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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

In the matter of the termination/expiration )	
of Idaho Mortgage Loan Originator License )	Docket No. 2010-16-02
No. MLO-1252 formerly issued to: )	
)	<b>CONSENT ORDER</b>
KARL RICHARD AGUILERA. )	
_____ )	

The State of Idaho, Department of Finance, Consumer Finance Bureau (Department), Gavin M. Gee, Director (Director), and KARL RICHARD AGUILERA have agreed to resolve the above-captioned administrative matter through this Consent Order, without the necessity of a hearing or further legal action. The above-captioned administrative proceeding arose pursuant to the Idaho Residential Mortgage Practices Act, Idaho Code § 26-3101 *et seq.* (the Act), and is resolved through this Consent Order pursuant to that Act. The Director deems it appropriate and in the public interest to enter into this Consent Order, and KARL RICHARD AGUILERA voluntarily consents thereto, intending to be legally bound thereby. The Department and KARL RICHARD AGUILERA hereby stipulate and agree as follows:

## FACTUAL BACKGROUND

1. KARL RICHARD AGUILERA (Aguilera) is a resident of Boise, Idaho. He has held Idaho Mortgage Loan Originator License MLO-1252 from January 19, 2006 until the Department rejected Aguilera's license renewal effective January 4, 2010.

2. Over the time period between January 14, 2005 and October 23, 2008, courts in Ada County, Idaho have entered at least four (4) money judgments against Aguilera, only one (1) of which was satisfied.

3. On November 12, 2008, the Department issued an Order to Cease and Desist from Violating the Idaho Residential Mortgage Practices Act and Imposing Affirmative Duties against DMI Funding, Incorporated, dba Direct Mortgage (DMI). Aguilera was the president of that company. Such order imposed sanctions for DMI's failure to safeguard private customer information.

4. On February 26, 2009, the Department and Home 2 Stay, Inc. entered into a Consent Order imposing sanctions addressing that company's acts of engaging in unlicensed debt or credit counseling activity. Aguilera was the owner and an initial director of that company.

5. On March 17, 2009, the State of Washington, Department of Financial Institutions, Division of Consumer Services issued an order against Aguilera (Washington Order), which Order banned Aguilera for a period of five (5) years from "participation in the conduct of the affairs of any mortgage broker" subject to licensure by that state regulatory agency.

6. On March 24, 2009, the Department entered into an Amended Consent Order with DMI. Aguilera was the president of that company. The Amended Consent Order disciplined

DMI for failing to notify the Department of a change in its business location, engaging in mortgage brokering activity from an unlicensed location, and failing to safeguard confidential customer information.

7. On or around July 1, 2009, the Department became aware of the existence of the Washington Order.

8. On July 1, 2009, a Department staff member notified Aguilera through his account on the Nationwide Mortgage Licensing System and Registry (NMLSR) that the Department had become aware of the Washington Order and that, in view of the issuance of that Order, Aguilera was required to amend his responses to the disclosure sections of the Form MU-4. The notification also requested that Aguilera provide the Department with a “signed explanation of events” relating to the Washington Order, and also requested that he provide “source documents” relating to the Washington Order. The notification indicated that there was a “deficiency” related to Aguilera’s licensing status with the Department.

9. On August 19, 2009, Aguilera and his spouse jointly filed a Chapter 7 bankruptcy petition in the United States Bankruptcy Court for the District of Idaho. On March 17, 2010, a Chapter 7 discharge order was entered in that bankruptcy proceeding.

10. On August 21, 2009 and again on October 9, 2009, the Department sent e-mail messages to Aguilera reminding him that he had “outstanding items” on his NMLSR “mortgage loan originator filing” that were likely to impair the renewal of his loan originator license.

11. December 31, 2009 was the deadline for Aguilera to file a sufficient renewal request to renew his Idaho loan originator license for calendar year 2010.

12. On October 14, 2009, Aguilera accessed his Form MU-4 account through the NMLSR and made some changes to the information included therein. Despite those changes, Aguilera's "No" responses to questions 8(A)(1), 8(2)(C), 8(I)(2), 8(I)(4), and 8(I)(5) on his Form MU-4 account were not changed, which responses were inaccurate, in view of Aguilera's prior bankruptcy filing and discharge, the four (4) money judgments entered against him, and the orders issued by financial regulators against companies he controlled or for which he was the owner or a principal, all of which had occurred prior to Aguilera's amendments to his Form MU-4 on October 14, 2009.

13. On December 30, 2009, the Department received via fax a letter from Aguilera explaining the Washington Order and providing a copy of the "Final Order" portion of the Washington Order. However, Aguilera did not provide the Department with a copy of the "Statement of Charges" portion of the Washington Order, which portion was incorporated in the Final Order, and explained the factual basis for the discipline imposed against Aguilera in the "Final Order" portion of the Washington Order.

14. Also on December 30, 2009, as part of the license renewal process, Aguilera submitted to the Department, through the NMLSR, his "attestation" that the information included on his Form MU-4 was true and correct. Such attestation included the following language:

... to the best of my knowledge and belief the information contained in my online record, including jurisdiction requirements where I am licensed or registered, is *true, accurate and complete* in accordance with the appropriate jurisdiction's law. Additionally, I acknowledge that I have a duty and agree to expediently update and correct the information as it changes. (Emphasis added.)

15. In paragraph 5 of the "attestation" referenced in paragraph 14 above, Aguilera attested that as of December 30, 2009, he had updated his Idaho account on the Form MU-4

through the NMLSR to disclose any “new event or proceeding” that would require an “affirmative answer” to any of the “Disclosure Question[s]” on the Form MU-4. Such attestation was not correct, in that Aguilera had failed to make any change to the Form MU-4 that he had filed with the Department through the NMLSR on October 14, 2009, which Form contained inaccurate responses, as referenced in paragraph 11 and elsewhere above.

16. Prior to the statutory renewal deadline of December 31, 2009, Aguilera’s Form MU-4 on file with the Department consisted of the MU-4 filing he had submitted on October 14, 2009, which included inaccurate answers as referenced in paragraph 11 above.

17. On January 15, 2010, fifteen (15) days after the statutory deadline for filing a sufficient renewal request with the Department through the NMLSR for renewing his loan originator license for the year 2010, Aguilera submitted through the NMLSR amendments to some of the responses to the Form MU-4 included in the October 14, 2009 version of such Form. Such amended responses still failed to disclose the Ada County civil judgments, the bankruptcy filing, and failed to amend his prior “No” response to Question 8(I)(2) of Form MU-4, which asked whether a financial regulatory agency had found him to have violated a financial services-related business regulation or statute.

18. After reviewing the responses included in Aguilera’s Form MU-4 filing as it existed on December 31, 2009, and taking into consideration the existence of the Washington Order, Aguilera’s bankruptcy filing and discharge, and the Ada County money judgments that had been entered against Aguilera, all of which had occurred prior to December 31, 2009, the Department determined that Aguilera’s renewal filing was insufficient, in that the required attestation he had submitted by the license renewal deadline of December 31, 2009 included inaccurate responses.

19. On February 18, 2010, the Department notified Aguilera through his account with the NMLSR, that his license renewal request for the year 2010 had been “rejected,” listing as reasons Aguilera’s failure to disclose his prior bankruptcy filing, the civil judgments entered against him, and his attestation that the information included in his Form MU-4 through the NMLSR as it existed on the renewal deadline of December 31, 2009 was true and correct, when it was not. The rejection of his license renewal request was considered by the Department to be effective on January 4, 2010.

#### **TERMS AND CONDITIONS OF SETTLEMENT**

20. Aguilera agrees that the facts set forth in paragraphs 1 through 19 above concerning his actions are true and correct.

21. Aguilera agrees to, at all times in the future, timely and sufficiently comply with all requirements of the Act and of the NMLSR, to include, but not be limited to, keeping his responses to the disclosure questions of the Form MU-4 truthful, accurate, and current, within thirty (30) days of any event or occurrence which would warrant a change to Aguilera’s responses to such disclosure questions.

22. Upon Aguilera’s execution of this Consent Order and his timely and full compliance with all terms and conditions set forth herein, the Department agrees to rescind its rejection of Aguilera’s 2010 license renewal, and to amend the entry reflecting the license status in the NMLSR concerning Aguilera’s Idaho loan originator license, resulting in no lapse in the effectiveness of Aguilera’s mortgage loan originator license since January 4, 2010. After that occurs, Aguilera will receive notice via e-mail from the NMLSR of the status change regarding his license. Aguilera will then have seven (7) days to perform the tasks set forth in paragraph 23

below, which the NMLSR will enable him to do, due to the status change made by the Department.

23. Within the seven (7) day period referenced in paragraph 22 above, Aguilera agrees to update through the NMLSR his responses to all questions included in the disclosure sections of the Form MU-4, to accurately reflect the entry of the Washington Order, the money judgments entered against him by courts of Ada County, Idaho, the Chapter 7 bankruptcy filing and discharge, and the orders issued by the Department against mortgage-related companies as to which Aguilera was a principal, and to provide any additional related information required on the Form MU-4.

24. Both the Department and Aguilera agree that this Consent Order is intended to be the complete resolution of any violations of law that may arise from the factual matters referenced herein. Further, both the Department and Aguilera agree not to pursue any and all claims either may have against the other related to such violations, or any right to a hearing, appeal, or any further legal action arising solely from such facts and circumstances.

25. The Department waives any claim to further monetary penalties or sanctions arising from the facts underlying this Consent Order, and both the Department and Aguilera agree to be responsible for any attorney fees either may have incurred relating to this proceeding.

26. Aguilera acknowledges that the entry of this Consent Order may be a reportable event that may require disclosure in future licensing applications submitted by Aguilera both in Idaho and in other states.

27. Aguilera knowingly, willingly, voluntarily, and irrevocably consents to the entry of this Consent Order, and agrees that he fully understands all of the terms and conditions contained herein, and has received advice of his counsel in relation thereto.


28. Once this Consent Order has been fully executed, and both the Department and Aguilera have fully and timely complied with all terms and conditions set forth herein, the Department will notify the appointed hearing officer that this administrative proceeding has been settled and will and deem this matter fully resolved.

DATED this 9 day of July, 2010.

  
KARL RICHARD AGUILERA


APPROVED AS TO FORM AND SUBSTANCE.

DATED this 9<sup>th</sup> day of July, 2010.

  
R. MICHAEL SOUTHCOMBE  
Counsel for Karl Richard Aguilera

DATED this 9<sup>th</sup> day of July, 2010.


STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
MICHAEL LARSEN  
Consumer Finance Bureau Chief

**IT IS SO ORDERED.**

DATED this 9<sup>th</sup> day of July, 2010.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
GAVIN M. GEE, Director

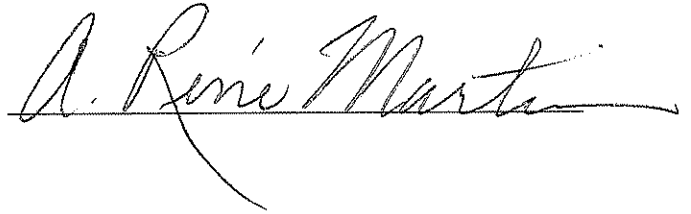


**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 9th day of July, 2010, I caused a true and correct fully-executed copy of the foregoing CONSENT ORDER to be served on the following by the designated means:

R. Michael Southcombe  
Attorney at Law  
P.O. Box 932  
Boise, Idaho 83701

- U.S. mail, postage prepaid
- Certified mail
- Facsimile
- Hand delivery

  
A. Renee Martin