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

STATE OF IDAHO, DEPARTMENT OF
FINANCE, CONSUMER FINANCE
BUREAU,

Complainant,

vs.

AMERICAN ADVISORS GROUP dba
AMERICAN ADVISORS GROUP, INC.,
NMLS ID No. 9392/MBL 8179,

Respondent.

Docket No. 2017-8-01

CONSENT ORDER

The State of Idaho, Department of Finance, Consumer Finance Bureau (Department) has conducted examinations of the mortgage brokering/lending and related business activities of AMERICAN ADVISORS GROUP dba AMERICAN ADVISORS GROUP, INC. (the Respondent), and has concluded therefrom that the Respondent has engaged in violations of the Idaho Residential Mortgage Practices Act, Idaho Code § 26-31-101 *et seq.* (the Act).

The Director of the Idaho Department of Finance (Director) and the Respondent have agreed to resolve this matter through the entry of this Consent Order, in lieu of a formal administrative proceeding or a civil enforcement lawsuit. The Director deems it appropriate and

in the public interest to enter into this Consent Order, and the Respondent voluntarily consents to its entry.

RESPONDENT

1. The Respondent is a California corporation, registered with the Idaho Secretary of State since June 5, 2009. Its principle business activity is mortgage lending. The Respondent obtained Idaho Mortgage Broker/Lender License No. MBL-7169 on June 5, 2009, and held that license until it transitioned to its current license, MBL-8179, on September 25, 2013. The Respondent's Nationwide Multistate Licensing System (NMLS) unique identifying number is NMLS-9392. Reza Jahangiri serves as the Respondent's President. The Respondent's home office is located at 3800 West Chapman Avenue, Orange, California 92868.

2. As of May 16, 2016, the Respondent conducted business in Idaho from three other locations: 680 Townpark Lane, Suite 300, Kennesaw, Georgia/MBL-8180; 4000 North FM 620, Unit 13, Austin, Texas/MBL-8245; and 58 South Service Road, Suite 210, Melville, New York/MBL-8312.

3. As of May 16, 2016, the Respondent employed twenty-five active Idaho loan originators (LOs) who maintained loan originator licenses with the Department.

4. The Respondent solicits its services through television advertising, print advertising in magazines and newspapers, and internet advertisements.

THE EXAMINATIONS

5. Department examiners examined the Idaho mortgage brokering/lending activities of the Respondent for the period June 23, 2014, through August 1, 2014, pursuant to Idaho Code § 26-31-204(3). The examiners reviewed 22 residential mortgage loan files out of a possible 85 and issued an Examination Report dated September 9, 2014.

6. Department examiners conducted a second examination of the Respondent's Idaho mortgage brokering/lending activities for the period of March 14, 2016, through April 21, 2016. A total of 44 residential mortgage loan files, along with their corresponding documents, were examined and an Examination Report was issued on May 16, 2016.

7. Both examinations included a review of internal policies and controls established by Respondent to ensure its business practices complied with the Act and other applicable state and federal laws. General business account information and billing statements for credit bureau reports and appraisals were also reviewed.

8. The Department informed the Respondent of the examiners' first findings and subsequently the examiners' second findings. At both times, the Respondent was given an opportunity to respond. The Respondent submitted responses to each Examination Report. The responses were statements of the action Respondent had taken to resolve the matters referenced in the Examination Reports that constituted compliance violations.

FACTUAL ALLEGATIONS

9. During the first examination the examiners discovered that the Respondent was overcharging borrowers for Government Recording Charges (GRCs). Of the twenty-two files reviewed, the examiners found that six files contained overcharged GRC's in the amount of \$409.50. After discussing the matter with Respondent's representatives, the examiners required the Respondent to conduct a self-audit of all Idaho loans it made from date of initial date of the examination, June 23, 2014, to the date that it received the Department's Examination Report and identify other possible borrowers that the Respondent may have overcharged for any and all fees. The examiners further required the Respondent to provide an overview of its findings to the Department and, if it identified other overcharged borrowers, submit proof of refunds to those borrowers. The Respondent conducted the self-audit and identified 68 borrowers it

overcharged for GRCs between September 11, 2013, and October 16, 2014, resulting in a cumulative amount of \$5,562 that was refunded to borrowers.

10. During the second examination, the examiners requested that the Respondent provide any policies or procedure changes it may have developed or implemented in response to the previous examination finding that the Respondent had overcharged for GRCs. The Respondent indicated that it had not developed or implemented any policy or procedural updates in connection with that issue.

11. Upon reviewing loan files during the second examination, the examiners discovered that in at least 13 instances the Respondent had again overcharged a total of \$1,370 for GRCs. After this examination, the examiners again required the Respondent to conduct another self-audit of all Idaho loans it made from the end of the previous self-audit to May 16, 2016, and identify other possible borrowers that the Respondent may have overcharged for any and all fees, including the GRCs. The Respondent conducted the self-audit and identified 101 borrowers that it overcharged fees totaling \$23,880.83. Of those 101 Idaho borrowers, the Respondent identified 73 that were overcharged for GRCs, in the amount of \$7,598. The Respondent has refunded the 101 borrowers \$23,880.83.

12. In its response to the second Examination Report the Respondent stated that it was seeing a reduction in GRC refunds and that it was “limiting the risk going forward by providing title company/settlement agents with ‘skinny’ packs.” The Respondent further explained that a “skinny pack” is “an outline of the recording documents, including the number of pages and document types” and “[b]y sending this to the settlement agent early, title is able to calculate more accurate fees.”

CONCLUSIONS OF LAW AND VIOLATIONS

13. During both examination periods, the Respondent overcharged for GRCs and other fees to 141 of its Idaho borrowers. These excessive charges are in violation of Idaho Code § 26-31-211 - Prohibited Practices of Mortgage Brokers and Mortgage Lenders. This statute states, in pertinent part, that:

No mortgage broker or mortgage lender licensee under this part or person required under this part to have such license shall:

...

(3) Accept any fees at closing which were not previously disclosed fully to the borrower;

...

(5) Engage in any misrepresentation or omission of a material fact in connection with a residential mortgage loan.

REMEDIES

14. The Respondent admits to the allegations set forth in this Consent Order.

15. The Respondent acknowledges that it is aware of and understands all findings set forth in both Examination Reports by the Department examiners. The Respondent further acknowledges that it shall take immediate steps to ensure it adopts and puts in place policies and procedures that prevent it from overcharging its customers of any GRCs or other related fees. The Department shall conduct another examination of the Respondent's books and records during the calendar year 2018 and the Respondent hereby assures the Department that this problem will be rectified by the time of such examination. Should all such violations not be rectified immediately and procedures put in place to correct the activities giving rise to such violations and should the Department find after the entry of this Consent Order that such violations have continued to occur, the Department may seek additional sanctions against the Respondent.

16. To address such violations, the Respondent agrees to pay to the Department an administrative penalty in the amount of one hundred twenty five thousand dollars (\$125,000) as a result of the 2014 and 2016 examination findings, pursuant to Idaho Code § 26-31-205(b); however, fifty thousand dollars (\$50,000) of this amount is hereby suspended pending an examination by the Department during calendar year 2018 as described in the preceding paragraph. If the Department examiners find that the Respondent has corrected its procedures and has not improperly collected GRC and other related fees, then the \$50,000 suspended penalty shall be waived. If the Respondent has not rectified the problem and is still improperly collecting these fees, it shall be required to pay over to the Department the \$50,000 suspended penalty. In addition, the Department may seek additional penalties for any additional violations.

17. The Respondent shall pay to the Department the sum of five hundred dollars (\$500) as attorney fees and investigative costs incurred by the Department in pursuing this matter. In total the Respondent shall pay the Department seventy five thousand five hundred dollars (\$75,500).

18. The Department agrees that if the Respondent timely and fully complies with payment of the sums set forth in paragraph 16 above, the Department will forgo seeking further penalties or other sanctions for the violations referenced above, as well as all other violations of the Act, rules promulgated under the Act, and federal law and regulations found by Department examiners during the examinations.

19. The Respondent agrees to comply with all provisions of the Act, all rules promulgated thereunder, this Consent Order, and all federal laws and regulations applicable to its mortgage brokering/lending business activities in Idaho at all times in the future.

20. The Respondent acknowledges and understands that this Consent Order is an administrative action that must be disclosed to the Department on future licensing and renewal forms. The disclosure requirements of other states may also require disclosure of the same. The Department agrees that the entry of this Consent Order will not serve as a sole basis to deny any future request by the Respondent for license renewal.

DATED this 6th day of April, 2017.

AMERICAN ADVISORS GROUP

By: Sherry Pauline
Chief Risk Officer
Title

DATED this 12th day of April, 2017.

STATE OF IDAHO
DEPARTMENT OF FINANCE

Michael Larsen
MICHAEL LARSEN
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 13th day of April, 2017.

STATE OF IDAHO
DEPARTMENT OF FINANCE

Mary E. Hughes
MARY E. HUGHES, Acting Director
Idaho Department of Finance



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of April, 2017, I caused a true and correct fully-executed copy of the foregoing CONSENT ORDER to be served on the following by the designated means:

AMERICAN ADVISORS GROUP
Attn: ~~Bosha Dorman~~ *Sherry L. Pauline*
3800 W Chapman Ave., Third Floor
Orange, CA 92868

- U.S. mail, postage prepaid
- Certified mail
- Facsimile:
- Email: *BBlake@aag.com*
SPauline@aag.com

Paralegal