

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING AND SECURITIES

In the matter of:)
) ORDER NO: 14-143-C
)
HomeState Mortgage Company, LLC,) ORDER IMPOSING A CIVIL PENALTY AND
John Carman, and) CONSENT TO ORDER
Lisa Falon)
)
Respondents.)
_____)

The Department of Commerce, Community, and Economic Development, Division of Banking and Securities (the Department) has conducted an investigation into the business operations of HomeState Mortgage Company, LLC (HomeState), John Carman (Carman) and Lisa Falon (Falon; collectively, “Respondents”) and has determined that Respondents violated certain provisions of AS 06.60 et seq. (the Alaska Secure and Fair Enforcement for Mortgage Licensing Act of 2010 – the Alaska SAFE Act).

Respondents agree that the Department has jurisdiction over Respondents and this matter pursuant to the Alaska SAFE Act.

Respondents wish to resolve and settle this matter with the Department. As evidenced by the authorized signatures on this Order, Respondents consent to the entry of this Order requiring Respondents to pay civil penalties. Respondents waive their right to hearing under AS 44.62 et seq. (the Alaska Administrative Procedure Act) and the Alaska SAFE Act.

I. FACTS

1. HomeState is an Alaska limited liability company, entity number 65838D, with its principal place of business located at 3801 Centerpoint Drive, Suite 100, Anchorage, Alaska

1 99503. On February 19, 2009, the Department issued mortgage license number 189191 to
2 HomeState.

3 2. Carman has served as the president of HomeState since September 1996 and is listed
4 as a control person of HomeState on its Nationwide Mortgage Licensing System (NMLS)
5 registration. The Department issued mortgage loan originator license number 189259 to
6 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.

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

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

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
14 willingness to correct the advertising problems immediately.

15 II. CONCLUSIONS OF LAW

16 1. AS 06.60.325 and 3 AAC 14.510 require licensees to display their NMLS unique
17 identifiers in all advertisement materials except for radio and television advertisements.
18 Respondents violated these provisions by failing to display their NMLS unique identifiers in
19 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.

22 3. Carman is a "control person" of HomeState as that term is defined in AS
23 06.60.990(4).

24 4. 3 AAC 14.415 requires mortgage licensees to supervise operations and personnel,

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 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
7 person violated the Alaska SAFE Act and the person is employed or under contract with the
8 mortgage licensee to act as a mortgage loan originator. In the present case, based on the
9 numerous violations noted in Falon's advertising, HomeState and Carman, as president and
10 control person, knew or should have known that Falon was violating the Alaska SAFE Act,
11 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.

14 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
20 06.60.420.

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.

1 4. Respondents are ordered to comply with all provisions of the Alaska SAFE Act,
2 including associated regulations.

3 **IT IS SO ORDERED.**

4 SUSAN BELL, Commissioner
5 Department of Commerce, Community
6 and Economic Development

7 June 17, 2014
8 Date

/s/ Kevin Anselm
Kevin Anselm, Director
Division of Banking and Securities

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13 **Consent to Entry of Order**
14 **HomeState Mortgage Company, LLC**

15 I, John Carman, as President of HomeState Mortgage Company, LLC (HomeState),
16 hereby acknowledge that I have read the foregoing Consent Order, I am aware of the right to
17 a hearing and appeal in this matter, and have waived the same.

18 HomeState admits the jurisdiction of the Department of Commerce, Community and
19 Economic Development, Division of Banking and Securities (Department) and further
20 consents to entry of this Consent Order by the Department as settlement of the issues
21 contained in this Consent Order. HomeState admits violation of the Alaska SAFE Act.

22 HomeState understands that the Department reserves the right to take further actions
23 to enforce this Order or to take appropriate action upon discovery of other violations of the
24 Alaska SAFE Act, and that HomeState will fully comply with the terms and conditions of

1 this Order, the Alaska SAFE Act and associated regulations.

2 HomeState enters into this Consent Order voluntarily and understands that this
3 Consent Order is a public document and is reportable to the NMLS.

4 06/06/14 /s/ John Carman
5 Date John Carman
HomeState Mortgage Company, LLC

6
7 SUBSCRIBED AND SWORN TO before me this 6th day of June, 2014 at Anchorage,
Alaska.

8
9 /s/ Janeen Bailey
10 Notary Public in and for Alaska
Janeen Bailey
11 Notary Printed Name
My commission expires: 12/1/15

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14 **Consent to Entry of Order**
15 **John Carman**

16 I, John Carman, hereby acknowledge that I have read the foregoing Consent Order, I
17 am aware of the right to a hearing and appeal in this matter, and have waived the same.

18 I admit the jurisdiction of the Department of Commerce, Community and Economic
19 Development, Division of Banking and Securities (Department) and further consent to entry
20 of this Consent Order by the Department as settlement of the issues contained in this Consent
21 Order. I admit violation of the Alaska SAFE Act.

22 I understand that the Department reserves the right to take further actions to enforce
23 this Order or to take appropriate action upon discovery of other violations of the Alaska
24 SAFE Act, and that I will fully comply with the terms and conditions of this Order, the

1 Alaska SAFE Act and associated regulations.

2 I am entering into this Consent Order voluntarily and I understand that this Consent
3 Order is a public document and is reportable to the NMLS.

4
5 05/30/14
6 Date

/s/ John Carman
John Carman

7 SUBSCRIBED AND SWORN TO before me this 30th day of May, 2014 at Anchorage,
8 Alaska.

9 /s/ Janeen Bailey
10 Notary Public in and for Alaska
11 Janeen Bailey
12 Notary Printed Name
13 My commission expires: 12/01/15

14 **Consent to Entry of Order**
15 **Lisa Falon**

16 I, Lisa Falon, hereby acknowledge that I have read the foregoing Consent Order, I am
17 aware of the right to a hearing and appeal in this matter, and have waived the same.

18 I admit the jurisdiction of the Department of Commerce, Community and Economic
19 Development, Division of Banking and Securities (Department) and further consent to entry
20 of this Consent Order by the Department as settlement of the issues contained in this Consent
21 Order. I admit violation of the Alaska SAFE Act.

22 I understand that the Department reserves the right to take further actions to enforce
23 this Order or to take appropriate action upon discovery of other violations of the Alaska
24 SAFE Act, and that I will fully comply with the terms and conditions of this Order, the

1 Alaska SAFE Act and associated regulations.

2 I am entering into this Consent Order voluntarily and I understand that this Consent
3 Order is a public document and is reportable to the NMLS.

4 05/30/14
5 Date

/s/ Lisa Falon
Lisa Falon

6 SUBSCRIBED AND SWORN TO before me this 30th day of May, 2014 at Anchorage,
7 Alaska.

8 /s/ Janeen Bailey
9 Notary Public in and for Alaska
10 Janeen Bailey
11 Notary Printed Name
12 My commission expires: 12/1/15

13 Contact Person:
14 Kristy Naylor
15 Acting Chief of Enforcement
16 (907) 269-7675

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