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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,)	Docket No. 2014-8-01
)	
Complainant,)	
)	
vs.)	CONSENT ORDER
)	
FLAGSHIP FINANCIAL GROUP LLC,)	
)	
Respondent.)	
)	
)	
)	

The State of Idaho, Department of Finance, Consumer Finance Bureau (Department) has conducted an examination of the mortgage brokering/lending and related business activities of FLAGSHIP FINANCIAL GROUP LLC (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); applicable rules; federal Regulation Z, 12 CFR § 1026.36 (Reg. Z), which implements the Truth In Lending Act, 15 U.S.C. § 1601 *et seq.*; and federal Regulation B, 12 CFR § 1002.1 *et seq.* (Reg.B), which implements the Equal Credit Opportunity

Act, 15 U.S.C §1691 *et seq.* The 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 Utah limited liability company, registered with the Idaho Secretary of State since June 19, 2006. The Respondent conducts a mortgage broker/lender business and has held Idaho Mortgage Broker/Lender License No. MBL-5864 since October 26, 2006. The Respondent's Nationwide Mortgage License System (NMLS) unique identifying number is NMLS-3133. William Kenneth Farrar is the Respondent's sole owner and serves as its President and Chief Executive Officer. The Respondent's home office is located at 3130 West Maple Loop Drive, Suite 200, Lehi, UT 84043.

2. As of October 25, 2013, the Respondent conducted business in Idaho from one other location at 384 South 700 East, Suite 205, Lindon, Utah 84042. It held Idaho Mortgage Broker/Lender License No. MBL-7740. In the past, the Respondent conducted Idaho lending activities from two Idaho-based addresses and five Utah-based addresses.

3. As of June 22, 2012, the Respondent employed eleven (11) active loan originators (LOs) who maintain Loan Originator Licenses with the Department. As of October 25, 2013, that number increased to seventeen (17).

4. The Respondent originates conventional, FHA, and VA mortgage loans and refinance loans in at least forty one (41) states. All of the loans originated by the Respondent are immediately sold, assigned, or transferred.

5. The Respondent advertises its services through direct mailings and the following websites (non-exhaustive list):

- | | |
|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|
| a. www.flagshipfinancialgroup.com ; | e. www.flagshipca.com ; |
| b. www.vamortgageleader.com ; | f. http://www.ffgcorporate.com ; |
| c. www.ffgvaloans.com ; | g. www.facebook.com/#!/flagshipfinancial ; |
| d. www.utvet.com/VA_LoanForYou.html ; | |

THE EXAMINATIONS

6. Between June 22, 2012, and June 26, 2012, pursuant to § 26-31-204(3) of the Act, Department Examiners examined the Respondent's mortgage brokering/lending activities in Idaho at the Respondent's home office in Lehi, Utah, which included an examination of sixty-two (62) residential mortgage loan files. The examiners compiled an examination report detailing the issues discovered as a result of the examination. The examination 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.

7. General business account information and billing statements for credit bureau reports and appraisals were also reviewed.

8. Between October 21, 2013, and October 25, 2013, the Department examiners conducted a second examination of the Respondent's brokering/lending activities in Idaho at the Respondent's home office in Lehi, Utah. A total of fifty-six (56) residential mortgage loan files, along with their corresponding documents, were examined. The examiners compiled a second examination report detailing the issues discovered as a result of the examination. The purpose of the second examination was to determine whether the Respondent had taken steps to correct the deficiencies found during the first examination in June 2012.

9. 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 intended as statements of the corrective action Respondent had taken or had begun to undertake to prevent a recurrence of any matter referenced in the examination reports which constituted compliance violations. The Respondent did not, however, forward copies along with its responses to the Department of its policies and/or quality control documents that were used to implemented controls in preventing the type of violations that were discovered in the examinations.

FACTUAL ALLEGATIONS

10. Based on both of the examinations, the examiners made the following factual allegations:

11. The examiners in the first examination noticed the Respondent compensated its originators in two distinct ways. Part of the compensation was paid in the form of wages. The rest of the compensation was paid to a single member LLC owned by the respective originator in the form of management services performed by the LLC. The compensation was paid after the originator initiated a billing for management services by the LLC. The payment of compensation to the single member LLC allowed for the originator to deduct certain business expenses on his or her tax return. However, in all cases, the single member LLC's were unlicensed. The examiners found that the compensation paid to the unlicensed LLC's violated Idaho Code § 26-31-211(5), which prohibits a licensee from making any misrepresentation or omitting material facts in connection with a residential mortgage loan.

12. The examiners, in their examination report issued to the Respondent, required the Respondent to immediately cease the practice of compensating its originators through payments

to unlicensed entities. In its response to the examination report, the Respondent represented that this policy was no longer in effect and originator compensation was paid as W-2 income.

13. When the examiners reviewed the records for the Respondent in connection with the second examination, they found that the policy was still in existence and that originators were being compensated through the unlicensed LLCs. The practice continued into September, 2013. The examiners again required the Respondent to immediately cease the practice of compensating its originators in this manner. In its response to the second examination, the Respondent stated that it had ceased payments to unlicensed entities and policies had been implemented to ensure that this did not happen again.

14. In both examinations, the examiners discovered that the Respondent used unlicensed business names and websites that were neither disclosed to nor licensed for use by the Department. “Flagship Financial Group LLC” is the only name under which the Respondent conducts business that is licensed by the Department to engage in brokering residential mortgage loans. In its response to the first examination report, dated November 23, 2012, the Respondent represented that it would comply with the Idaho requirements and would file the “d/b/a” names with the Idaho Secretary of State, as well as disclose the trade name within its Company (MU1) Filing to the NMLS. As determined in the Department’s second examination report, the Respondent continued to use the websites without filing the necessary documents to do so as it represented that it would in its response.

15. Both examinations revealed that the Respondent failed to properly disclose its unique identifier, assigned by the National Mortgage Licensing System and Registry (NMLSR), within its online advertisements found on the Respondent’s websites and social media sites. In its response to the first examination report, dated November 23, 2012, the Respondent represented

that it would review all of its websites and add the NMLS identifier where needed. The Respondent failed to cure this defect by the time of the second examination.

16. Department examiners found significant record retention issues in both examinations. In many cases, the Respondent failed to provide all of the required records for the examiners to review, and in cases where records were provided, many required documents were missing. Additionally, the Respondent failed to make all of the required records reasonably available for the examiners' review, as it did not maintain complete loan files in one location at the time the examination was conducted. Respondent represents that it currently maintains complete loan files at its corporate office.

17. In reviewing several loan files in each of the examinations, the examiners found no evidence that the Respondent either provided Idaho's required written mortgage loan disclosures to the borrowers or that it had retained all of the records pertaining to its residential mortgage loan originations.

18. Both examination reports revealed that the Respondent had obtained disclosure documents which contained borrower signatures but were otherwise incomplete. The information that was excluded from the disclosure forms was information that was necessary to reveal the borrower's full knowledge of the nature and terms of the loan or was information that was necessary to complete the functions of the document. In its response to the first examination report, dated November 23, 2012, the Respondent represented that new systems were put into place to contain filters preventing the creation of disclosures unless all required information was completed, however, the second examination report noted that the Respondent was continuing to receive and accept incomplete disclosure forms.

19. Within the files reviewed during both examinations, the examiners noted that the Respondent had failed to properly retain documentation supporting the reason for adverse actions taken for denied or withdrawn credit applications. The Respondent represented in its response to the first examination report, dated November 23, 2012, that it would perform the proper checks and ensure that it would retain the necessary documents evidencing the actions taken when a loan was withdrawn by the borrower or denied. In the second examination, the examiners discovered that the Respondent had not only taken no action to remedy its failure to retain documentation of adverse actions, the failure had worsened.

CONCLUSIONS OF LAW AND VIOLATIONS

20. From information obtained during the examinations, the Department examiners concluded that over the time period covered by the examinations, the Respondent engaged in violations of the Act, applicable rules, Reg. Z, and Reg. B including, but not limited to, the following:

a. During the first examination period, the Respondent regularly compensated its employees by paying unlicensed entities controlled by the employees. After the examination, the Respondent agreed to cease this compensation arrangement for its employees. However, this practice didn't cease until at least July 2013, as a result of a companywide conference call notifying all loan originators that this practice would cease. The Respondent was unable, however, to provide examiners with any written evidence that the policy stopped during July. Financial records produced during the examination indicated that the Respondent continued the practice into September 2013.

b. During the first examination, the examiners noted that upon multiple websites, the Respondent utilized five (5) unlicensed business names. In its response to the examination

report, the Respondent agreed to stop using unlicensed names on websites. However, the examiners found that the Respondent continued to use at least three (3) of these unlicensed names on websites, and used several others as well. Consequently, on at least fourteen (14) occasions, Respondent engaged in the brokering of residential mortgage loans under business names in which the Respondent did not have a license, in violation of Idaho Code § 26-31-206(8).

c. The Respondent failed to clearly and conspicuously disclose its unique identifier assigned by the NMLS on its own website and social media advertisements, as required by the Act, in at least twelve (12) instances during the first examination period and in at least twenty (20) instances during the second examination period. This violates Idaho Code § 26-31-320 which provides that “The unique identifier of any person engaged in the origination of a residential mortgage loan shall be clearly displayed on all residential mortgage loan application forms, solicitations or advertisements, including business cards, websites, and other forms of media...”

d. In at least forty (40) instances discovered in the first examination, Department examiners determined that the Respondent had failed to retain all of its records relating to residential mortgage loan originations for a period of three years or did not make all of the records available to the examiners for review. The second examination uncovered nineteen (19) instances where the Respondent failed to retain the required documents. This is in violation of Idaho Code § 26-31-208(1), which provides that:

Every licensee under this part shall maintain records in the United States, including financial records in conformity with generally accepted accounting principles, in a manner that will enable the director to determine whether the licensee is complying with the provisions of this part. The recordkeeping system of the licensee shall be sufficient if it makes the required information reasonably available

to the director. The records need not be kept in the place of business where residential mortgage loans are made, if the director is given free access to the records wherever located. The records pertaining to any loan need not be preserved for more than three (3) years after making the final entry relating to the loan.

e. IDAPA 12.01.10.50 (hereinafter Rule 50) requires a licensee to disclose in writing certain information to a potential borrower or actual borrower. The Respondent in both examinations failed to comply with Rule 50. Subpart 1 of Rule 50 requires licensees to disclose to each borrower certain information about itself, in a form acceptable to the Department. The required information is contained in a form called "Licensee Information Disclosure" (LID). During the first examination period, on at least sixteen (16) instances, the Respondent did not disclose the LID to borrowers. During the second examination period the Respondent did not disclose the LID to at least five (5) borrowers. Subparts 3 and 4 of Rule 50 require a disclosure that the initial interest rate and terms are subject to change unless the parties have agreed to "lock" the interest rate. If the parties agree to lock the interest rate, the Respondent must deliver to the buyer a written confirmation of the term of the lock-in agreement. During the first examination period, on at least fourteen (14) instances, the Respondent did not disclose the information required by Subparts 3 and 4 of Rule 50. During the second examination period the Respondent did not disclose this information to at least ten (10) borrowers.

f. In numerous loan files that were examined, the Respondent either failed to provide information to the borrower regarding the Respondent, to include the services that may be provided and the services that will be provided; disclosures in compliance with the requirements of Reg. Z and Reg. X; and disclosures regarding prepayment penalties, or it failed to retain these documents as required under the Act. The Respondent's failure to provide such

information to borrowers constitutes violations of Rules 50.01, 50.02, 50.03, and 50.06 of the Rules Pursuant to the Idaho Residential Mortgage Practices Act.

g. During the first examination period, on at least seventeen (17) separate occasions, the Respondent obtained signatures from borrowers on disclosure documents and other forms, which contained blanks to be filled in later. During the second examination period, on at least eighteen (18) separate occasions, the Respondent induced borrowers to sign documents that were incomplete and needed to be filled in later. Each document where the Respondent obtained borrower signatures in which material information was left blank to be filled in later, constituted violations of Idaho Code § 26-31-211(4). This provision prohibits mortgage brokers from obtaining any agreement or instrument in which blanks are left to be filled in after signing by a borrower.

h. Department examiners discovered that within at least twelve (12) adverse action files where the borrower had withdrawn his or her mortgage loan application or the application had been denied, the Respondent failed to retain supporting documentation to support the action taken. The Respondent also failed to properly deliver to the borrower or retain the adverse action notice as required. Further, in files where adverse action notices were present, the examiners noticed that information was often incomplete and lacked the reason for the credit denial. These failures are in violation of Reg. B, 12 CFR § 1002.1 *et seq.* as follows:

12 CFR § 1002.9(a)(2) Notification– states in pertinent part that:

...
(2) *Content of notification when adverse action is taken.* A notification given to an applicant when adverse action is taken shall be in writing and shall contain a statement of the action taken; the name and address of the creditor; a statement of the provisions of section 701(a) of the Act; the name and address of the Federal agency that administers compliance with respect to the creditor; and either:

(i) A statement of specific reasons for the action taken; or

- (ii) A disclosure of the applicant's right to a statement of specific reasons within 30 days, if the statement is requested within 60 days of the creditor's notification. The disclosure shall include the name, address, and telephone number of the person or office from which the statement of reasons can be obtained. If the creditor chooses to provide the reasons orally, the creditor shall also disclose the applicant's right to have them confirmed in writing within 30 days of receiving the applicant's written request for confirmation.

12 CFR § 1002.12(b)(1)(i) and (ii) Record Retention – states in pertinent part that:

...

(b) *Preservation of records*—(1) *Applications*. For 25 months (12 months for business credit, except as provided in paragraph (b)(5) of this section) after the date that a creditor notifies an applicant of action taken on an application or of incompleteness, the creditor shall retain in original form or a copy thereof:

- (i) Any application that it receives, any information required to be obtained concerning characteristics of the applicant to monitor compliance with the Act and this part or other similar law, and any other written or recorded information used in evaluating the application and not returned to the applicant at the applicant's request;

- (ii) A copy of the following documents if furnished to the applicant in written form (or, if furnished orally, any notation or memorandum made by the creditor):

- (A) The notification of action taken; and

- (B) The statement of specific reasons for adverse action...

REMEDIES

21. Without any admission of fault or liability, the Respondent agrees to pay to the Department an administrative penalty in the amount of fifty thousand dollars (\$50,000), and an additional one thousand dollars (\$1000) as attorney fees and investigative costs incurred by the Department in pursuing this matter, for a total payment to the Department of fifty one thousand dollars (\$51,000).

22. The Department agrees that if the Respondent timely and fully complies with payment of the sums set forth in paragraph 22 above and the other terms set forth herein, 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.

23. The Respondent acknowledges that it is aware of and understands all findings made by Department examiners that were set forth in the examination reports. The Respondent further acknowledges that should all such findings not be rectified immediately and procedures put in place to correct the activities giving rise to such findings, and should the Department find after the entry of this Consent Order that such findings have continued to occur, the Department may seek additional sanctions against the Respondent.

24. 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 at all times in the future.

25. 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 be a basis to deny any future request by the Respondent for license renewal.

DATED this 13 day of September, 2014.

FLAGSHIP FINANCIAL GROUP LLC

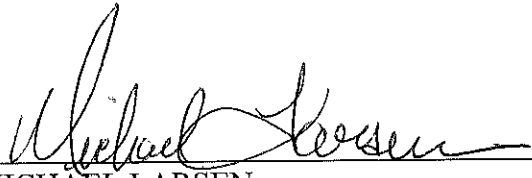
By: 

CEO

Title

DATED this 18th day of September, 2014.

STATE OF IDAHO
DEPARTMENT OF FINANCE

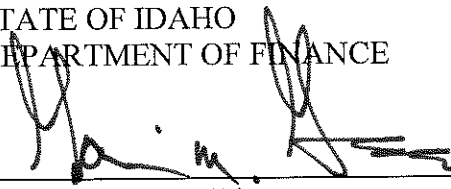

MICHAEL LARSEN
Consumer Finance Bureau Chief

IT IS SO ORDERED.

DATED this 19TH day of SEPTEMBER, 2014.



STATE OF IDAHO
DEPARTMENT OF FINANCE

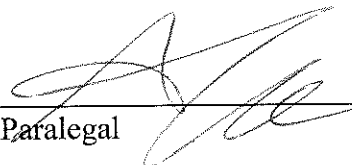

GAVIN M. GEE, Director
Idaho Department of Finance

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19TH day of September, 2014, I caused a true and correct fully-executed copy of the foregoing CONSENT ORDER to be served on the following by the designated means:

Ms. Annette Lowder
Flagship Financial Group LLC
3130 W. Maple Loop Dr., Ste 200
Lehi, UT 84043

- U.S. mail, postage prepaid
- Certified mail
- Facsimile:
- Email:


Paralegal