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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
9 OF THE STATE OF CALIFORNIA

10  
11 In the Matter of: )  
 ) NMLS No.: 323371  
12 THE COMMISSIONER OF FINANCIAL )  
PROTECTION AND INNOVATION, ) SPONSOR No.: 607-3563  
13 )  
14 Complainant, ) CONSENT ORDER  
 )  
15 v. )  
 )  
16 WILLIAM RICHARD HOGARTY, )  
 )  
17 Respondent. )  
18 )  
19

20 This Consent Order is entered into between the Commissioner of Financial Protection and  
21 Innovation (Commissioner) and Respondent William Richard Hogarty (Hogarty), and is made with  
22 respect to the following facts:

23 **I.**

24 **Recitals**

25 A. The Department of Financial Protection and Innovation (Department), through the  
26 Commissioner, has jurisdiction over the licensing and regulation of persons engaged in the business  
27 of making, servicing, or brokering residential mortgage loans, including mortgage loan originators  
28 (MLO or MLOs), under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.).

CONSENT ORDER

1 B. On July 27, 2020, Hogarty applied for an MLO license with the Commissioner.

2 C. The MLO license application of Hogarty disclosed the following: (i) an October 27,  
3 2010 desist and refrain order issued by the Department of Real Estate (DRE) ordering Hogarty and  
4 his former company, OLG, to desist and refrain from charging, demanding, claiming, collecting,  
5 and/or receiving advance fees as defined under Business and Professions Code section 10026; (ii) a  
6 February 11, 2011 DRE Order Accepting Voluntary Surrender of License for Hogarty and his OLG  
7 based upon the same activity alleged in the desist and refrain order; (iii) a November 15, 2014  
8 misdemeanor conviction on one count of violating Civil Code section 2944.6 in Alameda County  
9 Superior Court – based on same activity as the DRE actions; (iv) a 2016 civil settlement based upon  
10 same activity as alleged in the DRE and criminal actions; and (v) a June 20, 2017 stipulation with  
11 the Department stipulating to an MLO license application denial for failure to disclose the DRE  
12 matters and failing to upload all applicable documents.

13 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions  
14 contained herein, the Commissioner and Hogarty (the Parties) agree as follows:

15 **II.**

16 **Terms and Conditions**

17 1. Purpose. This Consent Order resolves the findings described in Paragraph C above  
18 in a manner that avoids the expense of a hearing and other possible court proceedings, protects  
19 consumers, is in the public interest, and is consistent with the purposes, policies, and provisions  
20 of the CFL.

21 2. Waiver of Hearing Rights. Hogarty acknowledges that the Commissioner is ready,  
22 willing, and able to proceed with the filing of an administrative enforcement action on the findings  
23 contained in this Consent Order. Hogarty hereby waives his right to a hearing, and to any  
24 reconsideration, appeal or other right to review which may be afforded by the CFL, the California  
25 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law  
26 in connection herewith. By waiving such rights, Hogarty effectively consents to this Consent Order  
27 becoming final.

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1           3.       Revocation of License. Hogarty agrees that for the 36-month period from the  
2 effective date of this Consent Order, should the Commissioner make a finding that Hogarty has  
3 violated or is violating any provision of the CFL, or any rule, regulation, or law under the  
4 jurisdiction of the Commissioner, the state of California, the United States of America, and every  
5 state and foreign government (and political subdivision thereof), the Commissioner may, in his  
6 discretion, summarily revoke any license held by or deny any pending license application(s) of  
7 Hogarty. Hogarty hereby waives any notice and hearing rights to contest such revocation or denial(s)  
8 which may be afforded him under the CFL, the California Administrative Procedure Act, the  
9 California Code of Civil Procedure, or any other provision of law in connection with any such  
10 summary revocation and/or denial. Hogarty further expressly waives any requirement for the filing  
11 of an accusation and/or statement of issues under Government Code section 11415.60, subdivision  
12 (b), in connection with any license revocation and/or denial under this paragraph.

13           4.       Reporting Requirement. During the 36-month period from the effective date of this  
14 Consent Order, Hogarty shall report to the Commissioner within 30 days any disciplinary  
15 investigations or actions against him by any licensing agencies, any criminal investigations,  
16 prosecutions, or convictions against Hogarty, or any civil judgments against Hogarty. Traffic  
17 citations shall be excluded.

18           5.       Continuing Education. Hogarty agrees to annually take at least 4 hours of continuing  
19 education, in addition to the 8 hours of continuing education required by Financial Code section  
20 22109.5, offered by a Nationwide Mortgage Licensing System (NMLS) approved vendor for the  
21 next 36 months and agrees to submit proof of compliance to the Commissioner. The first report is  
22 due on October 26, 2021. The second report is due on October 26, 2022. The third report is due on  
23 October 26, 2023. Should the reporting deadline fall on a Saturday, Sunday, or state holiday, the  
24 report must be received by the Commissioner's agent by the following business day.

25           6.       Remedy for Breach. Hogarty acknowledges and agrees that his failure to satisfy the  
26 reporting and/or continuing education requirements under paragraphs 4 and 5 above, shall be  
27 deemed a breach and cause for the Commissioner to immediately revoke any license held by or deny  
28 any pending application(s) of Hogarty. Hogarty hereby waives any notice and hearing rights to

1 contest such revocation or denial(s) which may be afforded him under the CFL, the California  
2 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law  
3 in connection with any such summary revocation and/or denial. Hogarty further expressly waives  
4 any requirement for the filing of an accusation and/or statement of issues under Government Code  
5 section 11415.60, subdivision (b), in connection with any license revocation and/or denial under this  
6 paragraph.

7       7.     Approval of MLO Application. The Commissioner hereby acknowledges that the  
8 MLO license application of Hogarty is ready to be approved, and the Commissioner hereby agrees to  
9 approve it concurrently with the execution of this Consent Order.

10       8.     Full and Final Settlement. The Parties hereby acknowledge and agree that this  
11 Consent Order is intended to constitute a full, final, and complete resolution of the findings  
12 described in Paragraph C above, and that no further proceedings or actions will be brought by the  
13 Commissioner in connection with the with the findings described in Paragraph C above under the  
14 CFL, or any other provision of law, excepting therefrom any proceeding to enforce compliance with  
15 the terms of this Consent Order.

16       9.     Information Willfully Withheld or Misrepresented. This Consent Order may be  
17 revoked, and the Commissioner may pursue any and all remedies available under the law against  
18 Hogarty, if the Commissioner discovers that Hogarty knowingly or willfully withheld information  
19 used for and relied upon in this Consent Order.

20       10.    Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner’s  
21 ability to assist any other government agency (city, county, state, or federal) with any administrative,  
22 civil or criminal prosecutions brought by that agency against Hogarty or any other person based  
23 upon any of the activities alleged in this matter or otherwise.

24       11.    Headings. The headings to the paragraphs of this Consent Order are for convenience  
25 only and will not be deemed a part hereof or affect the construction or interpretation of the  
26 provisions hereof.

27       12.    Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
28 interest.

1           13.    Reliance. Each of the Parties represents, warrants, and agrees that in executing this  
2 Consent Order it has relied solely on the statements set forth herein and the advice of its own  
3 counsel. Each of the Parties further represents, warrants, and agrees that in executing this Consent  
4 Order it has placed no reliance on any statement, representation, or promise of any other party, or  
5 any other person or entity not expressly set forth herein, or upon the failure of any party or any other  
6 person or entity to make any statement, representation or disclosure of anything whatsoever. The  
7 Parties have included this clause: (a) to preclude any claim that any party was in any way  
8 fraudulently induced to execute this Consent Order; and (b) to preclude the introduction of parol  
9 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

10           14.    Waiver, Amendments, and Modifications. No waiver, amendment, or modification of  
11 this Consent Order will be valid or binding unless it is in writing and signed by each of the Parties.  
12 The waiver of any provision of this Consent Order will not be deemed a waiver of any other  
13 provision. No waiver by either party of any breach of, or of compliance with, any condition or  
14 provision of this Consent Order by the other party will be considered a waiver of any other condition  
15 or provision or of the same condition or provision at another time.

16           15.    Full Integration. This Consent Order is the final written expression and the complete  
17 and exclusive statement of all the agreements, conditions, promises, representations, and covenants  
18 between the Parties with respect to the subject matter hereof, and supersedes all prior or  
19 contemporaneous agreements, negotiations, representations, understandings, and discussions  
20 between and among the Parties, their respective representatives, and any other person or entity, with  
21 respect to the subject matter covered hereby.

22           16.    Governing Law. This Consent Order will be governed by and construed in  
23 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such court,  
24 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient  
25 forum to the maintenance of such action or proceeding in such court.

26           17.    Counterparts. This Consent Order may be executed in one or more separate  
27 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall  
28 together constitute a single document.

1 18. Mandatory Disclosure in Future Applications. Hogarty agrees to disclose this  
2 Consent Order in any application for a license, permit or qualification under the Commissioner’s  
3 current or future jurisdiction.

4 19. Effect Upon Future Proceedings. If Hogarty is the subject of any future action by the  
5 Commissioner to enforce this Consent Order, then the subject matter hereof shall be admitted for the  
6 purpose of such action.

7 20. Voluntary Agreement. Hogarty enters into this Consent Order voluntarily and without  
8 coercion and acknowledges that no promises, threats or assurances have been made by the  
9 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each represent  
10 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and  
11 without any duress or undue influence of any kind from any source.

12 21. Notice. Any notice/report required under this Consent Order shall be addressed as  
13 follows:

14 To Hogarty: hogartyw@gmail.com  
15 To the Commissioner: Judy L. Hartley, Esq.  
16 Senior Counsel  
17 Department of Financial Protection and Innovation  
18 320 W. 4<sup>th</sup> Street, Suite 750  
19 Los Angeles, California 90013-2344  
20 judy.hartley@dfpi.ca.gov

21 22. Signatures. A fax or electronic mail signature shall be deemed the same as an original  
22 signature.

23 23. Public Record. Hogarty hereby acknowledges that this Consent Order is and will be a  
24 matter of public record.

25 24. Effective Date. This Consent Order shall become final and effective when signed by  
26 all parties and delivered by the Commissioner’s counsel via e-mail to Hogarty at  
27 hogartyw@gmail.com.

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25. Authority to Sign. Each signatory hereto covenants that he or she possesses all necessary capacity and authority to sign and enter into this Consent Order and undertake the obligations set forth herein.

Dated: October 26, 2020

MANUEL P. ALVAREZ  
Commissioner of Financial Protection and Innovation

By \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner

Dated: October 22, 2020

By \_\_\_\_\_  
WILLIAM RICHARD HOGARTY, an individual