1 STATE OF ALASKA DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT 2 DIVISION OF BANKING AND SECURITIES 3 In the matter of: ORDER NO: 14-143-C 4 HomeState Mortgage Company, LLC, ORDER IMPOSING A CIVIL PENALTY AND John Carman, and CONSENT TO ORDER 5 Lisa Falon 6 Respondents. 7 8 9 The Department of Commerce, Community, and Economic Development, Division of Banking and Securities (the Department) has conducted an investigation into the business 10 11 operations of HomeState Mortgage Company, LLC (HomeState), John Carman (Carman) 12 and Lisa Falon (Falon; collectively, "Respondents") and has determined that Respondents 13 violated certain provisions of AS 06.60 et seq. (the Alaska Secure and Fair Enforcement for 14 Mortgage Licensing Act of 2010 – the Alaska SAFE Act). 15 Respondents agree that the Department has jurisdiction over Respondents and this 16 matter pursuant to the Alaska SAFE Act. 17 Respondents wish to resolve and settle this matter with the Department. As 18 evidenced by the authorized signatures on this Order, Respondents consent to the entry of 19 this Order requiring Respondents to pay civil penalties. Respondents waive their right to 20 hearing under AS 44.62 et seq. (the Alaska Administrative Procedure Act) and the Alaska 21 SAFE Act. 22 I. **FACTS** 23 1. HomeState is an Alaska limited liability company, entity number 65838D, with its 24 principal place of business located at 3801 Centerpoint Drive, Suite 100, Anchorage, Alaska

99503. On February 19, 2009, the Department issued mortgage license number 189191 to
 HomeState.

Carman has served as the president of HomeState since September 1996 and is listed
 as a control person of HomeState on its Nationwide Mortgage Licensing System (NMLS)
 registration. The Department issued mortgage loan originator license number 189259 to
 Carman in September 2009.

7 3. Falon has worked as a loan officer for HomeState since January 2002. The
8 Department issued mortgage loan originator license number 198601 to Falon in February
9 2009.

10 4. In 2012 the U.S. Department of Housing and Urban Development (HUD) fined 11 HomeState \$15,000 and issued Limited Denial of Participation (LDP) letters against Carman 12 and another HomeState employee, Stephanie Moll (Moll), for disseminating a HUD 184 13 program brochure which Moll had altered to include HomeState's contact information. HUD 14 found the advertisement violated federal advertising requirements under 18 U.S.C. 709, 15 which prohibits use of the HUD name and seal in a manner that conveys the impression that 16 an individual or business is affiliated with or endorsed by HUD. HUD eventually withdrew 17 the LDPs after Carman and Moll issued apologies and demonstrated mitigating 18 circumstances, including the fact that no consumers were harmed by their conduct, but the

19 order providing for the fine remained in place.

5. In the summer of 2013, the Department saw an advertisement for HomeState in the
South Central Alaska Real Estate Book which did not appear to comply with all advertising
regulations in the SAFE Act because HomeState's unique NMLS identifier was not clearly
displayed. HomeState paid for the advertisement.

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6. On June 12, 2013, the Department requested that Falon provide all advertising

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1 materials from the period January 1, 2010 to June 12, 2013 to the Department for 2 comprehensive review.

3 7. After reviewing the materials, the Department found seven separate editions of the 4 Real Estate Book containing advertisements for HomeState and Falon in which HomeState's 5 and Falon's unique NMLS identifiers were not legible. One issue was published in 6 December 2011, and six were published consecutively between January 2013 and June 2013. 7 HomeState paid for the advertisements. HomeState also published a home building seminar 8 flyer in which the HomeState unique NMLS identifier was not legible. In its review, the 9 Department also found that HomeState's unique NMLS identifier was missing from two 10 websites published by HomeState: www.alaskaloaninfo.com/default.aspx and 11 www.lisafalon.net/default.aspx. In total, there were seven advertising issues for which Falon 12 was responsible and ten advertising issues for which HomeState was responsible. 13 8. Respondents have been cooperative with the Department and have demonstrated a

willingness to correct the advertising problems immediately.

II. CONCLUSIONS OF LAW

AS 06.60.325 and 3 AAC 14.510 require licensees to display their NMLS unique
 identifiers in all advertisement materials except for radio and television advertisements.
 Respondents violated these provisions by failing to display their NMLS unique identifiers in
 seven editions of the Real Estate Book, on two websites, and in a flyer.

20 2. Carman and HomeState have previously been cited for an advertising violation
21 relating to their mortgage business by HUD.

3. Carman is a "control person" of HomeState as that term is defined in AS
06.60.990(4).

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4. 3 AAC 14.415 requires mortgage licensees to supervise operations and personnel,

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1 including mortgage loan originators, to ensure compliance with the Alaska SAFE Act. Based 2 on the number of violations noted by the Department, HomeState and Carman failed to 3 supervise business operations and have policies and procedures in place to ensure 4 compliance with the Alaska SAFE Act and are therefore in violation of 3 AAC 14.415.

5. Under AS 06.60.159, mortgage licensees are liable for the conduct of a person acting 6 as a mortgage loan originator if the mortgage licensee knows or should have known that the person violated the Alaska SAFE Act and the person is employed or under contract with the mortgage licensee to act as a mortgage loan originator. In the present case, based on the numerous violations noted in Falon's advertising, HomeState and Carman, as president and control person, knew or should have known that Falon was violating the Alaska SAFE Act, and therefore HomeState and Carman are in violation of AS 06.60.159.

12 6. Based on the advertising violations noted by the Department, Respondents are subject 13 to a civil penalty under AS 06.60.420.

III. ORDER

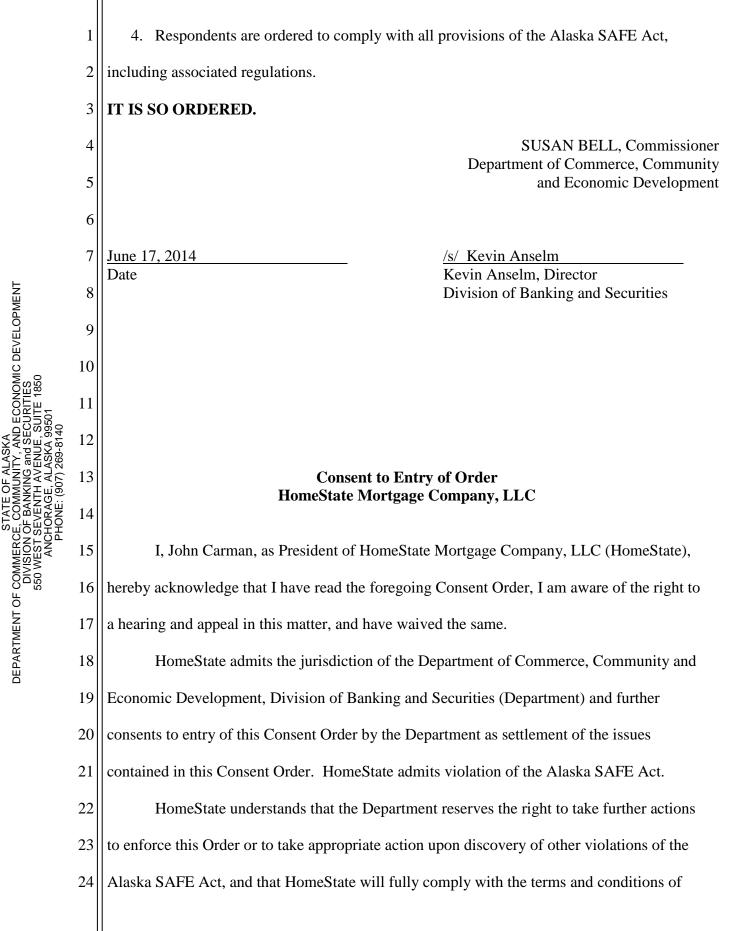
15 Pursuant to the Alaska SAFE Act and on the basis of the Findings of Fact, 16 Conclusions of Law and Respondents' consent to the entry of this Order, the Department 17 ORDERS the following:

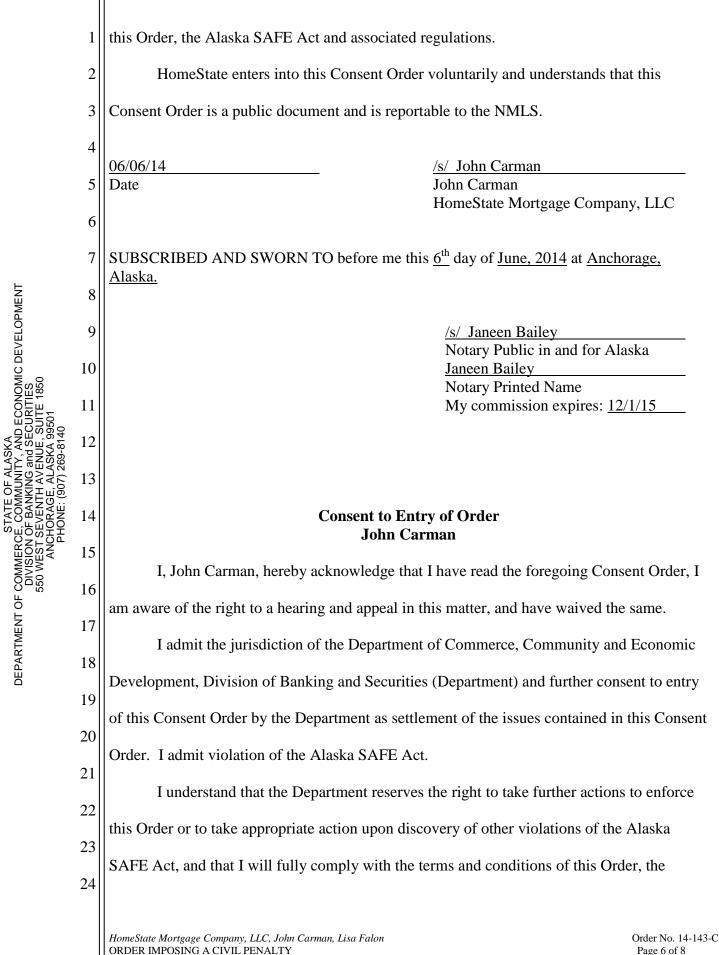
18 1. Respondent HomeState is ordered to pay a civil penalty of \$3,000 (\$500 per website 19 advertising violation and \$250 per Real Estate Book advertising violation) pursuant to AS 06.60.420. 20

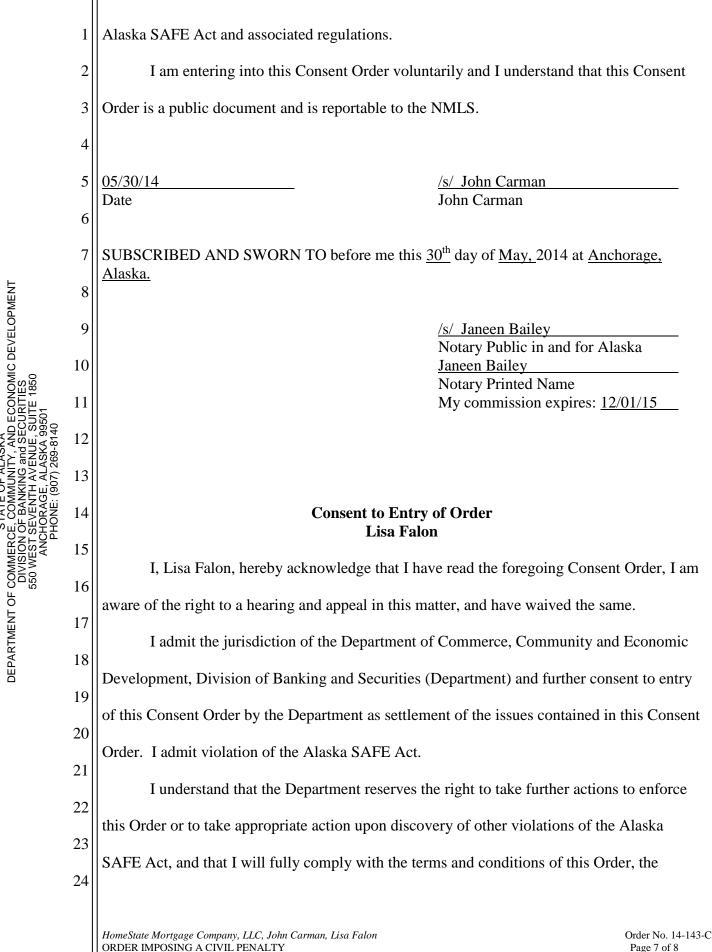
21 2. Respondent Carman is ordered to pay a civil penalty of \$1,500 pursuant to AS 22 06.60.420 for failing to supervise.

23 3. Respondent Falon is ordered to pay a civil penalty of \$1,750 (\$250 per advertising 24 violation) pursuant to AS 06.60.420.

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