

1 MARY ANN SMITH
Deputy Commissioner
2 DANIEL P. O'DONNELL
Assistant Chief Counsel
3 PAUL YEE (State Bar No. 142381)
Senior Counsel
4 Department of Financial Protection and Innovation
One Sansome Street, Suite 600
5 San Francisco, California 94104-4448
Telephone: (415) 972-8544
6 Facsimile: (415) 972-8500
Email: Paul.Yee@dfpi.ca.gov

7
8 Attorneys for Complainant

9
10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) NMLS NO.: 1514875
13)
14 THE COMMISSIONER OF FINANCIAL)
PROTECTION AND INNOVATION,) CONSENT ORDER
15)
16 Complainant,)
17 v.)
18 OKLAHOMA STUDENT LOAN)
AUTHORITY,)
19 Respondent.)
20)
21)
22)
23)

24 The Commissioner of Financial Protection and Innovation (Commissioner) and Oklahoma
25 Student Loan Authority (OSLA) enter into this Consent Order with respect to the following facts:

26 \\\
27 \\\
28 \\\

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I.

RECITALS

A. The Commissioner has jurisdiction over the licensing and regulation of student loan servicing in this state under the California Student Loan Servicing Act (SLSA) (Fin. Code, § 28100 et seq.) and title 10 of the California Code of Regulations (CCR) (Cal. Code Regs., § 2032 et seq.).

B. The Student Loan Servicing Act applies to companies that manage or “service” student loans in California, designates the Department of Financial Protection and Innovation (DFPI) to administer and enforce its provisions, and has three primary components: (i) licensure; (ii) examination; and (iii) enforcement. (Fin. Code, § 28100, et seq.)

C. SLSA broadly defines “student loan” to mean “any loan made solely for use to finance a postsecondary education and costs of attendance at a postsecondary institution” (Fin. Code, § 28102, subd. (m)(1).) This definition encompasses private student loans made by commercial institutions, such as banks, credits unions, and other types of lending institutions.

D. At all relevant times, Oklahoma Student Loan Authority (OSLA or Respondent) is a public trust in the State of Oklahoma with a principal place of business at 525 Central Park Dr. Suite 600, Oklahoma City, OK 73105 with mailing address of P.O. Box 18145, Oklahoma City, OK 73145-0145 and is issued a license pursuant to SLSA in the State of California, NMLS No. 1514875.

E. Financial Code section 28152 provides that “the commissioner shall examine the affairs of each licensee for compliance with this division. The Commissioner and his or her appointees may examine the books, records, and documents of the licensee” (Fin. Code §28152, subd. (a).)

F. Pursuant to statutory mandate and the Commissioner’s authority and power, (Fin. Code §§ 28108, subd. (a), & 28152, subd. (a)), the DFPI¹ conducted an examination of OSLA’s private loan and Federal Family Education Loan Program (FFELP) portfolio commencing on July 20, 2020 and concluding on September 9, 2020. The examination covered OSLA student loan servicing practice from July 1, 2018 to June 30, 2020 with regard to OSLA’s private and FFELP loans only.

¹ The DFPI is the successor agency to the Department of Business Oversight (DBO).

1 Due to Covid-19 related health restrictions the examination was conducted off site and all meetings
2 were conducted virtually on Cisco Web-Ex or by telephone via DFPI conference line.

3 G. As a result of the examination, among other things, DFPI discovered the following:

4 (1) OSLA failed to develop policies and procedures for borrower communications,
5 such as calls, qualified written requests, and complaints, in violation of California
6 Financial Code section 28130(a).

7 (2) OSLA’s student loan payment process did not contain special payment
8 instructions for future payments for all payment types, and did not inquire of
9 borrowers how to apply an overpayment to a student loan, in violation of California
10 Financial Code section 28130(h).

11 (3) OSLA secure website lacked information displayed to the borrower so that the
12 borrower was able to see the loan disbursement amount and the date for each loan; and
13 whether the borrower has an application pending for, or is repaying under an
14 alternative repayment plan, which list the plan chosen, in violation of 10 California
15 Code of Regulations section 2040(b).

16 (4) OSLA failed to provide instructions for how a borrower can obtain a full payment
17 history, in violation of 10 California Code of Regulations section 2040(c).

18 (5) OSLA failed to provide a specific process, clearly explained on the servicer’s
19 website, which student loan co-signers may follow to apply co-signer payments to co-
20 signed loans, in violation of 10 California Code of Regulations section 2040(e).

21 (6) OSLA failed to have the toll-free number prominently displayed on the homepage
22 of the public website, in violation of 10 California Code of Regulations section
23 2041(a).

24 H. Based on the foregoing, the Commissioner of Financial Protection and Innovation is
25 of the opinion that Respondent violated the following:

26 1. California Financial Code section 28130(a), which provides: “A licensee
27 shall do all the following: (a) Develop policies and procedures reasonably intended to promote
28 compliance with this division.”

2. California Financial Code section 28130(h), which provides: “A licensee
shall do all the following: . . . (h) Except as provided in federal law or required by a student loan
agreement, a licensee shall inquire of a borrower how to apply an overpayment to a student loan. A
borrower’s direction on how to apply an overpayment to a student loan shall stay in effect for any

1 future overpayments during the term of a student loan until the borrower provides different
2 directions.”

3 3. 10 California Code of Regulations section 2040(b), which provides: “The
4 consolidation report required to be maintained must include the information specified in Section
5 2042, subdivision (b) of these rules.” Section 2042(b) provides, “[a]t a minimum the aggregate
6 shall contain the following information, with respect to each student loan serviced: . . . (5) Loan
7 distribution amount and ate, for each loan . . . (9) Whether borrower has an application pending for,
8 or is repaying under, an alternative repayment plan, listing the plan chosen . . .”

9 4. 10 California Code of Regulations section 2040(c), which provides: “The
10 loan history for each loan serviced must include the information specified in Section 2042.5,
11 subdivision (c) of these rules.” Section 2042.5(c) provides, “[e]ach loan history shall include
12 disbursement, interest accruals, fees, late charges, any other miscellaneous amounts charged to the
13 borrower, payments received, and the corresponding dates for each.”

14 5. 10 California Code of Regulations section 2040(e), which provides:
15 “Servicers must provide a specific process, clearly explained on the servicer’s website, which
16 student loan co-signers may follow to apply co-signer payments to co-signer loans. Provided co-
17 signers follow the specific process specified by servicers, servicers must follow the elections made
18 by a student loan co-signer regarding the application of co-signer payments(s).”

19 6. 10 California Code of Regulations section 2041(a), which provides: “All
20 student servicer licensees, including servicers of federal student loan and private student loans, must
21 prominently post, on the homepage of the servicer’s website, a toll-free telephone number that
22 borrowers may call to discuss their student loans with a live person.

23 I. Now, it is the intention of the Commissioner and OSLA (Commissioner and OSLA
24 together referred to as the Parties) to resolve this matter without an administrative hearing or other
25 litigation.

26 J. The Commissioner find that this action is appropriate, in the public interest, and
27 consistent with the purposes fairly intended by the policy and provisions of this law.

28 NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set

1 forth herein, the Parties agree as follows:

2 **II.**

3 **TERMS AND CONDITIONS**

4 1. Purpose. This Consent Order resolves the issues before the Commissioner in a
 5 manner that avoids the expense of a hearing and other possible court proceedings, protects
 6 consumers, is in the public interest, and is consistent with the purposes, policies, and provisions of
 7 the applicable law.

8 2. Final Order to Desist and Refrain. The Commissioner hereby orders and Respondent
 9 agrees that it will desist and refrain from violating the statutes and/or codes as follows:

- 10 a. California Financial Code section 28130(a), which provides: “A licensee
 11 shall do all the following: (a) Develop policies and procedures reasonably intended
 12 to promote compliance with this division.”
- 13 b. California Financial Code section 28130(h), which provides: “A licensee shall do all
 14 the following: . . . (h) Except as provided in federal law or required by a student loan
 15 agreement, a licensee shall inquire of a borrower how to apply an overpayment to a
 16 student loan. A borrower’s direction on how to apply an overpayment to a student
 17 loan shall stay in effect for any future overpayments during the term of a student loan
 18 until the borrower provides different directions.”
- 19 c. 10 California Code of Regulations section 2040(b), which provides: “The
 20 consolidation report required to be maintained must include the information
 21 specified in Section 2042, subdivision (b) of these rules.” Section 2042(b) provides,
 22 “[a]t a minimum the aggregate shall contain the following information, with respect
 23 to each student loan serviced: . . . (5) Loan distribution amount and ate, for each
 24 loan . . . (9) Whether borrower has an application pending for, or is repaying under,
 25 an alternative repayment plan, listing the plan chosen . . .”
- 26 d. 10 California Code of Regulations section 2040(c), which provides: “The loan
 27 history for each loan serviced must include the information specified in Section
 28 2042.5, subdivision (c) of these rules.” Section 2042.5(c) provides, “[e]ach loan
 history shall include disbursement, interest accruals, fees, late charges, any other
 miscellaneous amounts charged to the borrower, payments received, and the
 corresponding dates for each.”
- e. 10 California Code of Regulations section 2040(e), which provides: “Servicers must
 provide a specific process, clearly explained on the servicer’s website, which student
 loan co-signers may follow to apply co-signer payments to co-signer loans. Provided
 co-signers follow the specific process specified by servicers, servicers must follow
 the elections made by a student loan co-signer regarding the application of co-signer

1 payments(s).”

2 f. 10 California Code of Regulations section 2041(a), which provides: “All student
3 servicer licensees, including servicers of federal student loan and private student
4 loans, must prominently post, on the homepage of the servicer’s website, a toll-free
5 telephone number that borrowers may call to discuss their student loans with a live
6 person.”

7 3. Agreement to Remain in Compliance. OSLA agrees for as long as it maintains a
8 license in California pursuant to the SLSA, that it will remain in compliance with the applicable
9 statutes and/or regulations for the deficiencies noted in paragraph G above.

10 4. Administrative Penalty. Respondent shall pay an administrative penalty pursuant to
11 Financial Code section 228710 of \$2,500.00 no later than 30 days after the effective date of this
12 Settlement Agreement as defined in paragraph 20. The penalty must be made payable in the form of
13 a cashier’s check or Automated Clearing House deposit to the Department of Financial Protection
14 and Innovation and transmitted to the attention of Accounting – Litigation, at the Department of
15 Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95834-2036.
16 Notice of the payment must be concurrently sent to Paul Yee, Senior Counsel, Department of
17 Financial Protection and Innovation, One Sansome Street, Suite 600, San Francisco, California
18 94104-4448.

19 5. Full and Final Settlement. The Parties hereby acknowledge and agree that this
20 Consent Order is intended to constitute a full, final, and complete resolution of Respondent’s
21 violations set forth in the Recitals (Violations) only, and that no further proceedings or actions will
22 be brought by the Commissioner based on such Violations, excepting any proceeding to enforce
23 compliance with the terms of this Consent Order or action if such proceeding is based upon
24 discovery of new and further violations of the SLSA that do not form the basis for the Consent
25 Order or which Respondent knowingly concealed from the Commissioner. This Consent Order
26 specifically does not prohibit or restrict the Commissioner from making any other orders or
27 bringing any action based on other violations discovered during the examination described in
28 paragraph F.

 6. Information Willfully Withheld. The Consent Order may be rescinded and the

1 Commissioner may suspend or revoke the SLSA license issued to Respondent if the Commissioner
2 later finds out that Respondent knowingly or willfully withheld information used and relied upon in
3 the Consent Order.

4 7. Assisting Other Agencies. The Parties further acknowledge and agree that nothing in
5 the Consent Order shall limit the Commissioner’s ability to assist any other agency (city, county,
6 state, or federal) with any prosecution, administrative, civil, or criminal, brought by any such
7 agency against Respondent or any other person based upon any of the activities alleged in this
8 matter or otherwise.

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

12 9. Binding. The Consent Order is binding on all heirs, assigns, or successors in
13 interest.

14 10. Reliance. Each of the parties represents, warrants, and agrees that in executing this
15 Consent Order, it has relied solely on the statements set forth herein and the advice of its own
16 counsel. Each of the parties further represents, warrants, and agrees that in executing this Consent
17 Order it has placed no reliance on any statement, representation, or promise of any other party, or
18 any other person or entity not expressly set forth herein, or upon the failure of any party or any
19 other person or entity to make any statement, representation or disclosure of anything whatsoever.
20 The parties have included this clause: (1) to preclude any claim that any party was in any way
21 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
22 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

23 11. Waiver, Amendments, and Modifications. No waiver, amendment, or modification
24 of this Consent Order will be valid or binding unless it is in writing and signed by each of the
25 parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any other
26 provision. No waiver by either party of any breach of, or of compliance with, any condition or
27 provision of this Consent Order by the other party will be considered a waiver of any other
28 condition or provision or of the same condition or provision at another time.

1 12. Full Integration. This Consent Order is the final written expression and the complete
2 and exclusive statement of all the agreements, conditions, promises, representations, and covenant
3 between the parties with respect to the subject matter hereof, and supersedes all prior or
4 contemporaneous agreements, negotiations, representations, understandings, and discussions
5 between and among the parties, their respective representatives, and any other person or entity, with
6 respect to the subject matter covered hereby.

7 13. Governing Law. This Consent Order will be governed by and construed in accordance
8 with California law. Each of the parties hereto consents to the jurisdiction of such court, and hereby
9 irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the
10 maintenance of such action or proceeding in such court.

11 14. Counterparts. This Consent Order may be executed in one or more separate
12 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
13 together constitute a single document.

14 15. Effect Upon Future Proceedings. If Respondents apply for any license, permit or
15 qualification under the Commissioner's current or future jurisdiction, or are the subject of any future
16 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be
17 admitted for the purpose of such application(s) or enforcement proceedings(s).

18 16. Voluntary Agreement. Respondent enters into the Consent Order voluntarily and
19 without coercion and acknowledges that no promises, threats, or assurances have been made by the
20 Commissioner, or any officer or agent thereof, about the Consent Order.

21 17. Notice. Any notices required under the Consent Order shall be provided to
22 each party at the following addresses:

23 If to Respondent to: Oklahoma Student Loan Authority
24 P.O. Box 18145
25 Oklahoma City, OK 73145-0145
26 Email: arogers@osla.org

27 If to the Commissioner to: Paul Yee, Senior Counsel
28 Department of Financial Protection and Innovation
 One Sansome Street, Suite 600
 San Francisco, California 94104-4448

Email: Paul.Yee@dfpi.ca.gov

18. Signatures. An electronic signature, or a faxed, photocopied, or scanned copy of an original signature, shall be deemed the same as an original signature.

19. Public Record. Respondent acknowledges that the Consent Order shall be matters of public record.

20. Effective Date. The Consent Order shall become final and effective when signed by all Parties and delivered by the Commissioner to Respondent via e-mail at arogers@osla.org

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

IN WITNESS WHEREOF, the parties hereto have approved and executed the Consent Order on the dates set forth opposite their respective signatures.

Dated: April 13, 2021

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation

By _____

MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: April 13, 2021

OKLAHOMA STUDENT LOAN AUTHORITY
Respondent

By _____

Title: _____