
*
IN THE MATTER OF:
*
1ST ALLIANCE LENDING, LLC
NMLS # 2819
*
(“Respondent”)
*
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**NOTICE OF INTENT TO REVOKE
MORTGAGE LENDER LICENSE**

**NOTICE OF INTENT TO ISSUE
ORDER TO CEASE AND DESIST**

**NOTICE OF INTENT TO IMPOSE
CIVIL PENALTY**

AND

NOTICE OF RIGHT TO HEARING

I. LEGAL AUTHORITY AND JURISDICTION

The Banking Commissioner (“Commissioner”) is charged with the administration of Part I of Chapter 668, Sections 36a-485 to 36a-534b, inclusive, of the Connecticut General Statutes, “Mortgage Lenders, Correspondent Lenders, Brokers and Loan Originators”.

Pursuant to the authority granted by Section 36a-17 of the Connecticut General Statutes, as amended by Public Act 18-173, the Commissioner, through the Consumer Credit Division (“Division”) of the Department of Banking (“Department”), has investigated and examined the activities of Respondent to determine if it has violated, is violating or is about to violate the provisions of the Connecticut General Statutes within the jurisdiction of the Commissioner.

Section 36a-17 of the Connecticut General Statutes, as amended, provides, in pertinent part, that:

- (a) The commissioner, in the commissioner’s discretion and as often as the commissioner deems necessary to carry out the purposes of applicable law and the duties of the commissioner, may, subject to the provisions of section 36a-21 and the Freedom of Information Act, as defined in section 1-200: (1) Make, within or outside this state, such public or private investigations or examinations concerning any person subject to the jurisdiction of the commissioner

(d) In addition to any authority provided under this section, the commissioner shall have the authority to conduct investigations and examinations as follows:

(1) For the purposes of issuing, renewing, suspending, conditioning, revoking or terminating any license issued on the system, or for any general or specific inquiry or investigation of persons engaged in a business or activity subject to licensure by the commissioner on the system to determine compliance with applicable law, the commissioner may access, receive and use any records, information or evidence, including, but not limited to: . . . (C) any other records, information or evidence the commissioner deems relevant to the inquiry or investigation, regardless of the location, possession, control or custody of such records, information or evidence.

Subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes provides, in pertinent part, that:

(a) The commissioner may . . . revoke . . . any license issued by the commissioner under any provision of the general statutes by sending a notice to the licensee by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, or by personal delivery, as defined in section 4-166, in accordance with section 36a-52a. The notice shall be deemed received by the licensee on the earlier of the date of actual receipt or seven days after mailing or sending, and the case of a notice sent by electronic mail, the notice shall be deemed received by the licensee in accordance with section 36a-52a. Any such notice such include: (1) A statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the general statutes, regulations, rules or orders involved; (4) a short and plain statement of the matters asserted; and (5) a statement indicating that that the licensee may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice. . . .

(b) If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice unless the licensee fails to appear at the hearing. After the hearing, the commissioner shall . . . revoke . . . the license for any reason set forth in the applicable licensing provisions of the general statutes if the commissioner finds sufficient grounds exist for such suspension, revocation or refusal to renew. If the licensee does not request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner shall suspend, revoke or refuse to renew the license. No such license shall be suspended or revoked except in accordance with the provisions of chapter 54.

Section 36a-52(a) of the 2018 Supplement to the General Statutes provides, in pertinent part, that:

Whenever it appears to the commissioner that any person has violated, is violating or is about to violate any provision of the general statutes within the jurisdiction of the commissioner, . . . the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, unless such person is licensed by the commissioner, in which case the notice may be provided by personal delivery, as defined in section 4-166, in accordance with section 36a-52a. The notice shall be deemed received by the person on the earlier of the date of actual receipt, or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be deemed received by the person in accordance with section 36a-52a. Any such notice shall include: (1) A statement of the time, place, and nature of the hearing; (2) a statement of the legal authority and jurisdiction under which the hearing is to be held; (3) a reference to the particular sections of the general statutes . . . alleged to have been violated; (4) a short and plain statement of the matters asserted; and (5) a statement indicating that such person may file a written request for a hearing on the matters asserted within fourteen days of receipt of the notice. If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice, unless the person fails to appear at the hearing. After the hearing, the commissioner shall determine whether an order to cease and desist should be issued against the person named in the notice. If the person does not request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner shall issue an order to cease and desist against the person. No such order shall be issued except in accordance with the provisions of chapter 54.

Section 36a-50(a) of the 2018 Supplement to the General Statutes provides, in pertinent part, that:

(1) Whenever the commissioner finds as the result of an investigation that any person has violated any provision of the general statutes within the jurisdiction of the commissioner, . . . the commissioner may send a notice to such person by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, unless such person is licensed by the commissioner, in which case the notice may be provided by personal delivery, as defined in section 4-166, in accordance with section 36a-52a. The notice shall be deemed received by the person on the earlier of the date of actual receipt or seven days after mailing or sending, and in the case of a notice sent by electronic mail, the notice shall be deemed received by the person in accordance with section 36a-52a. Any such notice shall include: (A) A statement of the time, place, and nature of the hearing; (B) a statement of the legal authority and jurisdiction under which the hearing is to be held; (C) a reference to the particular sections of the general statutes . . . alleged to have been violated; (D) a short and plain statement of the matters asserted; (E) the maximum penalty that may be imposed for such violation; and (F) a statement indicating that such person may file a

written request for a hearing on the matters asserted not later than fourteen days after receipt of the notice.

(2) If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice unless such person fails to appear at the hearing. After the hearing, if the commissioner finds that the person has violated any such provision, . . . the commissioner may, in the commissioner's discretion and in addition to any other remedy authorized by law, order that a civil penalty not exceeding one hundred thousand dollars per violation be imposed upon such person. If such person does not request a hearing within the time specified in the notice or fails to appear at the hearing, the commissioner may, as the facts require, order that a civil penalty not exceeding one hundred thousand dollars per violation be imposed upon such person.

(3) Each action undertaken by the commissioner under this subsection shall be in accordance with the provisions of chapter 54.

Section 36a-494 of the 2018 Supplement to the General Statutes, as amended by Public Act 18-173,

provides, in pertinent part, that:

(a)(1) The commissioner may . . . revoke . . . any mortgage lender . . . license or take any other action, in accordance with the provisions of section 36a-51, . . . for any reason which would be sufficient grounds for the commissioner to deny an application for such license under sections 36a-485 to 36a-498e, inclusive, . . . 36a-498h, 36a-534a and 36a-534b, . . . or if the commissioner finds that the licensee, any control person of the licensee . . . has done any of the following: . . . (C) violated any of the provisions of this title . . . or any other law or regulation applicable to the conduct of its business . . .

(b) Whenever it appears to the commissioner that (1) any person has violated, is violating or is about to violate any of the provisions of sections 36a-485 to 36a-498e, inclusive, . . . 36a-498h, 36a-534a and 36a-534b, . . . the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52.

II. MATTERS ASSERTED

1. Respondent is a Connecticut limited liability company with a main office at 111 Founders Plaza, Suite 1300, East Hartford, Connecticut, and a branch office at 300 East River Road, Suite #2, East Hartford, Connecticut (Branch ID 1091124).

2. At all times relevant hereto, Respondent has been licensed as a mortgage lender in Connecticut and John DiIorio has been the Chief Executive Officer and Managing Member of Respondent. As a mortgage lender licensed to do business in approximately 46 states, Connecticut represents approximately 7% of Respondent's mortgage loan originations.

3. In December 2008, Respondent entered into a Settlement Agreement with the Commissioner to settle allegations that, from September 2005 to August 2007, it employed or retained at least six originators without registering them, in violation of Sections 36a-486(b) and 36a-511(b) of the Connecticut General Statutes and the 2008 Supplement to the General Statutes. Connecticut replaced mortgage loan originator registration requirements with licensure requirements effective July 1, 2008. (See, Public Acts 07-156 and 08-176.)

4. On July 30, 2008, the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 USC § 5101, *et seq.* (“SAFE Act”), was enacted and required that states, at a minimum, require licensure of individuals who for compensation or gain (1) take residential mortgage loan applications and (2) offer or negotiate terms of residential mortgage loans.

5. With the enactment of Public Act 09-209, Connecticut amended its law to implement the SAFE Act, which was effective July 31, 2009. Connecticut exceeded the minimum requirements for mortgage loan originator licensure set forth in the SAFE Act, defining the term “mortgage loan originator” in pertinent part, as an individual who for compensation or gain “(A) takes a residential mortgage loan application or (B) offers or negotiates terms of a residential mortgage loan”. A mortgage loan originator is required to be licensed in the state where the residential property securing the mortgage loan is located.

Recent Settlements and Regulatory Actions

6. On February 24, 2014, the Consumer Financial Protection Bureau issued a Consent Order against Respondent alleging violations of Section 8 of the Real Estate Settlement Procedures Act, 12 U.S.C. § 2607, and its implementing regulation, Regulation X, 12 C.F.R. § 1024.14, and fined Respondent \$83,000.

7. On July 28, 2015, Respondent entered into a Settlement & Release Agreement with the Federal Deposit Insurance Corporation as Receiver (“FDIC-R”) for AmTrust Bank f/k/a Ohio Savings Bank (“AmTrust”) to settle a complaint filed by the FDIC-R on July 9, 2014 in the United States District Court for the Northern District of Ohio. The complaint alleged that Respondent breached its Master Correspondent Loan Purchase Agreement with AmTrust by failing or refusing to indemnify AmTrust for monetary losses sustained on mortgage loans originated and underwritten by Respondent and acquired by AmTrust for which the underwriting packages prepared by Respondent had misrepresented certain borrower information. The Settlement & Release Agreement required that Respondent make a settlement payment of \$350,000 to the FDIC-R.

8. On May 4, 2016, the New York State Department of Financial Services entered into a Settlement Agreement with Respondent concerning mortgage loan origination activity being conducted from an unlicensed branch location, in violation of Section 591(3) of the New York Banking Law and Section 420.18(a)(3)(v) of the Superintendent’s Regulations, and fined Respondent \$10,000.

9. On March 7, 2017, the Texas Department of Savings & Mortgage Lending (“Texas”) issued an Advisory Letter to Respondent as a result of it closing equity refinance loans in which the loan amounts exceeded 80% of the fair market value, in violation of Tex. Const. art. XVI, § 50(a)(6)(b) and Tex. Fin. Code § 157.024(a)(3), and imposed an administrative fee on Respondent of \$40,000.

10. On September 26, 2018, Texas issued an Advisory Letter to Respondent as a result of evidence of multiple incidents of it using non-compliant loan status letters, in violation of 7 Tex. Admin. Code § 81.201(a) and Tex. Fin. Code § 157.024(a)(14), and imposed an administrative fee on Respondent of \$38,500.

Examination

11. On May 3, 2018, the Commissioner, through the Division, commenced an examination of Respondent, which was supplemented by an investigation. While a routine, unannounced examination had been scheduled for some time, in April 2018, the Division received a whistleblower inquiry from an

employee of Respondent bringing to light concerns regarding potential unlicensed mortgage loan origination activity by Respondent.

12. During the examination and investigation, the Division: reviewed various records of Respondent, including, but not limited to, employee lists, employee job descriptions, mortgage loan files, payroll records and an internal audit report; observed the physical operations of Respondent's mortgage lending operations; interviewed and deposed employees; and listened to calls that had been previously recorded with consumers in Connecticut and other states (collectively, "Examination").

Unlicensed Mortgage Loan Origination

13. The Examination revealed that from at least November 2016 to August 2018, Respondent utilized a "call center" location primarily comprised of individuals who were not licensed as mortgage loan originators in Connecticut, but yet acted as mortgage loan originators in Connecticut by taking mortgage applications, soliciting Connecticut borrowers for residential mortgage loans and offering or negotiating terms of residential mortgage loans.

14. The Examination found that nationwide, Respondent employed a business model by which the bulk of the origination work was performed by unlicensed mortgage loan originators titled "Home Loan Consultants" ("HLC") and "Submission Coordinators" (collectively, "Unlicensed MLOs"). In a typical residential mortgage loan transaction, Unlicensed MLOs made the first contact with a potential borrower by utilizing a leads management system, Velocity, to make outbound calls on purchased leads from lead generators such as Lending Tree, Realtor.com and Zillow. One Unlicensed MLO represented that he made between 200 and 250 outbound calls per day. Unlicensed MLOs also received inbound calls from individuals interested in mortgage loans.

15. Unlicensed MLOs typically discussed borrower situations with the leads, including where they were in the buying process, offering and reviewing requirements of mortgage products, and asking if potential borrowers were interested in getting preapproved or prequalified. When a borrower expressed interest, Unlicensed MLOs would proceed to take an application, thereby triggering mortgage loan

originator licensure requirements. Unlicensed MLOs obtained the following information about the borrower, including but not limited to:

- Name and address
- Date of birth
- Social Security number
- Marital status, dependents and coborrowers
- Employment history
- Income
- Expenses, including rental payments
- Assets
- Liabilities
- City, Zip Code or Actual property address of subject property

After obtaining the potential borrower's verbal authorization, Unlicensed MLOs pulled the borrower's credit report to obtain the borrower's credit score, calculated debt-to-income ratios and confirmed trade lines. Unlicensed MLOs often would require additional supporting documentation at this point in time to support the mortgage loan application, such as bank statements, tax returns and paystubs to evidence assets and income. All information obtained by the Unlicensed MLOs was entered into a purchase inquiry screen in the software system Byte.

16. Unlicensed MLOs also triggered mortgage loan originator licensure requirements by offering or negotiating terms of a mortgage loan. In particular, Unlicensed MLOs discussed the available products offered by Respondent, primarily FHA and USDA mortgage loans, and, based on the information obtained from the borrower, made an initial determination as to the product and down payment amount for which the potential borrower would qualify. Unlicensed MLOs performed origination activities indiscriminately without distinction based on the state where the property or potential borrower was located.

17. The activity, as more fully described in paragraphs 15 and 16 above, constitutes taking an application and offering or negotiating terms of a residential mortgage loan both under state law and the SAFE Act. Regulation H, 12 CFR Part 1008, which implements the SAFE Act, provides, in pertinent part, that:

Application means a request, in any form, for an offer (or a response to a solicitation of an offer) of residential mortgage loan terms, and the information about the borrower or prospective borrower that is customary or necessary in a decision on whether to make such an offer.

(12 CFR § 1008.23.)

* * * * *

(1) An individual “takes a residential mortgage loan application” if the individual receives a residential mortgage loan application for the purpose of facilitating a decision whether to extend an offer of residential mortgage loan terms to a borrower or prospective borrower . . . whether the application is received directly or indirectly from the borrower or prospective borrower.

(2) An individual “offers or negotiates terms of a residential mortgage loan for compensation or gain” if the individual:

(i)(A) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms;

(B) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms; or

(C) Recommends, refers, or steers a borrower or prospective borrower to a particular lender or set of residential mortgage loan terms, in accordance with a duty to or incentive from any person other than the borrower or prospective borrower; and

(ii) Receives or expects to receive payment of money or anything of value in connection with the activities described in paragraph (c)(2)(i) of this section or as result of any residential mortgage loan terms entered into as a result of such activities.

(12 CFR § 1008.103(c).)

18. The Examination found that once an Unlicensed MLO deemed a potential borrower qualified for one of the loan products from the information he or she gathered, the Unlicensed MLO would then mark the record ready to be sent to a licensed mortgage loan originator for the issuance of a prequalification letter. The letter would be signed by a licensed mortgage loan originator, but usually would be transmitted by an Unlicensed MLO. As one licensed mortgage loan originator stated during a deposition:

Q: So when you generate those pre-qualification letters do you generally talk to a consumer prior to issuing a pre-qual letter?

A: Not unless they have questions in regards to interest rates and terms . . .

Q: Right. So you generate the pre-qual letter based on the information you can obtain from Byte?

A: Correct . . .

Q: So basically based on information that you would get in Byte from the home loan consultant, assets, income, credit score, you could most likely quote a rate back to a borrower?

A: Yes.

19. The SAFE Act further clarifies through Appendix A to Regulation H that an individual takes an application even if the individual:

- (B) Is not responsible for verifying information . . . ;
- (C) Only inputs the information into an online application or other automated system; or
- (D) Is not involved in approval of the loan, including determining whether the consumer qualifies for the loan. . . .

20. Alternatively, if the information contained in the potential borrower's credit report and communicated to the Unlicensed MLO indicated that the potential borrower would not be eligible for any of Respondent's products, the Unlicensed MLO would communicate what he or she considered a "disqualification at inquiry" to the potential borrower and encourage him or her to inquire back in the near future. Recorded calls indicate that at times Unlicensed MLOs "disqualified" potential borrowers over the telephone based on credit score or debt-to-income ratios without issuing adverse action notices.

21. In particular, the Fair Credit Reporting Act requires adverse action notices be provided whenever "any person takes any adverse action with respect to any consumer that is based in whole or in part on any information contained in a consumer report", and defines "adverse action" by referencing the term in the Equal Credit Opportunity Act, which states that "adverse action" means "a denial or revocation of credit, a change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested." 15 USC Section 1691(d)(6).

22. Certain other unlicensed individuals took applications and offered or negotiated terms of residential mortgage loan refinance products. For example, in May 2018, a Servicing Streamline Home Loan Consultant ("SSHLC") solicited an existing Connecticut borrower for an FHA Streamline Refinance product, stating that the borrower's good payment history qualified her for the FHA Streamline Refinance

product, which would lower her interest rate. After verifying the property address and asking if the property was in good condition, the SSHLC proceeded to inform the Connecticut borrower of the additional documentation that would be needed, the estimated amount of cash to close and which future monthly payment would be cancelled.

23. The Examination also found that Unlicensed MLOs discussed ranges of interest rates offered by Respondent, counseled borrowers on steps that could be taken to improve credit scores, communicated application denials to potential borrowers and, in certain instances, were listed as the primary contact for further information on denial notices issued after the underwriting process, since, in the words of a deposed HLC, HLCs maintained the “relationships” with the potential borrowers.

The 1003

24. Information entered into Byte by Unlicensed MLOs was also used to complete the physical form of a mortgage loan application, the Uniform Residential Loan Application, Form 1003 (“1003”). While neither state law nor the SAFE Act reference a 1003, Respondent has stated to the Department that “anyone who takes all of the information contained in a 1003 is ‘taking an application’ and must be licensed.”

25. Respondent has consistently conveyed the position that its Unlicensed MLOs do not obtain the subject property address and, therefore, are not “taking an application” under state law or the SAFE Act. In fact, the first bullet point of the job description created by Respondent for HLCs states: “Obtain all applicable information to complete 1003 (no property information or final loan amount)”. However, depositions and recorded telephone calls reveal that often Unlicensed MLOs obtain the complete property addresses. In fact, when questioned, several deposed employees stated that since there is not a field in Byte to enter the property address, HLCs enter the information in the notes section.

26. In addition, during depositions, employees of Respondent admitted that all the information in 1003s is taken by Unlicensed MLOs. As admitted by a licensed mortgage loan originator:

Q: What is your understanding of what constitutes taking a mortgage application?

A: Well, it's going through the uniform residential loan application with the borrower, all pieces, . . . income, assets, liabilities, the declarations questions, borrower information, . . . to have a complete 1003. . . .

Q: . . . So would the information that was gathered by the HLC, not necessarily what was inputted into the 1003, but the information that was gathered by the HLC, is that most, if not all of the information that's required by the 1003?

A: Yes. . . .

Q: . . . [J]ust the information piece of it that would go into the 1003, that's gathered by the HLC, would that information . . . have the ability to complete the information on the 1003?

A: Yes.

Failure to Establish a System of Supervision and Compliance

27. Prior to January 2018, the unlicensed mortgage loan originators were called Submission Coordinators. Guidance issued by Respondent indicated that it was acceptable for the Submission Coordinators to:

Provide general descriptions of loan products, lending policies, and product-related services . . . ;

Verify information by obtaining documentation, such as tax returns or payroll receipts;

Request authorization **to pull credit**; . . .

Confirm trade lines on credit for debt-to-income ratio **without analyzing or evaluating credit**. . . .

Clarify and explain qualifications or criteria necessary to obtain a loan product;

- “*In order to qualify for an FHA loan with 3.5% down, you would need to have a median credit score of 580 or more. If you have less than 580, we may be able to still work with you, however, that product requires a 10% down payment.*”

Collect basic information about a consumer in order to provide the consumer with information on loan products for which they generally may qualify using the Purchase Inquiry Screen, **without presenting a specific loan offer to the consumer for acceptance, either verbally or in writing** . . .

(Emphasis in original.)

28. As an FHA lender, Respondent is required to annually complete a certification that states:

I certify that, to the best of my knowledge and after conducting a reasonable investigation, during the Certification Period, neither the Mortgagee nor any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator employed by or under contract with the Mortgagee:

(e) Was in violation of provisions of the Secure and Fair Enforcement (SAFE) Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or its equivalent under state law, including all Nationwide Multistate Licensing System and Registry requirements.

29. In approximately October 2017, Respondent's compliance personnel informed its management in writing that the conduct of its Submission Coordinators may constitute unlicensed mortgage loan origination activity under the SAFE Act. In response, Respondent allegedly provided training to its staff on the SAFE Act and changed its business practices effective January 2018. Nonetheless, deposed HLCs and licensed mortgage loan originators had little to no memory of the training nor knowledge of the SAFE Act, and such unlicensed mortgage loan origination activity in Connecticut continued through at least August 2018.

30. The new process flow created by Respondent effective January 2018 still encouraged unlicensed individuals, now called Home Loan Consultants, to engage in unlicensed mortgage origination activity by discussing loan products and terms with potential borrowers, pulling credit and obtaining income, assets, liabilities and letters of explanation prior to files being assigned to a licensed mortgage loan originator. For example, the job description of Home Loan Consultants created by Respondent lists the major responsibilities to include, but not be limited to: Obtaining letters of explanation for credit related issues, calculating income per documents received, determining eligibility and documents as needed, ensuring borrower documents provided are sufficient for initial review, and delivering high quality prequalifications to the Business Development team.

31. Respondent failed to establish and maintain policies and procedures reasonably designed to achieve compliance with federal and state laws and often tasked nonqualified individuals with the responsibility of supervision. For example, one HLC, RB, was responsible for supervising at least three

Unlicensed MLOs. During one call made by RB to a potential borrower in May 2018, when the potential borrower raised an issue brought up by her realtor that RB was not licensed in Colorado, RB brushed off the realtor's knowledge of mortgage loan origination requirements and responded that Respondent was licensed in Colorado, implying that such licensure was sufficient. RB proceeded to inform the potential borrower that he was going to email her his cell phone number so that he could be reached whenever necessary.

32. The Examination also revealed apparent confusion concerning Respondent's supervisory structure. For example, on October 24, 2018, the Department deposed David R:

Q: [W]hat's your title there?
A: Vice president of production.
Q: And if you could briefly describe your responsibilities in such a position.
A: Managing the mortgage loan originators.

33. On October 25, 2018, during a deposition of another employee, the Department inquired:

Q: . . . And who is the team lead for the loan officers?
A: Steven C[] . . .
Q: What does David R[] do now?
A: He heads up our Realtor relationship department. . . .

34. Also on October 25, 2018, the Department deposed Steven C:

Q: Who supervises your work?
A: Well, I report to the senior vice president of sales. . . .
Q: Okay. So what does she do to supervise you?
A: That I can't answer specifically because it's – she's newly my supervisor.
Q: Since when?
A: About a month ago, I would say. . . .
Q: So she oversees the mortgage loan originators and the home loan consultants?
A: Yes. . . .
Q: Is she also a mortgage loan originator?
A: She is not.

35. Respondent fostered an environment in which Unlicensed MLOs competed amongst each other for high volume of loan originations and were incentivized to close loans, receiving significant commissions upon consummation of residential mortgage loans. One Unlicensed MLO touted he "Closed 8.7 Million for 2017" on his LinkedIn page. Moreover, Respondent turned the typical

compensation model for mortgage loan originators on its head, paying Unlicensed MLOs according to a commission structure usually reserved for licensed mortgage loan originators. Unlicensed MLOs were commissioned according to a tiered basis point structure based on dollar volume of loans closed, making thousands of dollars per month in commissions on closed loans, while licensed mortgage loan originators received a small flat fee per closed mortgage loan.

36. As of the May 3, 2018 examination, Respondent employed over 50 unlicensed mortgage loan originators as Home Loan Consultants and only 11 individuals as licensed mortgage loan originators nationwide for the 46 states in which it was licensed to conduct mortgage lending business. Of the 11 individuals, only 8 individuals had closed residential mortgage loans in Connecticut in the prior quarter, and 5 of such individuals averaged between 80 and 102 closed mortgage loans nationwide for the prior quarter, or approximately one loan per day, well in excess of industry norms. For example, one survey reported an average of 8.5 closed loans per month per originator for consumer direct originations in 2017. *See Stratmor Insights*, Vol. 3, Issue 4 April 2018, www.stratmorgroup.com.

Failure to Cooperate and Provide Access to Records

37. On September 19, 2018, the Division requested that, no later than September 26, 2018, Respondent provide, among other items: (1) copies of any and all communications made to employees laid off or otherwise terminated in September 2018 informing them of cessation of employment, and (2) certain e-mail records of 10 identified employees.

38. With respect to the first request, by e-mail dated September 26, 2018, Respondent stated that “the terminations were conducted in person” and failed to provide to the Division any communications to employees. In fact, by letter dated October 5, 2018, the Director of Human Resources stated to the Commissioner that, “[t]o my knowledge, no employees were informed of their termination in writing”. However, contrary to the Director’s representation, upon termination, employees received a copy of an “Employee Termination Form” that the employee signed, which stated Respondent’s reason for termination, among other items.

39. Respondent also failed to provide a single e-mail record for the 10 employees requested even after the Division's repeated requests and numerous attempts to facilitate their production. By e-mail dated September 27, 2018, the Division established a new rolling production schedule for the email records, allowing selections of e-mails to be produced by October 5, October 12, October 19 and October 26, 2018.

40. On October 12, 2018, after still not receiving any requested emails, the Division reiterated its request and issued a subpoena to Respondent for the e-mail records which required production of the records no later than October 26, 2018. Despite the Department's numerous attempts, Respondent failed to produce any e-mails.

41. On November 6, 2018, the Department provided Respondent an opportunity to show compliance for the retention of its mortgage lender license in Connecticut pursuant to Section 4-182(c) of the Connecticut General Statutes. On November 20, 2018, Respondent provided a response to the Department's compliance letter and copies of Employee Termination Forms for approximately 35 employees. However, such response failed to include one single e-mail record for the 10 employees requested, as more fully described in paragraph 40 above. The Division carefully reviewed and considered such response.

III. STATUTORY BASIS FOR ORDER TO REVOKE MORTGAGE LENDER LICENSE, ORDER TO CEASE AND DESIST AND IMPOSITION OF CIVIL PENALTY

Section 36a-17(e) of the Connecticut General Statutes, as amended, provides, in pertinent part, that:

Any person who is the subject of any inquiry, investigation, examination or proceeding pursuant to this section shall (1) make its records available to the commissioner in readable form; (2) provide personnel and equipment necessary, including, but not limited to, assistance in the analysis of computer-generated records; (3) provide copies or computer printouts of records when so requested; (4) make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section, including accounting compilations, information lists and dates of transactions in a format prescribed by the commissioner or such other information as the commissioner deems necessary to carry out the purposes of this section; (5) furnish unrestricted access to all areas of its principal place of business or

wherever records may be located; and (6) otherwise cooperate with the commissioner.

Section 36a-486(b)(1) of the Connecticut General Statutes and Section 36a-486(b)(1) of the 2018 Supplement to the General Statutes provide, in pertinent part, that:

No person licensed as a mortgage lender . . . shall engage the services of a mortgage loan originator or of a loan processor or underwriter required to be licensed under this section unless such mortgage loan originator or loan processor or underwriter is licensed under section 36a-489.

Section 36a-496 of the Connecticut General Statutes states, in pertinent part, that:

No person engaged in the business of making residential mortgage loans in this state, whether licensed in accordance with the provisions of sections 36a-485 to 36a-498a, inclusive, or exempt from licensing, shall accept applications or referral of applicants from, or pay a fee to, any . . . mortgage loan originator who is required to be licensed under said sections but was not, as of the time of the performance of such . . . mortgage loan originator's services in connection with loans made or to be made by the mortgage lender . . . licensed to act as such by the commissioner, if the mortgage lender . . . has actual knowledge that the . . . mortgage loan originator was not licensed by the commissioner.

Section 36a-498e of the Connecticut General Statutes provided, in pertinent part, that:

No person or individual who is required to be licensed and who is subject to sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b may: . . .

(6) . . . [A]ssist or aide and abet any person in the conduct of business as a . . . mortgage loan originator . . . without a valid license as required under said sections; . . .

(8) Fail to comply with sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b or rules or regulations adopted under said sections or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections;

Prior to July 1, 2018, Section 36a-498e of the 2018 Supplement to the General Statutes provided, in pertinent part, that:

No person who is required to be licensed and who is subject to sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b may: . . .

(6) . . . [A]ssist or aid and abet any person in the conduct of business as a . . . mortgage loan originator . . . without a valid license as required under said sections; . . .

(8) Fail to comply with sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b or rules or regulations adopted under said sections or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections

On and after July 1, 2018, Section 36a-498e of the 2018 Supplement General Statutes, as amended by Public Acts 17-233 and 17-236, provides, in pertinent part, that:

(a) No person who is required to be licensed and who is subject to sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b, may, directly or indirectly: . . .

(6) . . . [A]ssist or aide and abet any person in the conduct of business as a . . . mortgage loan originator . . . without a valid license as required under said sections; . . .

(8) Fail to comply with sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b or rules or regulations adopted under said sections or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections

(b)(1) No person, other than an individual, who is required to be licensed and is subject to sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b, . . . shall fail to establish, enforce and maintain policies and procedures reasonably designed to achieve compliance with subsection (a) of this section. . . .

(3) No violation of this subsection shall be found unless the failure to establish, enforce and maintain policies and procedures resulted in conduct in violation of sections 36a-485 to 36a-498f, inclusive, 36a-498h, 36a-534a to 36a-534b, inclusive, or rules or regulations adopted under said sections or any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections.

On and after October 1, 2018, Section 36a-498e of the 2018 Supplement General Statutes, as amended by Public Acts 17-233, 17-236 and 18-173, provides, in pertinent part, that:

(a) No person who is required to be licensed and who is subject to sections 36a-485 to 36a-498e, inclusive, . . . 36a-534a and 36a-534b, . . . may, directly or indirectly: . . .

(6) . . . [A]ssist or aid and abet any person in the conduct of business as a . . . mortgage loan originator . . . without a valid license as required under said sections; . . .

(8) Fail to comply with sections 36a-485 to 36a-498e, inclusive, . . . 36a-498h, 36a-534a and 36a-534b . . . or rules or regulations adopted under said sections or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections

(b)(1) No person, other than an individual, who is required to be licensed and is subject to sections 36a-485 to 36a-498h, inclusive, . . . 36a-534a and 36a-534b, . . . shall fail to establish, enforce and maintain policies and procedures reasonably designed to achieve compliance with subsection (a) of this section

(3) No violation of this subsection shall be found unless the failure to establish, enforce and maintain policies and procedures resulted in conduct in violation of sections 36a-485 to 36a-498e, inclusive, . . . 36a-498h, 36a-534a and 36a-534b, inclusive, . . . or rules or regulations adopted under said sections or any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under said sections.

Section 36a-489 of the 2018 Supplement to the General Statutes, as amended by Public Act 18-173, provides, in pertinent part, that:

(a)(1) The commissioner shall not issue an initial license for a mortgage lender . . . unless the commissioner, at a minimum, finds that: . . . (C) the applicant demonstrates that the financial responsibility, character and general fitness of the applicant, the control persons of the applicant . . . are such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly and efficiently within the purposes of sections 36a-485 to 36a-498e, inclusive, . . . 36a-498h, 36a-534a and 36a-534b If the commissioner fails to make such findings, the commissioner shall not issue a license, and shall notify the applicant of the denial and the reasons for such denial.

1. Respondent engaged the services of at least five individuals to act as mortgage loan originators who were not licensed, as more fully described in paragraphs 13 through 31, inclusive, 35 and 36 of the Matters Asserted, in violation of Section 36a-486(b)(1) of the Connecticut General Statutes and the 2018 Supplement to the General Statutes. Such violations constitute sufficient grounds to revoke Respondent's mortgage lender license pursuant to Section 36a-494(a)(1)(C) of the Connecticut General Statutes, as amended, and subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes, and form the basis to issue an order to cease and desist pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-52(a) of the 2018 Supplement to the General Statutes, and

to impose a civil penalty pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-50(a) of the 2018 Supplement to the General Statutes. Section 36a-50(a) of the 2018 Supplement to the General Statutes authorizes the Commissioner to impose a civil penalty upon Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.

2. Respondent assisted or aided and abetted the conduct of at least five individuals acting as mortgage loan originators who were not licensed, as more fully described in paragraphs 13 through 31, inclusive, 35 and 36 of the Matters Asserted, in violation of Section 36a-498e(6) of the Connecticut General Statutes and the 2018 Supplement to the General Statutes and Section 36a-498e(a)(6) of the 2018 Supplement to the General Statutes, as amended by Public Acts 17-233 and 17-236. Such violations constitute sufficient grounds to revoke Respondent's mortgage lender license pursuant to Section 36a-494(a)(1)(C) of the Connecticut General Statutes, as amended, and subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes, and form the basis to issue an order to cease and desist pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-52(a) of the 2018 Supplement to the General Statutes, and to impose a civil penalty pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-50(a) of the 2018 Supplement to the General Statutes. Section 36a-50(a) of the 2018 Supplement to the General Statutes authorizes the Commissioner to impose a civil penalty upon Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.

3. Respondent accepted applications or referrals of applicants from, or paid fees to, at least five mortgage loan originators who were required to be licensed but were not licensed, as more fully described in paragraphs 13 through 31, inclusive, 35 and 36 of the Matters Asserted, in violation of Section 36a-496 of the Connecticut General Statutes. Such violations constitute sufficient grounds to revoke Respondent's mortgage lender license pursuant to Section 36a-494(a)(1)(C) of the Connecticut General Statutes, as amended, and subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes, and form the basis to issue an order to cease and desist pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-52(a) of the 2018 Supplement to the General Statutes, and

to impose a civil penalty pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-50(a) of the 2018 Supplement to the General Statutes. Section 36a-50(a) of the 2018 Supplement to the General Statutes authorizes the Commissioner to impose a civil penalty upon Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.

4. Respondent failed to comply with Sections 36a-485 to 36a-498f, inclusive, 36a-498h, 36a-534a and 36a-534b of the Connecticut General Statutes or other state or federal law applicable to its business, as more fully described in paragraphs 13 through 41, inclusive, of the Matters Asserted, in violation of Section 36a-498e(8) of the Connecticut General Statutes and the 2018 Supplement to the General Statutes and Section 36a-498e(a)(8) of the 2018 Supplement to the General Statutes, as amended by Public Acts 17-233, 17-236 and 18-173. Such violations constitute sufficient grounds to revoke Respondent's mortgage lender license pursuant to Section 36a-494(a)(1)(C) of the Connecticut General Statutes, as amended, and subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes, and form the basis to issue an order to cease and desist pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-52(a) of the 2018 Supplement to the General Statutes, and to impose a civil penalty pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-50(a) of the 2018 Supplement to the General Statutes. Section 36a-50(a) of the 2018 Supplement to the General Statutes authorizes the Commissioner to impose a civil penalty upon Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.

5. Respondent failed to establish, enforce and maintain policies and procedures reasonably designed to achieve compliance with Section 36a-498e(a) of the 2018 Supplement to the General Statutes, as amended, as more fully described in paragraphs 13 through 41, inclusive, of the Matters Asserted, in violation of Section 36a-498e(b)(1) of the 2018 Supplement to the General Statutes, as amended by Public Acts 17-233, 17-236 and 18-173. Such violations constitute sufficient grounds to revoke Respondent's mortgage lender license pursuant to Section 36a-494(a)(1)(C) of the Connecticut General Statutes, as amended, and subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes, and forms the basis to issue an order to cease and desist pursuant to Section 36a-494(b)

of the Connecticut General Statutes, as amended, and Section 36a-52(a) of the 2018 Supplement to the General Statutes, and to impose a civil penalty pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-50(a) of the 2018 Supplement to the General Statutes. Section 36a-50(a) of the 2018 Supplement to the General Statutes authorizes the Commissioner to impose a civil penalty upon Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.

6. Respondent failed to make records available and cooperate with the Division's Examination, as more fully described in paragraphs 37 through 41, inclusive, of the Matters Asserted, in violation of Section 36a-17(e) of the Connecticut General Statutes, as amended. Such violations constitute sufficient grounds to revoke Respondent's mortgage lender license pursuant to Section 36a-494(a)(1)(C) of the Connecticut General Statutes, as amended, and subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes, and form the basis to issue an order to cease and desist pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-52(a) of the 2018 Supplement to the General Statutes, and to impose a civil penalty pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-50(a) of the 2018 Supplement to the General Statutes. Section 36a-50(a) of the 2018 Supplement to the General Statutes authorizes the Commissioner to impose a civil penalty upon Respondent in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation.

7. The conduct of Respondent, as more fully described in paragraphs 1 through 41, inclusive, of the Matters Asserted fails to demonstrate that the financial responsibility, character and general fitness of the applicant are such as to command the confidence of the community and to warrant a determination that Respondent will operate honestly, fairly and efficiently within the purposes of Sections 36a-485 to 36a-498e, inclusive, 36a-498h, 36a-534a and 36a-534b, as required by Section 36a-489(a)(1)(C) of the 2018 Supplement to the General Statutes, as amended. Such failure constitutes sufficient grounds to deny an application for a mortgage lender license and, in turn, constitutes sufficient grounds to revoke Respondent's mortgage lender license pursuant to Section 36a-494(a)(1) of the Connecticut General

Statutes, as amended, and subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes.

IV. NOTICE OF INTENT TO REVOKE MORTGAGE LENDER LICENSE, NOTICE OF INTENT TO ISSUE ORDER TO CEASE AND DESIST, NOTICE OF INTENT TO IMPOSE CIVIL PENALTY AND NOTICE OF RIGHT TO HEARING

WHEREAS, the Commissioner has reason to believe that Respondent has engaged in acts or conduct which constitutes sufficient grounds for the Commissioner to issue an order to revoke Respondent's mortgage lender license in Connecticut pursuant to Sections 36a-494(a)(1) and 36a-494(a)(C) of the Connecticut General Statutes, as amended, and subsections (a) and (b) of Section 36a-51 of the 2018 Supplement to the General Statutes, and forms a basis to issue an order to cease and desist against Respondent pursuant to Section 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-52(a) of the 2018 Supplement to the General Statutes and to impose a civil penalty upon Respondent pursuant to Sections 36a-494(b) of the Connecticut General Statutes, as amended, and Section 36a-50(a) of the 2018 Supplement to the General Statutes.

NOW THEREFORE, notice is hereby given to Respondent that the Commissioner intends to **REVOKE** Respondent's mortgage lender license in Connecticut, issue an order requiring Respondent to **CEASE AND DESIST** from violating Section 36a-486(b)(1) of the Connecticut General Statutes and the 2018 Supplement to the General Statutes, Section 36a-496 of the Connecticut General Statutes, Section 36a-498e(6) of the Connecticut General Statutes and the 2018 Supplement to the General Statutes, Section 36a-498e(a)(6) of the 2018 Supplement to the General Statutes, as amended, Section 36a-498e(8) of the Connecticut General Statutes and the 2018 Supplement to the General Statutes, Section 36a-498e(a)(8) of the 2018 Supplement to the General Statutes, as amended, Section 36a-498e(b)(1) of the 2018 Supplement to the General Statutes, as amended, and Section 36a-17(e) of the Connecticut General Statutes, as amended, and impose a **CIVIL PENALTY** upon Respondent as set forth herein, subject to Respondent's right to a hearing on the allegations set forth above.

A hearing will be granted to Respondent if a written request for a hearing is received by the Department of Banking, Consumer Credit Division, 260 Constitution Plaza, Hartford, Connecticut 06103-1800 within fourteen (14) days following Respondent's receipt of this Notice of Intent to Revoke Mortgage Lender License, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing as set forth in subsections (a) and (b) of Section 36a-51 and Sections 36a-52(a) and 36a-50(a) of the 2018 Supplement to the General Statutes. This Notice of Intent to Revoke Mortgage Lender License, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing shall be deemed received on the earlier of the date of actual receipt, or seven days after mailing or sending. To request a hearing, complete and return the enclosed Appearance and Request for Hearing Form to the above address. If Respondent will not be represented by an attorney at the hearing, please complete the Appearance and Request for Hearing Form as "pro se". Once a written request for a hearing is received, the Commissioner may issue a notification of hearing and designation of hearing officer that acknowledges receipt of a request for a hearing, designates a hearing officer and sets the date of the hearing in accordance with Section 4-177 of the Connecticut General Statutes and Section 36a-1-21 of the Regulations of Connecticut State Agencies. If a hearing is requested, the hearing will be held on February 7, 2019, at 10 a.m., at the Department of Banking, 260 Constitution Plaza, Hartford, Connecticut.

If a hearing is requested, it will be held in accordance with the provisions of Chapter 54 of the Connecticut General Statutes, unless Respondent fails to appear at the requested hearing. At such hearing, Respondent will have the right to appear and present evidence, rebuttal evidence and argument on all issues of fact and law to be considered by the Commissioner.

If Respondent does not request a hearing within the time period prescribed or fails to appear at any such hearing, the allegations herein will be deemed admitted. Accordingly, the Commissioner will issue an order revoking Respondent's mortgage lender license and an order that Respondent cease and desist from violating Section 36a-486(b)(1) of the Connecticut General Statutes and the 2018 Supplement to the General Statutes, Section 36a-496 of the Connecticut General Statutes, Section 36a-498e(6) of the

Connecticut General Statutes and the 2018 Supplement to the General Statutes, Section 36a-498e(a)(6) of the 2018 Supplement to the General Statutes, as amended, Section 36a-498e(8) of the Connecticut General Statutes and the 2018 Supplement to the General Statutes, Section 36a-498e(a)(8) of the 2018 Supplement to the General Statutes, as amended, Section 36a-498e(b)(1) of the 2018 Supplement to the General Statutes, as amended, and Section 36a-17(e) of the Connecticut General Statutes, as amended, and may order a civil penalty in an amount not to exceed One Hundred Thousand Dollars (\$100,000) per violation be imposed upon Respondent.

So ordered at Hartford, Connecticut
this 5th day of December 2018.

/s/
Jorge L. Perez
Banking Commissioner

CERTIFICATION

I hereby certify that on this 5th day of December 2018, I transmitted the foregoing Notice of Intent to Revoke Mortgage Lender License, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing to 1st Alliance Lending, LLC, to Brian Massey, Compliance Manager, who is designated as the primary contact in the contact employee fields on the Nationwide Multistate Licensing System and Registry, at the electronic mail address provided therein; and by electronic mail to Ross Garber, Esq., The Garber Group LLC at rgarber@thegarbergroup.com.

/s/

Tina M. Daigle
Paralegal