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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  
and SECURITIES BUREAU,

Complainant,

vs.

BILL ALLEN DBA BILL ALLEN ESCROW,  
ELIZABETH ALLEN, RYAN ALLEN, and  
ALLEN ACCOUNTING GROUP, PLLC, DBA  
BILL ALLEN ESCROW,

Respondents.

Docket No.2019-18-01

**CONSENT ORDER**

The staff of the Idaho Department of Finance has conducted a review of the Idaho regulated financial activities of Bill Allen, Elizabeth Allen, Ryan Allen, and Allen Accounting Group, PLLC (collectively, the “Respondents”). Pursuant to said review, the Director of the Idaho Department of Finance (the “Director”) concludes that Respondents have violated and/or are violating the Idaho Residential Mortgage Practices Act, the Idaho Credit Code, and/or the Idaho Escrow Act. The Director and the Respondents have agreed to resolve this matter through this Consent Order

rather than through a formal administrative proceeding or civil action. Therefore, the Director deems it appropriate and in the public interest that this Consent Order be entered. Respondents consent to the entry of this Consent Order.

### **RESPONDENTS**

1. Bill Allen (“B. Allen”) is a resident of Salmon, Idaho. He has been an actively licensed public accountant in Idaho from 1977 to the present. Idaho Secretary of State records show that on July 5, 2007, he registered an assumed business name for himself as “Allen Accounting” and listed the address for the business as 533 Main Street, Salmon ID 83467. On July 17, 2008, B. Allen filed an amendment to change his assumed business name to “Allen Accounting Group.” That dba remains actively registered with the Idaho Secretary of State.

2. Ryan Allen (“R. Allen”) is a resident of Salmon Idaho and is the son of B. Allen. He has been an actively licensed certified public accountant in Idaho from 2001 to the present.

3. Idaho Secretary of State records show that on December 27, 2013, R. Allen filed the Certificate of Organization for the entity Allen Accounting Group, PLLC, with Ryan Allen and Cori Allen listed as members or managers and with the business address listed as 533 Main Street, Salmon ID 83467. The PLLC (Professional Limited Liability Company) entity Allen Accounting Group PLLC (“AA PLLC”) remains actively registered with the Idaho Secretary of State. The AA PLLC business currently has a website, <https://allenaccounting.net>, and a presence on Facebook at <https://www.facebook.com/AllenAccounting/?ref=bookmarks> and a physical location at 533 Main Street, Salmon, Idaho. The website states that the business provides “Tax Preparation, Accounting, Bookkeeping, Payroll,” and “Since 1973, Allen Accounting Group has been providing tax preparation, bookkeeping, and accounting services.” Through at least 2018, the website also advertised “Escrow Services,” including the heading “Payments Bill Allen Escrow P.O. Box 1227 Salmon Idaho 83467.”

4. Elizabeth Allen (“E. Allen”) is the spouse of B. Allen and mother of R. Allen. E. Allen has been an employee of B. Allen dba Allen Accounting and then dba Allen Accounting Group and is now an employee of AA PLLC.

5. Bill Allen Escrow (“Allen Escrow”) is apparently an unregistered dba for both B. Allen (when he was running the business as a sole proprietorship) and AA PLLC. Documents referring to Bill Allen Escrow date back to at least 2001. It is unclear whether Respondents are still using this dba, as reference to the dba was removed from the business website in 2020.

### FACTS

6. The Department’s investigation arose from a license inquiry by another state regulatory agency.

7. The Department’s investigation identified unlicensed escrow, lending, and lending-related activity dating back several decades.

8. Respondents admit that, at least as far back as the 1990s, they were involved with facilitating private loans. For many of these private loans, one or more of the individual Respondents has been a lender or co-lender for the private loan; for the other loans, B. Allen, R. Allen, and AA PLLC, often acting through their dba Allen Escrow, have acted as the intermediary to facilitate and coordinate the private loan between two third-parties.

9. For example, Respondents have disclosed 177 loans from 1995-2019, totaling \$6,049,483.66 in loan principal (it appears some refinances were left out of this list and incorrectly characterized as loan modifications), where B. Allen, E. Allen, and/or R. Allen was the lender or a co-lender (collectively, the “Allen Loans”). These Allen Loans were as small as a few hundred dollars and as large as \$174,000, with an average loan principal of \$34,177.87 and a median loan principal amount of \$22,389.07. Of the 177 disclosed Allen Loans, more than 67 percent of them

were loans of amounts greater than \$10,000 and more than 24 percent of them were loans of amounts greater than \$50,000.

10. The Allen Loans were apparently used by the various borrowers for many different needs, including many residential home purchases, automobile purchases, debt consolidation, and many unspecified reasons. (A few appear to be commercial loans, but the vast majority seem to be used for consumer spending). As represented by Respondents, the loan maturity terms for the Allen Loans range from years to decades and the (fixed) interest rates range from 5-15%. Most or all the Allen Loans were secured by a deed of trust on the borrower's personal residence (regardless of whether the funds are used for the purchase, construction, or renovation of the residence).

11. The following table shows the number and total principal amounts of the Allen Loans (per Respondents' representations):

	Respondent(s) as lender or co-lender	
	Number of loans	Amount of loan principal
1995-2014	80	\$2,504,724.09
2015	20	\$609,273.67
2016	23	\$602,594.27
2017	24	\$817,688.33
2018	19	\$697,752.37
2019	11	\$817,450.93
<b>Total</b>	<b>177</b>	<b>\$6,049,483.66</b>

12. B. Allen, R. Allen, and/or AA PLLC (through the dba Allen Escrow) have also intermediated and facilitated numerous loans on behalf of third-party lenders and borrowers ("Intermediated Loans"). The Intermediated Loans were also often in large amounts (*e.g.* several hundreds of thousands of dollars), were also for mostly consumer spending purposes, and were also typically secured by a deed of trust on the borrower's residence.

13. Respondents indicate that they have never advertised or marketed to the public regarding their private lending or their role as an intermediary in helping to arrange and facilitate private loans between third parties. Instead, they indicate that these lending opportunities arise through word of mouth and/or by way of their accounting business, with many accounting clients (or their referrals) becoming either lenders or borrowers. Respondents have not given any further explanation regarding how so many private loans have been made by them as the lender or through them as the intermediary.

14. Respondents indicate that they “do not have a loan evaluation or determination process and have never ordered an appraisal, credit report or prepared any underwriting documents.” It is unclear who is providing the legal documents for all of these loan-related transactions, how the terms for the loans are negotiated, or what policies or procedures the Respondents are following related to loan origination, funding, servicing, and/or collecting.

15. A common theme with all the Allen Loans and Intermediated Loans is that B. Allen, R. Allen, and/or AA PLLC (through the dba Allen Escrow) (collectively, “Respondent Servicers”) have acted as the servicer, escrow agent, and or collection arm for the loan.

16. When asked to provide the loan files for these private loans that they have serviced or continue to service, Respondent Servicers provide very limited and simple documents: typically a promissory note, a loan disbursement statement, a deed of trust, a “Loan Data Statement,” etc.

17. Also among these documents provided to the Department are often a “Collection Agreement” and escrow statements with only “Bill Allen Escrow” (an apparent unregistered dba) listed as the party handling the exchanging of documents and funds for the loan and its repayment.

18. Respondent Servicers appear to have been responsible for most or all aspects of the Allen Loans and Intermediated Loans: drafting, signing, distributing, maintaining, and recording of relevant legal documents for the loans; collecting, calculating, and disbursing the initial loan

funds; calculating payment due dates, payment amounts due, late fees, and any other fees due; receiving, applying, and dispersing payments received to pay down the principal, interest, and fees; providing collection letters and taking other collection efforts as needed; helping negotiate modifications, deeds in lieu, or other resolutions of default; and calculating payoff amounts, drafting and recording releases of liens, and exchanging legal documents as needed.

19. Respondents have received various fees at the funding of the loan. Respondent Servicers have received various fees for their servicing/collecting work on these loans.

20. It is unclear how many of the loans have been in default, what fees have been incurred for the default, or how the defaults have been resolved. Respondents have disclosed some loans that have resulted in a modification, a deed in lieu, or foreclosure.

21. The following table shows, based on admissions by Respondents, the number of Allen Loans being serviced/collected by Respondent Servicers as of the end of 2019 (totals for the Intermediated Loans are not included):

	Number of loans originated	Number of remaining active loans
1995 - 2014	80	31
2015	20	10
2016	23	4
2017	24	11
2018	19	11
2019	11	10

22. It is not clear how many new private loans (either Allen Loans or Intermediated Loans) have been originated in 2020 or 2021, how many loans are currently being serviced/collected, or how many loans are currently in default.

## STATUTES AT ISSUE

23. The above described lending activity is regulated by the Idaho Department of Finance, pursuant to three Idaho statutory regimes: the Idaho Residential Mortgage Practices Act (“IRMPA”), for originators, brokers, lenders, and servicers of loans secured by residential properties; the Idaho Credit Code (“ICC”), for other loans; and the Idaho Escrow Act (“IEA”), for escrow activities related to the loans. Respondents have not complied with the licensing or other requirements of any of these three Acts.

### **IRMPA Licensing and Compliance with Regulations X and Z**

24. Residential mortgage loans are defined, in relevant part, as: “any loan that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in section 103(w) of the truth in lending act, located in Idaho, or on residential real estate.” I.C. § 26-31-102(16). Residential real estate is defined, in relevant part, as: “any real property located in Idaho upon which is constructed or intended to be constructed a dwelling as defined in section 103(w) of the truth in lending act.” I.C. § 26-31-102(17). A dwelling is essentially a home or residential structure of one to four units or an individual condominium unit. *See* 15 USC § 1602(w).

25. As an entity existing since 2013, AA PLLC (oftentimes through the dba Allen Escrow) is acting as a “mortgage broker” and engaging in “mortgage brokering activities,” as those terms are defined in the IRMPA. Mortgage brokering activities are defined, in relevant part, as: “for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the preparation of an application for a residential mortgage loan on behalf of a borrower, negotiating or offering to negotiate the terms or conditions of a residential mortgage

loan with any person making residential mortgage loans, or engaging in loan modification activities on behalf of a borrower.” I.C. § 26-31-201(4) & (5).

26. AA PLLC (oftentimes through the dba Allen Escrow) is also acting as a “mortgage lender” and engaging in “mortgage lending activities,” as those terms are defined in the IRMPA. Mortgage lending activities are defined, in relevant part, as: “for compensation or gain or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept applications for residential mortgage loans, or assisting or offering to assist in the preparation of an application for a residential mortgage loan, or servicing a residential mortgage loan on behalf of any person.” I.C. § 26-31-201(6) & (7) (emphasis added). Servicing “means collecting payments of principal, interest, or any other payment obligations required pursuant to the terms of a residential mortgage loan.” I.C. § 26-31-201(8).

27. As individuals, B. Allen, R. Allen, and E. Allen are acting as “mortgage loan originators” in their activities to facilitate, negotiate, and service loans that they personally make or third-parties make, which are then secured by deeds of trust on residential real property. Mortgage loan originators are defined, in relevant part, as: “an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application, or offers or negotiates terms of a residential mortgage loan.” Idaho Code § 26-31-303(7).

28. Pursuant to the IRMPA, all non-exempt mortgage brokers, mortgage lenders and mortgage loan originators are required to be licensed through the Department, consistent with the nationwide licensing and registry of mortgage brokers, mortgage lenders and mortgage loan originators. *See* I.C. § 26-31-203 (“Unlawful Acts”); § 26-31-304 (“Licensing and Registration Required”). Such licensing provides protection for borrowers and their residences, and protection for “Idaho’s economy, the neighborhoods and communities of Idaho, and the housing and real estate industry.” *See* I.C. § 26-31-302.



29. AA PLLC has not been licensed as a mortgage broker and mortgage lender as required; B. Allen, R. Allen, and E. Allen have not been licensed as mortgage loan originators as required. No exemption from the licensure requirements applies.

30. The IRMPA also incorporates the requirements of Regulation X, which is found in the Code of Federal Regulations at 12 CFR Part 1024, the Real Estate Settlement Procedures Act (RESPA). Regulation X mandates that disclosures be made to borrowers in relation to the application and servicing of residential mortgage loans. *See* I.C. § 26-31-205 & -314. In all the Allen Loans and Intermediated Loans, Respondents have not complied with Regulation X.

31. The IRMPA also incorporates the requirements of Regulation Z and the Truth in Lending Act, 12 CFR 1026, which mandates various disclosures related to residential mortgage loans and also requires that the creditor makes a reasonable and good faith determination, at or before consummation, that the consumer will have a reasonable ability to repay the loan according to its terms. *See* I.C. § 26-31-205 & -314. In all the Allen Loans and Intermediated Loans, Respondents have not complied with Regulation Z.

#### **Idaho Credit Code Licensing**

32. Consumer loans not secured by residential real property are regulated under the Idaho Credit Code.

33. The ICC defines a “Regulated loan,” in relevant part as: “a loan made by a creditor regularly engaged in the business of making loans in which the debt is payable in installments or a finance charge is made.” Idaho Code § 28-41-301(39). A person must be licensed with the Department in order to make regulated consumer loans. Idaho Code §§ 28-46-301(1) and 28-46-302(6).

34. Respondents have been engaged in making regulated loans. They are not licensed under the ICC and are not exempt.

## Idaho Escrow Act Licensing

35. “Escrow” is defined, in relevant part, as:

any transaction in which any person, for the purpose of effecting the sale, transfer, encumbrance, or lease of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by that third person until the happening of a specified event or the performance of a prescribed condition, when the instrument, money, evidence of title or thing of value is then to be delivered by the third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agent or employee of any of the latter, pursuant to written instructions.

I.C. § 30-902(4). “Escrow agency” is defined, in relevant part, as: “any person engaged in the business of accepting or receiving escrows for deposit or delivery by any means, including over the internet, or by any other electronic means.” I.C. § 30-902(5). “Person” is defined, in relevant part, as: “an individual, cooperative, association, company, firm, partnership, corporation, limited liability company, or other legal entity, or the plural thereof, whether or not resident, nonresident or citizen.” I.C. § 30-902(9). Any person purporting to engage in or engaging the business of an escrow agency in Idaho, including any escrow transaction effecting the sale, transfer, encumbrance or lease of any real or personal property in Idaho, must be licensed with the Department. *See* I.C. § 30-903.

36. AA PLLC, R. Allen, and B. Allen, oftentimes through the dba Allen Escrow, have been purporting to engage in the business of an escrow agency, particularly escrow activities related to encumbering real property, and are required to be licensed under the IEA. AA PLLC, R. Allen, and B. Allen are not licensed under the IEA and are not exempt (though they would be exempt if they were properly licensed under the IRMPA or ICC). *See* I.C. § 30-905(8) & (10).

37. Respondents incorrectly believed that they were exempt from regulation under the IRMPA, ICC, and IEA for their activities related to the Allen Loans and Intermediated Loans.

## REMEDIES

38. Respondents neither admit nor deny that they have engaged in offering financial services to Idaho consumers for which they were required to have a license.

39. With respect to the mortgage lending activities on-going in the form of servicing/collecting on all outstanding loans, Respondents agree that within three months of the issuance of this Consent Order, they will apply to be licensed with the Department as a mortgage lender under the IRMPA or they will stop their servicing/collecting activities.

40. With respect to mortgage loan origination and brokering activities, Respondents agree that they will not originate any new mortgage loans, either for themselves as lenders or for third party lenders, until they have licensed an entity (with the Department) as a mortgage broker/lender and licensed an individual (with the Department) as a mortgage loan originator under the IRMPA.

41. Respondents agree to not make any further "Regulated Loans" until they are properly licensed with the Department under the ICC.

42. Respondents agree not to use the dba Bill Allen Escrow, not to represent that they engage in escrow activity, and not to engage in escrow activity until they are licensed under the IEA or exempt under the IEA through licensing under the IRMPA or ICC.

43. Respondents acknowledge and understand that this Consent Order is an administrative action that must be disclosed to the Department and other regulatory entities on future licensing and renewal forms. The disclosure requirements of other states may also require disclosure of the Consent Order.

44. Respondents B. Allen, R. Allen, and AA PLLC agree to pay seven thousand three hundred dollars (\$7,300.00) to the Department, pursuant to Idaho Code § 30-913, to fully and finally settle this matter. Said civil penalty is to be paid not later than thirty (30) days from the

date the Director executes this Order. Payment shall be made payable to the "Idaho Department of Finance."

45. Respondents acknowledge and understand that should the Department learn of additional violations by Respondents of the IRMPA, ICC, or IEA, rules promulgated under those statutes, or applicable federal laws and regulations relating to Respondents' financial services offered in Idaho, the Department may pursue further legal action and seek additional remedies.

46. Respondents understand and agree that this Consent Order embodies the entire agreement between the parties. They further understand and agree that there are no express or implied promises, representations, or agreements between the parties other than those expressly set forth or referred to in this Consent Order.

47. Respondents waive their right to notice and opportunity for a hearing on this matter provided under the IRMPA, ICC, or IEA and under the contested case provisions of the Idaho Administrative Procedures Act, I.C. § 67-5240 *et seq.* Respondents further waive their right to seek judicial review of this Consent Order.

DATED this 28<sup>th</sup> day of February, 2022.

  
\_\_\_\_\_  
BILL ALLEN

DATED this 28<sup>th</sup> day of February, 2022.

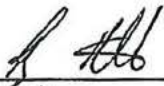
  
\_\_\_\_\_  
ELIZABETH ALLEN

DATED this 25 day of February, 2022.

  
\_\_\_\_\_  
RYAN ALLEN

DATED this 28 day of February, 2022.

ALLEN ACCOUNTING, PLLC,

By:   
\_\_\_\_\_  
Title: Managing Member

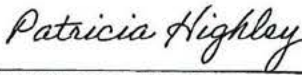
DATED this 1 day of March, 2022.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
\_\_\_\_\_  
ERIN VAN ENGELEN  
Consumer Finance Bureau Chief

DATED this 1st day of March, 2022.

STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
\_\_\_\_\_  
PATRICIA HIGHLEY  
Securities Bureau Chief

IT IS SO ORDERED.

DATED and EFFECTIVE this 3rd day of March, 2022.

STATE OF IDAHO  
DEPARTMENT OF FINANCE



  
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PATRICIA R. PERKINS, Director