore, having reviewed the entire record in this matter, the Director
5 issues the following findings of fact, conclusions of law and final order consistent with
that proposed by ALJ Fair.

6 The Director adopts the ALJ’s recommended decision and issues this Final Order,
7 without modifications of the ALJ’s Findings of Fact. The Opinion section has been edited
where necessary for grammatical purposes.

8 ISSUES

9
10 1. Whether there is a genuine issue as to any material fact and whether DFCS is
entitled to a favorable ruling as a matter of law. OAR 137-003-0580.

11 2. Whether the Respondents failed to timely report and pay the proceeds of all
12 collections made. ORS 697.058(6).

13 3. Whether the Respondents failed to maintain a collection agency surety bond.
ORS 697.031(2)(c).

14 4. Whether the Respondents failed to maintain a regular, active business office
15 open to the public. ORS 697.058(2).

16 5. Whether DFCS may issue a cease and desist order to the Respondents
17 prohibiting them from violating any provision of ORS chapter 697 and OAR chapter 441,
division 810. ORS 697.093.

18 6. Whether DFCS may assess a civil penalty totaling \$4,400 against the
19 Respondents. ORS 697.095 and OAR 441-810-0140.

20 EVIDENTIARY RULING

21 Exhibits A1 through A10, offered by DFCS, were admitted into the record.

22 FINDINGS OF FACT

23
24 1. Commercial Trade Bureau (CTB) was an assumed business name registered with
25 the State of Oregon’s Corporation Division as a collection agency. The original
registrants were Tom Lallo and Mary Cossairt. On May 18, 2006, they amended the
26 registration to add Angela Manning as an additional registrant. (Exs. A2 at 2; A3 at 10.)



1 2. On May 5, 2006, Mary Cossairt notified DFCS to add Angela Manning to CTB's
collection agency registration. (Ex. A2 at 1.)

2 3. On June 6, 2006, Angela Manning notified DFCS to remove Tom Lallo and Mary
3 Cossairt from CTB's collection agency registration because they were no longer
4 associated with CTB. (Ex. A2 at 7-8.) On June 7, 2006, Tom Lallo and Mary Cossairt
5 were removed as registrants for CTB's assumed business name with the State of Oregon,
6 Corporation Division. (Ex. A3 at 5.)

7 4. On July 17, 2006, CTB's surety bond was canceled. On August 4, 2006, DFCS
8 notified Angela Manning that CTB's collection agency registration would be revoked if
9 she failed to restore the surety bond coverage. (Ex. A2 at 3.)

10 5. On August 16, 2006, Angela Manning and Tilah Manning notified DFCS that a
11 surety bond would be secured by August 23, 2006, that Angela Manning should be
12 removed from CTB's registration, and that Tilah Manning should be added to CTB's
13 registration. Angela Manning was removed because she was ill although she anticipated
14 returning to work within two months. (Ex. A2 at 4.)

15 6. CTB obtained an Oregon collection agency surety bond from Platte River
16 Insurance Company in the amount of \$10,000, effective September 14, 2006. (Exs. A1 at
17 2; A5 at 1.)

18 7. On October 20, 2006, DFCS received CTB's renewal application for registration
19 as a collection agency, filed by Tilah Manning. (Ex. A2 at 13.) On the application,
20 CTB's physical address was listed as 328 S. Central #202, Medford, Oregon 97501;
21 Melissa Manning was listed as CTB's manager; and Tilah Manning was the agent for
22 service of process. (Ex. A4 at 1, 3.) At the time of its registration in October 2006,
23 Melissa Manning, Michael Manning, and Tilah Manning were owners, partners, or
24 corporate officers of CTB; Angela Manning and Melissa Manning managed and
25 supervised the collection activities of CTB; and Angela Manning, Michael Manning, and
26 Tilah Manning solicited or collected claims. (Exs. A1 at 2; A4 at 4.)

8. DFCS granted CTB's renewal application and registered CTB as a collection
agency from October 31, 2006 to October 31, 2007. (Ex. A1 at 1.)

9. On October 31, 2006, an amendment was filed with the State or Oregon,
Corporation Division, listing Tilah Manning, Melissa Manning, and Angela Manning as
registrants for CTB's assumed business name. (Ex. A3 at 6.)

10. On June 1, 2007, DFCS received a notice of a change in CTB's mailing address
to P.O. Box 510, Talent, Oregon 97540. On June 1, 2007, Angela Manning advised
DFCS that CTB's new physical address was 116 N. Third Street, Talent, Oregon 97540.
(Exs. A1 at 3; A5 at 5.) The new physical address was Angela and Tilah Manning's
home address. (Ex. A2 at 1, 5.)

11. On July 11, 2007, Tilah Manning and Angela Manning were removed as
registrants for CTB's assumed business name with the State of Oregon, Corporation

1 Division. Melissa Manring remained as the only registrant for CTB's assumed business name. (Ex. A3 at 7.)

2 12. Effective September 14, 2007, Platte River Insurance Company canceled CTB's
3 collection agency surety bond. (Exs. A1 at 2; A5 at 3.) There is no record of any other
4 bond in effect for CTB for the period September 14, 2007 to October 31, 2007. (Ex. A1
at 2.)

5 13. On September 27, 2007, the State of Oregon, Corporation Division, canceled
6 CTB's registration as an assumed business name because CTB failed to file a renewal of
its registration. (Ex. A3 at 8.)

7 14. CTB did not renew its registration with DFCS after October 31, 2007. (Ex. A1 at
8 1.)

9 *Oregon Spine and Physical Therapy (OSPT)*

10 15. On August 24, 2005, OSPT placed past due accounts with CTB for collection
11 purposes. Pursuant to its agreement with CTB, OSPT paid a standard commission rate of
12 30 percent on sums collected by CTB. (Ex. A7 at 1, 13-14.) These accounts included
amounts owed by MM, DW, and MW. (Id. at 1.)

13 16. On July 3, 2006, MM paid CTB \$180.56 on the account. CTB never paid OSPT
the net proceeds from this payment. (Ex. A7 at 1, 81.)

14 17. On October 2, 2006, DS paid CTB \$182.19 on the account. On November 2,
15 2006, DS paid CTB \$182.18 on this account. CTB never paid OSPT the net proceeds
from this payment. (Ex. A7 at 2, 73-74.)

16 18. On October 10, 2006, MW paid CTB \$55.91 on the account. CTB never paid
17 OSPT the net proceeds from this payment. (Ex. A7 at 2, 76.)

18 19. On November 1, 2006, OSPT notified CTB that it would no longer use its
19 collections services and that all accounts were to be returned to OSPT by November 15,
20 2006. (Ex. A7 at 2, 37.) Upon return of the accounts, CTB's account history indicated
that it had received payments in the total amount of \$2,572.70 for 18 of the accounts but
21 had not forwarded any net proceeds to OSPT from these payments. On another 15
accounts, CTB noted that it had received a total of \$469.19 pursuant to payments plans
22 with the debtors. CTB had not forwarded any net proceeds to OSPT from the payments
made on these 15 accounts. (Ex. A7 at 47-48, 53-54.) By April 6, 2007, CTB had still
23 not forwarded any net proceeds from the payments on any of these 33 accounts to OSPT.
(Id. at 53-54.)

24 20. CTB continued to receive payments from debtors through January 2007. By
25 April 2007, CTB had not forwarded any net proceeds from these payments to OSPT.
(Ex. A7 at 60, 63.)

26 21. Other customers also claimed to make payments to CTB on these accounts that



1 CTB never reported or paid to OSPT. OSPT did not pursue any of the past due accounts
2 against customers who claimed they paid CTB. OSPT wrote off as a loss approximately
\$3,000 of the total debt from these accounts. (Ex. A10 at 3.)

3 *Hubbards Ace Home Center aka Ace Hardware (Ace)*

4 22. On March 1, 2006, Ace placed a total of 32 accounts with past due balances with
5 CTB for collection purposes. Pursuant to its agreement with CTB, CTB received a 40
6 percent commission on all sums collected. Angela Manring was the CTB representative
7 that worked on these accounts. (Ex. A6 at 1-4.) One of these accounts involved MR,
8 who owed Ace a total of \$652.67 at the time the account was placed with CTB. (Id. at 4,
9 7-9.)

10 23. On September 15, 2006, MR made a \$100 cash payment to CTB on the Ace
11 account. On October 10, 2006, CTB issued a check in the amount of \$60 to Ace,
12 representing Ace's portion of the collected sum. (Ex. A6 at 4, 6.) On November 1, 2006,
13 CTB obtained Ace's permission to file a legal action against MR for the balance owed on
14 the account. (Id. at 5.)

15 24. Angela Manring started a legal action against MR in Jackson County Court for
16 the unpaid debt. Subsequently, she stopped the legal action. (Ex. A6 at 3.)

17 25. On March 12, 2007, Ace notified CTB that it would no longer use its collection
18 services and that all open accounts were to be returned to Ace by April 1, 2007 with the
19 exception of the MR account. CTB had informed Ace that it had a legal judgment
20 against MR so Ace understood that CTB would keep that account. However, in its
21 March 2007 notification, Ace demanded proof of the legal judgment against MR, or, if no
22 such proof was provided, then the MR account was also to be returned to Ace by April 1,
23 2007. (Ex. A6 at 10.)

24 26. On April 11, 2007, CTB returned the past due accounts, including the MR
25 account, to Ace with a summary of the status of each account. CTB noted the status on
26 the MR account as paid in full, noting receipt of payments in the total amount of \$895.61.
Other than the \$60 sent in October 2006, Ace had received no other payments from CTB
on the MR account. (Ex. A6 at 4.) Angela Manring was the individual who had
collected all the payments from MR. She informed Ace that she would forward the
additional money by the end of April 2007. By June 2007, Ace still had not received any
payments from CTB. (Id. at 3.) On March 6, 2008, Angela Manring acknowledged that
CTB still owed Ace payments on its accounts. (Ex. A9 at 1.)

27. Other customers also claimed to make payments to CTB on these accounts that
CTB never reported or paid to Ace. Ace did not pursue any of the past due accounts
against customers who claimed they paid CTB. Ace wrote off as a loss approximately
\$1,500 of the total debt from these accounts. (Exs. A6 at 3; A10 at 1.)





1 *Westside Lumber (Westside)*

2 28. Westside placed past due accounts with CTB for collection purposes. CTB
3 received a 35 percent commission on all sums collected. CTB received payments on the
4 following accounts without ever forwarding the net proceeds to Westside. (Ex. A8 at 3,
5 10.) AC made payments to CTB of \$1,000 each on the following dates: February 2,
6 2007; March 22, 2007; April 1, 2007; April 26, 2007; May 25, 2007; June 1, 2007; July
7 18, 2007; and August 25, 2007. (Id. at 21-22.) Prior to May 14, 2007, CTB received
8 \$1,000 from KL. (Id. at 11.) Between January 17 and May 14, 2007, ADM made a
9 payment to CTB of \$1,800.74. (Id. at 3.)

10 29. On July 17, 2007, Westside demanded that CTB remit the net proceeds from
11 these payments to Westside. On August 31, 2007, CTB indicated that it would issue
12 Westside a check for these payments. As of February 20, 2008, Westside had not
13 received any sums from CTB. (Ex. A8 at 10-11.)

14 30. Westside's accounts were handled by Michael Manring, Melissa Manring and
15 Angela Manring. (Ex. A8 at 14-16.)

16 31. Westside's total losses due to CTB's actions were \$10,800.74. On January 30,
17 2008, Westside filed a claim against CTB's surety bond. On March 31, 2008, Platte
18 River Insurance Company paid Westside \$10,000 as settlement in full for Westside's
19 claims against the surety bond issued to CTB. (Ex. A8 at 4-7, 12.)

20 CONCLUSIONS OF LAW

21 1. There is no genuine issue as to any material fact and DFCS is entitled to a
22 favorable ruling as a matter of law.

23 2. The Respondents failed to timely pay the proceeds of all collections made.

24 3. Melissa Manring, Michael Manring and Tilah Manring failed to maintain a
25 collection agency surety bond.

26 4. DFCS may issue a cease and desist order to the Respondents prohibiting them
from violating ORS 697.058. DFCS may issue a cease and desist order to Melissa
Manring, Michael Manring, and Tilah Manring prohibiting them from violating ORS
697.031.

5. DFCS may assess civil penalties totaling \$4,400 against the Respondents.

OPINION

Standard of Review for Motion for Summary Determination

OAR 137-003-0580 addresses motions for summary determination. It provides,



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in relevant part:

(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

* * * * *

(12) If the administrative law judge's ruling on the motion resolves all issues in the contested case, the administrative law judge shall issue a proposed order in accordance with OAR 137-003-0645 incorporating that ruling * * *.

Pursuant to OAR 137-003-0580(6)(a), in making her ruling, the ALJ considered DFCS' Motion and Exhibits A1 through A10. Pursuant to OAR 137-003-0580(7), the ALJ reviewed the evidence in the light most favorable to the Respondents, the non-moving parties. The ALJ determined there are no genuine issues as to the material facts of DFCS' allegations that are relevant to resolution of the legal issues and that DFCS is entitled to a favorable ruling as a matter of law. Therefore, the ALJ granted DFCS' Motion. Because the ruling on the Motion resolved all issues in this matter, the ALJ issued a proposed order, and the hearing was canceled.

DFCS sought to issue a cease and desist order and assess civil penalties against the Respondents based upon allegations that they failed to timely report and pay the proceeds from collection activities, that they failed to maintain a surety bond, and that they failed to maintain a regular, active business office. As the proponent of the allegations, DFCS had the burden to establish, by a preponderance of the evidence, that the violations occurred and that the proposed sanctions are appropriate. ORS 183.450(2) ("The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position"); *Harris v. SAIF*, 292 Or 683, 690 (1982) (general rule regarding allocation of burden of proof is that the burden is on the proponent of the fact or position). Proof by a preponderance of the evidence means that

1 the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill*
2 *General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

3 *Liability of the Respondents for CTB's Actions*

4 ORS 697.005 provides, in part:

5 (1)(a) "Collection agency" means:

6 (A) A person directly or indirectly engaged in soliciting a claim for
7 collection, or collecting or attempting to collect a claim that is owed,
8 due or asserted to be owed or due to another person or to a public
9 body at the time the person solicits, collects or attempts to collect the
10 claim;

11 * * * * *

12 (4) "Client" or "customer" means a person authorizing or employing a
13 collection agency to collect a claim[.]

14 ORS 67.055(1) provides, in part:

15 [T]he association of two or more persons to carry on as co-owners a
16 business for profit creates a partnership, whether or not the persons
17 intend to create a partnership.

18 ORS 67.105(1) provides, in part:

19 [A]ll partners are liable jointly and severally for all obligations of the
20 partnership[.]

21 CTB was an assumed business name, which was used by the Respondents to
22 collect on claims that were owed to other businesses. CTB was a collection agency as
23 defined by ORS 697.005(1)(a). During most of the relevant period for the allegations
24 contained in the First Amended Order, the various Respondents comprised a partnership
25 operating CTB and, therefore, they are jointly and severally liable for its obligations.
26 Based upon her status in the partnership as determined by CTB's registrations with the
State of Oregon's Corporation Division and DFCS,¹ Angela Manring first became a
partner on May 5, 2006 with the original registrants, Tom Lallo and Mary Coissairt.
Although she was removed from CTB's DFCS registration on August 16, 2006, Angela
Manring remained a registrant for CTB with the State of Oregon's Corporation Division.
Therefore, she was in a partnership with Tilah Manring to operate CTB. The evidence
established that Angela Manring remained in the partnership that operated CTB until July
11, 2007, when she was removed as a registrant for CTB with the State of Oregon's

¹ ORS 697.031(1) requires all persons operating as collection agencies to be registered with DFCS. ORS
648.025 requires a person withdrawing from a registration of an assumed business name to file a
statement of that withdrawal with the State of Oregon's Corporation Division.





1 Corporation Division. Therefore, Angela Manring is liable for CTB actions that occurred
2 from May 5, 2006 until July 11, 2007.

3 Tilah Manring joined the partnership that operated CTB on August 16, 2006.
4 Although she withdrew her status as a registrant for CTB on July 11, 2007 with the State
5 of Oregon's Corporation Division, she remained a registrant on CTB's registration as a
6 collection agency with DFCS. Because she was still a registrant on CTB's registration
7 with DFCS, she remained in the partnership that operated CTB as a collection agency
8 until October 31, 2007 when the registration expired. Therefore, Tilah Manring is liable
9 for CTB's actions that occurred from August 16, 2006 until October 31, 2007.

10 Melissa Manring and Michael Manring joined the partnership that operated CTB
11 on October 20, 2006. They remained in the partnership until the expiration of CTB's
12 registration with DFCS on October 31, 2007. They are liable for CTB's actions that
13 occurred from October 20, 2006 until October 31, 2007.

14 Failure to Timely Report and Pay the Proceeds of Collections Made

15 ORS 697.058(6) provides:

16 Every collection agency, within 30 days after the close of each
17 calendar or fiscal month, shall report and pay to its customers the net
18 proceeds due and payable of all collections made during that calendar
19 or fiscal month. When the net proceeds are less than \$5 at the end of
20 any calendar or fiscal month, payments may be deferred for a period
21 not to exceed three months.

22 AC, a debtor of Westside on an account placed with CTB, paid CTB \$1,000 on
23 six different dates from February 2, 2007 through June 1, 2007. ADM, another debtor of
24 Westside on an account placed with CTB, paid CTB \$1,800.74 sometime between
25 January and May of 2007. On November 2, 2006, DS, a debtor of OSPT on an account
26 placed with CTB, paid CTB \$182.18. CTB never paid Westside any proceeds from these
payments in violation of ORS 697.058(6). All four Respondents were partners in CTB
during the periods these payments were made and the net proceeds were required to be
distributed. Therefore, the Respondents violated ORS 697.058(6) by failing to make
timely distributions of the net proceeds of these eight collections made by CTB.

AC made additional \$1,000 payments to CTB on July 18, 2007 and August 25,
2007, after Angela Manring was no longer legally responsible for CTB's actions. Again,
CTB did not pay to Westside any proceeds from these payments. By failing to pay net
proceeds to Westside from these payments, Tilah Manring, Melissa Manring and Michael
Manring violated ORS 697.058(6).

Sometime between September 15, 2006 and April 11, 2007, MR, a debtor of Ace
on an account placed with CTB, paid CTB \$795.61. On October 2, 2006, DS paid CTB
\$182.19. On October 10, 2006, MW, a debtor of OSPT on an account placed with CTB,
paid CTB \$55.91. Although Melissa Manring and Michael Manring were not yet
partners in CTB at the time the payments were made, they were partners in CTB during



1 the period that the net proceeds distributions were required to be made. Therefore, they,
2 along with Angela Manring and Tilah Manring, were legally responsible for CTB's
3 failure to timely pay those net proceeds. The Respondents violated ORS 697.058(6) by
4 failing to pay CTB's clients for these three collections made by CTB.

5 On July 3, 2006, MM, a debtor of OSPT on an account placed with CTB, paid
6 CTB \$180.56. At that time, only Angela Manring was legally responsible for CTB's
7 actions. Therefore, only Angela Manring of the four Respondents violated ORS
8 697.058(6) by failing to pay OSPT the net proceeds from this collection.²

9 Failure to Maintain a Collection Agency Surety Bond

10 ORS 697.031(2) provides, in part:

11 (2)(a) The director shall require any person who applies for
12 registration as a collection agency, other than an out-of-state
13 collection agency, to file with the director a bond or an irrevocable
14 letter of credit in the sum of \$10,000 executed by the applicant as
15 obligor, together with one or more corporate sureties or financial
16 institutions authorized to do business in this state. The bond or an
17 irrevocable letter of credit shall be executed to the State of Oregon
18 and for the use of the state and of any person who may have a cause
19 of action against the obligor of the bond or an irrevocable letter of
20 credit under ORS 697.005 to 697.095. * * *.

21 * * * * *

22 (c) The bond or an irrevocable letter of credit required by this
23 subsection shall be continuously maintained in the amount required
24 by this subsection. The aggregate liability of the surety under the
25 bond for claims against the bond shall not exceed the penal sum of the
26 bond no matter how many years the bond is in force. No extension by
continuation certificate, reinstatement, reissue or renewal of the bond
shall increase the liability of the surety.

27 CTB's collection agency surety bond in the amount of \$10,000 was canceled on
28 September 14, 2007. CTB continued to be registered as a collection agency with DFCS
29 until October 31, 2007; therefore, the registrants were required to maintain such a bond
30 until the expiration of CTB's registration. By September 14, 2007, Angela Manring was
31 no longer a registrant for either CTB's assumed business name or its registration as a
32 collection agency. The evidence failed to establish that she was still a partner in CTB or
33 that she had any legal responsibility to ensure that CTB maintained its surety bond for the
34 period following the bond's cancellation. Therefore, the evidence failed to establish that
35 she is liable for any violation of ORS 697.031(2) following the cancelation of the Platte

36 ² There were several other accounts were net proceeds were not distributed, including 33 accounts with OSPT. However, the dates of the payments were unknown so it could not be determined which of the Respondents were liable for the lack of distributions of net proceeds.



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Insurance Company's surety bond.

Michael Manning, Melissa Manning and Tilah Manning were the registrants of CTB during the period that it failed to have a surety bond. Therefore, they violated ORS 697.031(2)(c) by failing to continuously maintain a surety bond.

Failure to Maintain a Regular, Active Business Office Open to the Public

ORS 697.058(2) provides, in part:

[E]very collection agency shall establish and maintain a regular, active business office in this state for the purpose of conducting business in this state. The office shall be open to the public during reasonable, stated business hours. This subsection does not apply to out-of-state collection agencies.

On June 1, 2007, CTB changed its physical location to Angela Manning and Tilah Manning's physical residence. DFCS asserted that a residence is not a "business office." However, the ALJ found that a resident, who conducts a business from a home, could make that home open to the public during reasonable, stated business hours. Therefore, there is nothing inherently about a "residence" that would prevent it from complying with the restrictions for a business office contained in ORS 697.058(2). Neither the statute nor any administrative rule provides any further definition for a "regular, active business office" that would prevent a residence from fulfilling that same function. In the absence of any evidence that the residence was not open to the public during reasonable, stated business hours, the ALJ found that DFCS did not establish that the Respondents failed to maintain a regular, active business office. Accordingly, DFCS adopts the ALJ's finding and withdraws the alleged violation of ORS 697.058(2), failure to maintain a regular, active business office open to the public.

Issuance of a Cease and Desist Order

ORS 697.093 provides, in part:

(1) The Director of the Department of Consumer and Business Services may:

* * * * *

(d) If the director has reason to believe that a person has:

(A) Violated, is violating or is about to violate ORS 697.015, 697.031, 697.045, 697.058, * * *, issue an order to cease and desist from the violation[.]

In its First Amended Order, DFCS sought an order against the Respondents to cease and desist from violating any provision of ORS chapter 697 or OAR chapter 441,



1 division 810. However, ORS 697.093(1)(d)(A) restricts the order to cease and desist to
2 those statutes or rules that a person has violated, is violating or is about to violate.

3 As previously discussed, DFCS alleged and proved that the Respondents failed to
4 timely pay proceeds of collections made by CTB in violation of ORS 697.058(6). DFCS
5 also alleged and proved that Melissa Manring, Michael Manring and Tilah Manring
6 failed to continuously maintain a surety bond for CTB in violation of ORS 697.031.
7 DFCS did not prove that the Respondents violated any other provisions of ORS chapter
8 697 or OAR chapter 441, division 810. Therefore, DFCS is entitled to issue an order to
9 the Respondents to cease and desist from further violations of ORS 697.058, the statute
10 that the Respondents violated. DFCS is also entitled to issue an order to Melissa
11 Manring, Michael Manring and Tilah Manring to cease and desist from further violations
12 of ORS 697.031, the other statute that these three individuals violated.

13 The Respondents must cease and desist from further violations of ORS 697.058.
14 Melissa Manring, Michael Manring and Tilah Manring must cease and desist from
15 further violations of ORS 697.031.

16 Assessment of a Civil Penalty

17 ORS 697.095 provides, in part:

18 (1) In addition to any other penalty provided by law, a person who
19 violates any provision of ORS 697.015 or 697.058 or any rule adopted
20 under ORS 697.031, 697.085 or 697.086 is subject to forfeiture and
21 payment of a civil penalty to the Department of Consumer and
22 Business Services in an amount of not more than \$1,000 for each
23 offense.

24 (2) Civil penalties under this section shall be imposed as provided in
25 ORS 183.745[.]

26 OAR 441-810-0140 provides:

Civil penalties shall be \$400 for the first offense and \$1,000 for each
subsequent offense.

In its First Amended Order, DFCS sought to assess the Respondents civil
penalties in the amount of \$4,400 with joint and several liability.

The Respondents violated ORS 697.058(6) on 11 separate occasions. Angela
Manring violated ORS 697.058(6) on one additional occasion, and Tilah Manring,
Melissa Manring and Michael Manring violated ORS 697.058(6) on two other occasions.
In addition, Tilah Manring, Melissa Manring and Michael Manring violated ORS
697.031(2)(c).

Pursuant to OAR 441-810-0140, based on the number of violations of ORS
697.058(6), Angela Manring is liable for civil penalties up to a total amount of \$11,400.

1 Tilah Manring, Melissa Manring and Michael Manring are liable for civil penalties up to
2 a total amount of \$13,400 for their violations of ORS 697.058(6) and ORS 697.031(2)(c).
3 Therefore, DFCS may assess a civil penalty in the maximum amount of \$4,400 against
4 the Respondents with joint and several liability. Pursuant to ORS 183.745(2), the civil
5 penalty is due and payable 10 days after the final order imposing the civil penalty
6 becomes final by operation of law or on appeal.

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ORDERS

Based on the foregoing, the Director issues the following ORDERS:

Orders to Cease and Desist

Angela Manring, Tilah Manring, Melissa Manring and Michael Manring must
cease and desist from violations of ORS 697.058.

Tilah Manring, Melissa Manring and Michael Manring must cease and desist
from violations of ORS 697.031

Order Assessing Civil Penalty

Angela Manring, Tilah Manring, Melissa Manring and Michael Manring, jointly
and severally, must pay DFCS a civil penalty in the total amount of \$4,400. The civil
penalty is due and payable 10 days after the final order imposing the civil penalty
becomes final by operation of law or on appeal.

AUTHORITY OF THE DIRECTOR TO SEEK OTHER REMEDIES

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.

IT IS SO ORDERED.

Dated this 15th day of October, 2014.

PATRICK M. ALLEN, Director
Department of Consumer and Business Services

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



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NOTICE OF RIGHT TO JUDICIAL REVIEW

You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this order. Judicial review is in accordance with ORS 183.482(1) to the Oregon Court of Appeals.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

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