IN THE MATTER OF:	
1st ALLIANCE LENDING, LLC	**FINDINGS OF FACT,**
NMLS # 2819	**CONCLUSIONS OF LAW AND**
("Respondent")	**ORDER**

INTRODUCTION

The Amended and Restated Notice of Intent to Revoke Mortgage Lender License, Notice of Intent to Issue Order to Cease and Desist and Notice of Intent to Impose Civil Penalty

This case focuses on whether sufficient evidence exists to support the Banking Commissioner's July 15, 2019 Amended and Restated Notice of Intent to Revoke Mortgage Lender License, Amended and Restated Notice of Intent to Issue Order to Cease and Desist and Amended and Restated Notice of Intent to Impose Civil Penalty (the "Amended Notice") issued against Respondent. The Amended Notice superseded a December 5, 2018 Notice of Intent to Revoke Mortgage Lender License, Notice of Intent to Issue Order to Cease and Desist and Notice of Intent to Fine (the "Original Notice").

Authority

The Amended Notice stated that it was issued by the Banking Commissioner pursuant to the authority granted to him under Sections 36a-494, 36a-50(a), subsections (a) and (b) of Section 36a-51 and Section 36a-52(a) of the Connecticut General Statutes as well as Section 36a-1-22 of the Regulations of Connecticut State Agencies.

Allegations in the Amended Notice

The Amended Notice alleged that:

1) Respondent engaged the services of unlicensed mortgage loan originators in violation of 12 CFR Section 1026.36(f)(2), and Sections 36a-486(b)(1) and 36a-678(a) of the Connecticut General Statutes;
2) Respondent assisted or aided and abetted the conduct of individuals acting as unlicensed mortgage loan originators in violation of Sections 36a-498e(6) and 36a-498e(a)(6) of the Connecticut General Statutes;
3) Respondent accepted applications or referrals of applicants from, or paid fees to unlicensed mortgage loan originators in violation of Section 36a-496 of the Connecticut General Statutes;
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 in violation of Sections 36a-498e(8) and 36a-498e(a)(8) of the Connecticut General Statutes;
5) Respondent failed to establish, enforce and maintain policies and procedures reasonably designed to achieve compliance with Section 36a-498e(a) of the Connecticut General Statutes in violation of Section 36a-498e(b)(1) of the Connecticut General Statutes;
6) Respondent failed to make records available and cooperate with the Consumer Credit Division's examination in violation of Section 36a-17(e) of the Connecticut General Statutes;
7) Respondent failed to provide Connecticut applicants with the adverse action notices required by the Fair Credit Reporting Act in violation of 15 USC Section 1681m(a);
8) Respondent required that Connecticut applicants submit documents verifying information related to the application before providing Loan Estimates in violation of 12 CFR Section 1026.19(e)(2)(iii) and Section 36a-678(a) of the Connecticut General Statutes;
9) Respondent failed to identify unlicensed mortgage loan originators on the respective loan documents even though such individuals had primary responsibility for origination in violation of 12 CFR Section 1026.36(g)(1)(ii) and Section 36a-678(a) of the Connecticut General Statutes;
10) Respondent made untrue statements of material fact or omitted to state a material fact necessary to make the statements not misleading or engaged in an act, practice or course of business that operated as a fraud or deceit on persons by holding out unlicensed mortgage loan originators to potential borrowers as the individuals primarily responsible for mortgage loan origination and failing to disclose to potential borrowers that such persons were unlicensed to do so, and disclosing to investors, government agencies and regulators that the licensed mortgage loan originators were the individuals primarily responsible for the origination of the mortgage loans, in violation of Section 36a-53b of the Connecticut General Statutes; and
11) Respondent made a false or misleading statement to the Department when it stated that employees were not informed of their terminations in writing, when in fact, Respondent provided Employee Termination Forms to employees informing them of their termination of employment, in violation of Section 36a-53a of the Connecticut General Statutes.

On January 16, 2019, Respondent and the Consumer Credit Division of the State of Connecticut Department of Banking (the "Department") had filed a joint request to continue the hearing on the Original Notice, originally set for February 7, 2019, to a date to be determined in order to resolve discovery issues. The Amended Notice was issued while the Department and the Respondent were discussing discovery issues.

The Prior Surety Bond Proceeding

In a parallel proceeding involving Respondent but relating to surety bond coverage, the Banking Commissioner revoked Respondent's license to act as a mortgage lender in Connecticut on October 4, 2019. The Commissioner revoked Respondent's license because Respondent failed to obtain the statutorily required surety bond. The Commissioner's decision in that case was upheld on appeal (*1st Alliance Lending LLC v. State of Connecticut Department of Banking et al*., No. HHB-CV19-6056459-S; 11/9/2020).

Respondent has appealed the lower court's decision and the appeal is currently pending before the Connecticut Supreme Court (*1st Alliance Lending LLC v. State of Connecticut Department of Banking et al*., Docket No. SC 20560).

THE HEARING ON THE AMENDED NOTICE

The administrative hearing on the Amended Notice spanned fifteen days and included thousands of pages of exhibits, transcribed testimony, motions, rulings and emails. Proceedings were conducted on September 24, 2019, September 25, 2019, October 23, 2019, October 24, 2019, October 30, 2019, November 14, 2019, November 21, 2019, November 22, 2019, December 18, 2019, January 8, 2020, January 22, 2020, February 6, 2020, February 7, 2020, February 11, 2020 and February 27, 2020. Aside from stipulating to the licensing status of certain individuals in this case, the parties were unable to stipulate to any additional facts.

For a complete Procedural History of the case (including post-hearing events), see the chart and accompanying Hearing Officer Exhibits marked as Appendix A to these Findings.

Note that the exhibits presented by the Department and by Respondent in this case were numbered by the parties prior to the proceeding. Consequently, their presentation during the hearing was not in any numerical sequence. This factor should be considered when analyzing the record.

FINDINGS OF FACT

Respondent

1. 1st Alliance Lending, LLC ("Respondent") is a Connecticut limited liability company having its main office at 111 Founders Plaza, Suite 1300, East Hartford, Connecticut.

2. Prior to the October 4, 2019 revocation of Respondent's mortgage lender license in Connecticut, Respondent's main office was licensed by the Commissioner, through the Nationwide Multistate Licensing System and Registry ("NMLS" or the "System"), to engage in the business of a mortgage lender in Connecticut.

3. NMLS is a nationwide mortgage licensing system.

4. Respondent's Uniform Mortgage Lender/Mortgage Broker Business Application. (MUI filing) retrieved from the NMLS system on September 20, 2019 indicated that Respondent's business consisted of first mortgage lending, high cost home loans and master servicing (DOB Ex. 312; 9/24/19 tr. 57).

5. John DiIorio is Chief Executive Officer of Respondent, holding a 59.5% share in the company; Kevin St. Lawrence is the President of Production with a 25.5% share; and Soc Amburu is the President of Capital Markets with a 15% share (Ex. 325).

Respondent's Prior Disciplinary History

6. On December 1, 2008, Respondent entered into a Settlement Agreement with the Department (DOB Ex. 177). The Settlement Agreement alleged that, from September 2005 through August 2007, Respondent retained at least six unlicensed loan originators in violation of Sections 36a-486(b) and 36a-511(b) of the Connecticut General Statutes. The Settlement Agreement indicated that, on September 12, 2008, Respondent made a $6,000 contribution to the State Regulatory Registry LLC (a wholly owned subsidiary of the Conference of State Bank Supervisors) in resolution of the matter. The Settlement Agreement did not require the payment of a fine.

7. On February 24, 2014, the United States Consumer Financial Protection Bureau ("CFPB") entered a Consent Order against Respondent (Administrative Proceeding File No. 2014-CFPB-0003). The Consent Order alleged violations of Section 8 of the Real Estate Settlement Procedures Act, 12.U.S.C. Section 2607 and Regulation X thereunder, 12 C.F.R. Section 1024.14. RESPA Section 8(b) prohibits a person from paying or receiving a fee that was not earned in connection with a real estate settlement. The conduct at issue stemmed from loss mitigation financing to homeowners, with both the loss mitigation and the origination fees Respondent received at settlement purportedly subject to the fee-splitting prohibition. In the CFPB action, Respondent allegedly split fees with a hedge fund with whom Respondent contracted to finance certain mortgage loans that Respondent originated. The fee splitting occurred from August 26, 2011 to April 25, 2012 when Respondent was no longer using the hedge fund to finance the loans. The CFPB required that Respondent pay a $83,000 civil penalty to resolve the matter (DOB Ex. 203)

8. On July 31, 2015, the Federal Deposit Insurance Corporation, as Receiver for AmTrust Bank, entered into a Settlement and Release Agreement with Respondent. The Settlement and Release Agreement settled *Federal Deposit Insurance Corporation as Receiver for AmTrust Bank v. 1st Alliance Lending, LLC* (Case No. 14-cv-01506) (N.D. Ohio), and required that Respondent pay the FDIC a "settlement payment" of $350,000 (DOB Ex. 235).

9. On May 5, 2016, the New York State Department of Financial Services entered into a Settlement Agreement with Respondent, fining Respondent $10,000. The Settlement Agreement alleged that Respondent permitted a licensed MLO to conduct mortgage loan activities from an address in Rhode Island and that Respondent failed to obtain authorization from the State of New York to conduct mortgage loan activities at the Rhode Island location. (DOB Ex. 272)

10. On January 3, 2017, the Consumer Financial Protection Bureau received a complaint against Respondent (DOB Ex. 170). The complaint concerned refinance delays.

11. On March 7, 2017, the State of Texas Department of Savings and Mortgage Lending issued an Advisory Letter to John McGaffigan, Senior Vice President and Chief Compliance Officer of Respondent. According to the Advisory Letter, an examination conducted by the State of Texas revealed that, in three of nine closed equity refinance loans reviewed, the principal loan amount exceeded 80% of the property's fair market value. In lieu of formal disciplinary action, Respondent agreed to pay a $40,000 administrative fee to the State of Texas (DOB Ex. 354).

12. On September 26, 2018, the State of Texas Department of Savings and Mortgage Lending sent an Advisory Letter to Brianna Massey (DOB Ex. 354) citing multiple incidents of use of non-compliant loan status letters. In lieu of formal enforcement action against the affected individuals, Respondent agreed to pay the State of Texas an "administrative fee" of $38,500.

Respondent's Assistance Agreement With the DECD

13. On September 29, 2016, Respondent entered into an Assistance Agreement with the State of Connecticut Acting by the Department of Economic and Community Development ("DECD"). Pursuant to the Agreement, the State would provide Respondent with a project loan of up to $6 million as well as business tax credits in the maximum aggregate amount of $4 million. The loan was contingent on Respondent retaining one hundred thirty-two (132) full time employees and creating an additional one hundred sixty-eight (168) full time positions in Connecticut on or before December 31, 2018. (DOB Ex. 33A)

14. On April 9, 2018, the State of Connecticut DECD issued a First Amendment to Assistance Agreement By and Between the State of Connecticut Acting by the Department of Economic and Community Development and 1st Alliance Lending, LLC. The amendment extended the original agreement's December 31, 2018 target date to July 31, 2020 and changed the loan criteria to require that Respondent maintain 300 full time positions with an annual average compensation of $70,000 for 24 consecutive months.

15. John DiIorio testified that: "my concern was not that we wouldn't be able to meet the hiring target. It's that we wouldn't be able to meet the hiring target and be profitable which would make us fail." (2/27/20 tr. 167).

16. John DiIorio testified that, to date, Respondent had not paid back the $1.5 million DECD loan (2/27/20 tr. 159.)

17. In September 2018, Respondent laid off or dismissed a number of employees. Seventeen HLCs were terminated for poor performance according to Respondent's Exit Interview documentation (DOB Ex. 368). The terminations occurred prior to the issuance of the December 5, 2018 Original Notice and the July 15, 2019 Amended Notice (DOB Ex. 368) but after the onset of the May 2018 Department examination.

Pre-2018 Department Examinations

2008 Department Examination

18. On April 15, 2008, the Consumer Credit Division of the State of Connecticut Department of Banking conducted an examination of Respondent's books and records. The related Report of Examination (DOB Ex. 41) indicated that, in fourteen cases, Respondent employed individuals to originate first and secondary mortgage loans without first registering the individuals as loan originators with the Department of Banking (Sections 36a-486(b) and 36a-511(b) of the Connecticut General Statutes).

19. The December 1, 2008 Settlement Agreement with the Department of Banking referenced in paragraph 6 above was the result of the April 15, 2008 examination by the agency's Consumer Credit Division.

2010 Department Examination

20. On July 22, 2010, the Consumer Credit Division of the State of Connecticut Department of Banking conducted an examination of Respondent in connection with the Truth in Lending Act and applicable consumer credit laws. The September 23, 2010 follow-up report indicated that the forms inspected appeared to comply with Regulation Z and applicable state laws, and that no deficiencies were noted on the transactions examined (Respondent's Ex. 83).

Respondent's Policy and Procedure Development

21. As part of its policies and procedures, on February 7, 2013, Respondent issued Policy and Procedures concerning Cell Phones which prohibited, absent express prior authorization from Executive Management, the use of personal cell phones during working hours and the use of personal cell phones for business purposes (DOB Ex. 160).

22. On February 24, 2014, Respondent's Executive Management formalized an Application Policy (Respondent's Ex. 1D; DOB Ex. 395). The Application Policy indicated that Respondent followed the definition of "application" in the Real Estate Settlement Procedure Act (RESPA), and that, for an application to be deemed complete, six items would have to be received: 1) the borrower's name; 2) the borrower's monthly income; 3) the borrower's social security number (to obtain a credit report); 4) a fully executed purchase and sale agreement for the subject property; 5) an estimate of the property's value; and 6) the mortgage loan amount sought. The Application Policy also stated that, if an application were denied, an adverse action letter would be sent out to the applicant "within the time frame required." The Application Policy also stated that Respondent's Internal Auditor reviewed all adverse action notices monthly to ensure that they were sent out within the required time frame. Respondent's Compliance Officer was responsible for handling questions concerning the Application Policy and implementing changes to operating procedures consistent with the Application Policy.

23. On March 1, 2014, Respondent issued an Employee Social Media Policy. The Social Media Policy which was formalized by Respondent's Executive Management on March 26, 2014 did not specifically address limitations on how Respondent's employees held themselves out on social media. (DOB Ex. 165).

24. On November 3, 2014, Respondent issued Revision 2 to its Policies and Procedures (Respondent Ex. 179).

25. On January 29, 2016, Respondent issued Version 7 of its In House Streamline Process Flow. The In House Streamline Process Flow described Respondent's representative as completing a partial Form 1003 (Uniform Residential Loan Application); and moving the file to a Mortgage Loan Originator ("MLO") who would then complete the Form 1003 and send the file to Compliance for disclosures. Respondent's representative would guide prospective borrowers in completing the disclosures; schedule the loan to close; set a servicing call; and remind borrowers of three items to complete prior to closing. (DOB Ex. 225).

26. On July 18, 2016, Respondent issued Revision 5 to its Quality Control Policy (DOB Ex. 23B). The Quality Control Policy stated that "1st Alliance verifies that all employees and Affiliates participating in HUD programs for or on behalf of 1st Alliance are registered with the National

Mortgage Licensing System and Registry (NMLS), unless excluded from NMLS requirements by law or regulation."

27. On September 12, 2017, Respondent issued its Fair Credit Reporting Act Policy (DOB Ex. 23T). The Fair Credit Reporting Act Policy stated, that if any adverse action (denial of credit, employment, insurance) were taken against a consumer that was based in whole or in part on information contain in a consumer report, the lender was required to provide the consumer with an adverse action notice that included: 1) The name, address and telephone number of the consumer reporting agency that furnished the report; 2) A statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer with specific reasons; 3) A statement that the consumer was entitled to a free copy of the report from the consumer reporting agency; and 4) A statement that the consumer could dispute the accuracy of the information with the consumer reporting agency. All adverse action notices issued in connection with a credit transaction would be retained in accordance with the Equal Credit Opportunity Act.

Respondent's Internal Audits

The 2016 Internal Audit

28. Sometime in 2016, Respondent expanded its business and diversified the products and services it offered (December 2016 Internal Audit, Respondent's Ex. 169). Prior to 2016, Respondent's business focused on the FHA Short Refinance Program which permitted borrowers with negative equity to refinance and receive principal forgiveness. In 2016, Respondent focused on traditional FHA, USDA and conventional products.

29. Respondent's December 2016 Internal Audit (Respondent's Ex. 169) indicated that four departments required specialized training: 1) Submission Coordinators; 2) Mortgage Loan Originators; 3) Mortgage Loan Processors and 4) Underwriters.

30. The December 2016 Internal Audit described Submission Coordinators (abbreviated as "SCs") as follows:

> SCs function as MLO assistants on the Retail Origination channel and are *trained on borrower relations and problem solving to allow for fluid communication with the customer* . . . The Submission Coordinators . . . are the *main point of contact for all potential borrowers*. Commonly referred to as a Loan Officer Assistant around the industry, *they provide a necessary buffer between the MLO and the customer allowing serious candidates to pass through to the Mortgage Loan Originator*. *SCs do not discuss rates, terms or products, but are able to give general information to the potential borrower*. After a potential borrower completes an application with the MLO, the SC will guide the borrower to closing collecting all documents and providing the necessary support to usher the applicant through the process. The types of support vary, however, consistently the tasks include: coordinating the scheduling of appraisals or inspections and communicating and retrieving documents requested by the Title Company, Processing and Underwriting. The majority of their contact with applicants is conducted via telephone and e-mail. Finally, SC's are responsible for sending a Notice of Incompleteness to the applicant if the loan has not been denied, withdrawn, approved, or originated within 30 days of application in compliance with ECOA [the Equal Credit Opportunity Act]. (Emphasis supplied)

31. The 2016 Internal Audit (Respondent's Ex. 169) also indicated that SCs had limited access in the Loan Origination System software "that restricts them from changing rates, terms or conducting

any licensed activity" and that "[w]hile the SC job functions are purely administrative, *the possibility of an applicant urging an SC to discuss rates and terms will always be present due to their high contact with the applicant.* However, system restrictions, training and call monitoring are used to ensure they do not access pricing information and are therefore less likely to attempt such actions." (Emphasis added)

32. The 2016 Internal Audit (Respondent's Ex. 169) described the Mortgage Loan Originator's role as taking the formal application, running credit checks of prospective borrowers and locking rates, adding that *"[t]he applicant's credit report is only pulled at the end of an application with authorization given by the applicant prior to submitting the request to the Credit Reporting Agency*." (Emphasis added)

33. With respect to advertising, the 2016 Internal Audit (Respondent's Ex. 169) stated that all advertising with regards to 1st Alliance's programs, products, and staff was reviewed by the Legal Department to ensure compliance with all state and federal regulations. The 2016 Internal Audit also indicated that the internal auditor reviewed the social media site, Facebook, to see if any individual or group was conducting advertising that was specifically against policy. No evidence of unapproved advertising was found according to the 2016 Internal Audit. The 2016 Internal Audit did not address advertising on any non-Facebook sites such as LinkedIn. In addition, the 2016 Internal Audit did not address S.A.F.E. Act compliance (Respondent's Ex. 169).

The 2017 Internal Audit

34. On February 1, 2018, Respondent published its 2017 Internal Audit covering the period from November 1, 2016 to October 31, 2017 (DOB Ex. 19; DOB Ex. 14D). The 2017 Internal Audit was prepared by Briana Massey, Vice President of Compliance and Brianna Privott, Compliance Analyst. The 2017 Internal Audit indicated that initial findings identified two key weaknesses varying in severity; and that issues concerning S.A.F.E. Act and ECOA compliance were immediately addressed with Executive Management prior to the report.

35. The 2017 Internal Audit stated that: "Submission Coordinators were at times engaging in what may constitute as licensed activity under the S.A.F.E. Act. Further, instances of Submission Coordinators failing to meet the requirements of the ECOA permissible credit inquires (sic) were found."

36. The 2017 Internal Audit continued: "The transaction testing found instances where Loan Estimates were not sent to applicants pursuant to TILA disclosure requirements (Regulation Z S 1026.19)." With respect to the S.A.F.E. Act, the 2017 Internal Audit noted that: "Submission Coordinators (SCs) were found to present an unacceptable amount of risk. The issues found were systemic and required immediate attention. Compliance Training was conducted on October 27, 2017 [by Briana Massey, with support from EVP of Production Jason Verraneault] for all Submission Coordinators regarding what is and is not unlicensed activity. Additionally, written guidance was provided to all SCs to supplement the training . . . The most prevalent issues were as follows: Impermissible Credit Inquires (sic); Credit Repair Advice; Discussion of Rate and Term; Credit Decisions; Disqualified borrowers." The 2017 Internal Audit also stated that Reg Z Section 1026.19 required that Loan Estimates be sent out to applicants no more than 3 business days after the application and that "While there are sufficient reporting tools available in Byte to track and monitor TRID compliance, 2017 saw an unusual increase in violations" with "loan estimates sent out late or not sent out at all."

37. The 2017 Internal Audit also noted that "Over the next two months, in November and December of 2017, Compliance was heavily involved with the development of a new Purchase Inquiry and process flow for all licensed and unlicensed personnel. Further, an entirely new corporate structure was built and became effective January 1st, 2018 that focuses on efficiency and compliance."

38. According to the 2017 Internal Audit, the new organization structure was a Pod Structure consisting of three pods. Each pod had an Assistant Vice President of Sales and an Assistant Vice President of Production; two Loan Process Managers (LPM) and two Loan Coordinators (LC) as well as 2 senior home loan consultants (SHLC) and their Home Loan Consultants (HLC). The Assistant Vice President of Sales was responsible for managing the senior home loan consultants and the home loan consultants "who are responsible for prequalification and applications." The Assistant Vice President of Production managed the Loan Process Managers and Loan Coordinators (responsible for submissions and obtaining clear-to-close). The final pod included the Vice President of Operations and the Mortgage Loan Originators (MLOs) – "these people are responsible for the 1003 and any activities requiring a license." Respondent also created a Disclosure Desk to combat TILA violations.

39. The Pod Structure thus emphasized the sales orientation of Home Loan Consultant and Senior Home Loan Consultant personnel.

40. The 2017 Internal Audit also ranked employees in terms of the level of risk they presented (DOB Ex. 19) with Yazmin Andino; Katherine Haessly; Grace Alexander; and Alexandra Aludi presenting the most risk; and Trisha Clarke; Alexander Cottone; Ashley Bedard; and Stephen Brennan presenting elevated risk (no instances of S.A.F.E. Act violations)). All told, 97 employees were assessed, with roughly 4% being categorized as high risk; 3% moderate risk; 7% less risk; 13% lower risk; and 72% lowest risk.

Staffing and Compliance

41. On November 17, 2016, during an Executive Meeting of Respondent, Jason Verraneault recommended that Submission Coordinators "not issue prequalification letter to borrower" (DOB Ex. 14I). Verraneault held the position of Vice President of Production (11/14/2019 tr. 28) and later Executive Vice President (11/14/2019 tr. 31).

42. During an Executive Meeting held on September 13, 2017 (DOB Ex. 14O), it was noted that the current Submission Coordinator count was sixty-nine (69), with 45% of the Submission Coordinators being with the company under ninety (90) days.

43. Briana Massey began working for Respondent in 2012 as a Submission Coordinator (11/22/19 tr. 7). Prior to her employment with Respondent, Massey had no financial experience (11/22/19 tr. 7).

44. Massey testified that her role as Submission Coordinator differed in 2012 from the role of Submission Coordinator in 2017 (11/22/19 tr. 9). Massey testified that, "in 2012 my role was very restricted. We only had one or two products at all. We were very confined within what we could say and what we could discuss, say to the borrower, what screens we could see. Everything we were doing was ... that FHA short refinance."

45. Massey testified that, in 2017, Submission Coordinators were doing more purchases than refinances (11/22/19 tr. 10).

46. Beginning in 2016, Massey did internal auditing for Respondent (11/22/19 tr. 11). Massey worked in compliance from July 2017 forward (11/22/19 tr. 12) when previous compliance officer John McGaffigan left (11/22/19 tr. 20).

47. As compliance manager, Massey reported to David Ward (11/22/19 tr. 22). Massey testified that Ward was an attorney and that "he wasn't a hands-on type manager" (11/22/19 tr. 22).

48. Massey testified that most policies and procedures had been drafted by the time she took over compliance (11/22/19 tr. 26).

49. On October 12, 2017, Compliance Manager Massey emailed colleague Andrea Ward a draft Compliance Memo (DOB Ex. 23I). In 2017, Andrea Ward was Respondent's Chief Operations Officer (11/14/19 tr. 124). The Memo provided, in relevant part, that:

    After a random selection of calls were pulled for the purpose of the Internal Audit, it was found that Submission Coordinators were partaking in licensed activity in direct violation of the S.A.F.E. Act. Further, instances of Submission Coordinators failing to meet the requirements of the ECOA permissible credit inquiries were found. These findings, in conjunction with the continued mistreatment of files ending in credit denial or borrower withdrawal, require immediate attention . . . Considering the amount of Submission Coordinators who are new to the company there must be a reinvestment in proper compliance training in Production. This training needs to involve all management, without exception, to ensure the message is clear and consistent. Want to train all production on S.A.F.E. Act and ECOA rules; establish clear boundaries for SCs through written policy and the new Purchase Inquiry Screen in Byte; provide a script to all employees for completing purchase inquiries.

    The Memo continued: "It is clear that the current training failing to resonate with staff." Massey recommended that future violations be met with written warnings to the SC and his or her manager. Massey also noted: "The Internal Audit has also uncovered several RESPA 3 day requirement violations" and that "it is recommended that an autonomous compliance department be established."

50. On October 13, 2017, Andrea Ward replied to Massey's message concerning the draft Compliance Memo, stating that the proposal was good (DOB Ex. 23J).

51. On October 16, 2017, Massey advised Andrea Ward in an email that the policy had been changed to include "David's" edits and reworded to indicate that the structure of the group would be operations based. "David" was not copied in on the email. As revised, the Compliance Memo's language on violations by Submission Coordinators was toned down. (DOB Ex. 23J)

52. "David" was not identified by last name. However, the message appeared to refer to Respondent's in-house counsel, David Ward.

53. In an October 16, 2017 email to John DiIorio (DOB Ex. 23K), Briana Massey attached the Compliance Memo stating that she wanted to take action on the S.A.F.E. Act and ECOA issues as soon as possible. The revised Compliance Memo read as follows:

    After a random selection of calls were pulled for the purpose of the Internal Audit, it was found that Submission Coordinators were at times engaging in what may constitute as licensed activity under the S.A.F.E. Act. Further, instances of Submission Coordinators failing to meet the

requirements of the ECOA permissible credit inquires requirements were found in the calls and in the complaints received. These findings, in conjunction with the continued mistreatment of files ending in credit denial or borrower withdrawal, require immediate action . . . The Internal Audit has also uncovered violations of the RESPA 3 day rule in 2017, as well as a high number of ongoing cures that are the product of tolerance violations.

Taken together, these issues suggest that the current distribution of workflow - in particular, processors bearing responsibility for disclosures – is not working properly, either due to lack of training, lack of active and informed management, or a combination of the two. In order to correct these issues and reduce the regulatory risk they create, the EVP of Operations has suggested the redistribution of disclosure responsibilities from processors to a newly-created group of 'disclosure specialists,' that will sit with and report to Operations (as opposed [to] sitting with production teams, as processors do). This will centralize responsibility (and accountability) for compliance-related issues - most importantly, timely and accurate disclosures, as well as turn downs -which should improve our RESPA, TILA, and ECOA compliance rate. Reallocation of staff and/or new hires will be required to establish and staff the group."

54. On October 18, 2017, Massey emailed colleague Jason Verraneault a draft list of "Do's and Don'ts" for Submission Coordinators (DOB Ex. 23L). According to the draft Do's and Don'ts it was permissible for Submission Coordinators to "[c]larify and explain qualifications or criteria necessary to obtain a loan product"; "[c]ollect basic information about a consumer in order to provide the consumer with information on loan products for which the consumer generally may qualify using the Purchase Inquiry Screen without presenting a specific loan offer to the consumer for acceptance, either verbally or in writing; "[e]xplain or describe the steps or process that a consumer would need to take in order to obtain a loan offer, including qualifications or criteria that would need to be met without providing guidance specific to that consumer's circumstances"; and "[c]ommunicate on behalf of a mortgage loan originator that a written offer, including disclosures provided pursuant to the Truth in Lending Act, has been sent to a consumer without providing any details of that offer."

    However, Submission Coordinators could not 1) state that the consumer was qualified, eligible, preapproved or prequalified for a specific loan product and term; 2) in a prequalification setting, tell the borrower that he or she had been denied or was not qualified; 3) discuss the consumer's credit report with the consumer (aside from gathering information and authorization to pull credit which would have to be forwarded to a mortgage loan originator); 4) send the credit report to the applicant; or 5) to discuss rates in any capacity.

55. In an October 26, 2017 email to Jason Verraneault, regarding Submission Coordinator training (DOB Ex. 23M), Massey noted that "David was okay with communicating 'soft' disqualifications, without a tremendous amount of emails going out for every file." The previous version of the Submission Coordinator Do's and Don'ts prevented Submission Coordinators from telling prospective borrowers they were not qualified. As revised, Submission Coordinators were precluded from telling a borrower he was denied.

56. The revised Do's and Don'ts added: "Do not discuss rates in absolute terms. If the reason we are unable to move forward is based on a concrete, objective issue like credit score under 500, insufficient income, lack of employment, etc. you may state that, 'Unfortunately, it does not look like we will be able to move forward at this time. I'll send your information to an MLO for review and let's circle back in [timeframe]." The revised Do's and Don'ts also stated that "if the reason for proposed disqualification is more subjective relating to hardship, derogatory credit, or a calculation you have made, you must communicate that an MLO will review the information and

send an email in [X timeframe]. Then we will ensure a second touch is completed on that file prior to sending an email."

57. Briana Massey forwarded an updated draft of the Don't and Don'ts to Production Team Leads on October 27, 2017 in preparation for Submission Coordinator training that day. The document was entitled Short-Term Solution v. 4. Massey added that the document was a working document subject to change, and asked the Production Team Leads to share it with their teams. (DOB Ex. 23N)

58. On December 4, 2017, in apparent response to a question concerning when an application was taken for purposes of the Truth in Lending Act, Compliance Manager Briana Massey emailed colleague Christine Bender (DOB Ex. 266): "Once and [sic] MLO receives and reviews a P&S [purchase and sale] (Address), a full application has been taken for purposes of TILA (1026.19) if we have already collected the following information: Name; Income; SSN; Estimate of the value; Mortgage amount sought ... The Estimate of the value if not collected during the inquiry process would certainly be in the P&S. Therefore, this completes the 1003." Bender wrote back, "That's what I suspected ... I'll get with Jason [Verraneault] on it ... if we need additional training or information we know where to go." (DOB Ex. 266)

59. During a December 13, 2017 Executive Meeting (DOB Ex. 14), plans to expand the Home Loan Consultant workforce were discussed, it being noted that "Senior HLC will have 2 trainees at a time; At the end of 90 days period, they will have 1 new trainee; Senior HLC will have trained and retained 4 new HLC's a year; 24 HLC's net in 2018, promote 2 more Senior HLC's in each POD; 48 HLC's net in 2019; 24 HLC's in June 2020 - totaling 96 HLC's."

60. Jason Verraneault testified that Respondent replaced the title of Submission Coordinator with Home Loan Consultant ("HLC") at the beginning of 2018 (11/14/19 tr. 33).

2018 Employee Red Flags and Discipline

61. On February 6, 2018, Andrea Ward emailed Briana Massey concerning a social media post by Joseph Ballinger (DOB Ex. 23X). Ward questioned whether she should "jump in to get it removed." The post, directed to realtors, read "with 1st Alliance Lending's FHA loan program, we are able to get clients prequalified and into a home with credit scores as low as 500! With a credit score of 500-579, there is a down payment requirement of 10%. So if you have any clients that are having trouble getting prequalified, they have funds to buy a home but have had a troublesome credit history they are trying to bounce back from, but need to get into a home now, then please reach out to me! I'd love to see how I can help! . . . P.S. 580+FICO is 3.5% down. We also ... USDA, Fannie and Freddie as well."

    Massey replied that the post was a catalyst for updating Respondent's social media policy. Both Ward and Massey agreed that the post raised red flags (DOB Ex. 23X).

62. On February 9, 2018, Eric Sanders, Chief Executive of Loan Servicing, elicited comment on marketing letters for Respondent's Streamline Marketing Program (DOB Ex. 23Y). The draft asked that consumers contact Trevon Benson by email for additional information. Benson was not licensed as a mortgage loan originator (DOB Ex. 402). On February 12, 2018, having reviewed the letter, compliance manager Briana Massey inquired, "Is Trevon licensed? It would be best to have this letter issued by an MLO ... technically, it is an offer for a loan product. Per many state S.A.F.E. Act regulations, only a licensed individual may do this." (DOB Ex. 23Y)

63. On April 5, 2018, Karen Ramos of Human Resources prepared a summary concerning a human resources incident involving Joshua Kahan and Jason Verraneault. The issue focused on Kahan's cell phone usage. The summary also indicated that while Kahan wished to become a mortgage loan originator, "The company cannot invest on [sic] MLO licensing for Joshua at this time. Joshua needs to work on gaining product knowledge, needs experience in the HLC position, and succeed in the HLC ranks." (DOB Ex. 161)

The Front Lines

64. Mortgage loan originator licensing was not a prerequisite to becoming employed as a Home Loan Consultant or Submission Coordinator with Respondent nor was prior experience in the financial services industry required (*see, e.g*. DOB Ex. 223)

65. The record does not contain any evidence that submission coordinators and home loan consultants were directly supervised by licensed mortgage loan originators.

66. John DiIorio testified that Respondent did not request a legal interpretation from the Department concerning whether HLCs and SCs had to be licensed as MLOs (2/27/20 tr. 168).

67. HLCs and SCs regularly relayed prequalification letters to prospective borrowers. The prequalification letters were signed by a licensed MLO. However, the prequalification letters instructed the prospective borrower, "[o]nce you have selected a property, please contact your submission coordinator to schedule a time to complete the application and begin the final approval process." The prequalification letters did not direct the prospective borrower to contact the MLO. *See, e.g*., prequalification letter accompanying DOB Ex. 168.

68. John DiIorio testified that Respondent employed a call center (2/27/20 tr. 62).

69. John DiIorio testified that leads came into Respondent through Realtor.com and Zillow and that there were two types of leads: those with credit information inputted by the consumer and those without (2/27/20 tr. 63). More precisely, the leads were digitally received by Respondent through a software program called Velocify.

70. Alexander Cottone was employed by Respondent from April or June 2016 to December 2018 as a HLC (2/7/20 tr. 9) and, prior to that, a submission coordinator.

71. Cottone testified that Respondent's staff would call as many leads as they could during the day. Cottone testified that his aim was "being able to prequalify somebody and tell them that they're eligible to go safely buy a home on a first phone call in the first 20 minutes." (2/7/20 tr. 19).

72. Respondent's personnel used the Byte software program to input certain information received from consumers. Byte data logs captured which employees input data, what data fields were affected and when the data was inputted. (2/27/20 tr. 80)

73. Richard Bartholomew was employed by Respondent for nine years and was mainly involved with information technology (1/8/2020 tr. 7). Bartholomew reported to John DiIorio (1/8/2020 tr. 10). Bartholomew was employed by Respondent when the Byte platform was selected as Respondent's origination platform.

74. Bartholomew explained that: "The Byte system is a loan origination system provided by a company called Byte Software out of Seattle Washington. It is a loan origination system

designed to originate mortgage files. So it is a system of record for the 1003 [mortgage application], all the stored docks, the processing, and the closing of loan files." (1/8/2020 tr. 9-10.)

75. Steven Cavanaugh was licensed as an MLO with Respondent (2/7/20 tr. 94).

76. Cavanaugh testified that he would not independently confirm the information in Byte (2/7/20 tr. 97), and that it was possible to issue a prequalification letter based on inaccurate information inputted by HLCs (2/7/20 tr. 97). Later, Cavanaugh testified that he would review the Byte information for errors (2/7/20 tr. 109)

77. Andrew Pinnow was employed by Respondent until 2018 (2/11/20 tr. 12) and became licensed as an MLO of Respondent in 2014 (2/11/20 tr. 16). Pinnow testified that loan pricing information changed daily and that the loan officer would access that information through a software program called Optimal Blue. Through Optimal Blue, the lending personnel (but not HLCs) would be able to lock mortgage rates for consumers. Pinnow testified that he always dealt with MLOs in locking rates for consumers and that he never locked a rate with an HLC (2/20/20 tr. 14). Pinnow testified that HLCs did <u>not</u> have access to the pricing and lock request screen and thus could not get into Optimal Blue.

78. However, HLC and SC Alexander Cottone testified that he <u>could</u> view rates in the Optimal Blue program. (2/7/20 tr. 84-85)

79. Amy Charlton began working for Respondent as a Submission Coordinator in 2009 and became a licensed loan officer in 2013 (2/11/20 tr. 28-29). Amy Charlton testified that upon receiving information from the HLC, she would attempt to find the best loan program for a borrower, review the borrower data submitted run the information through the Automated Underwriting System (AUS) and generate and sign a prequalification letter which she would relay to the HLC.

80. Amy Charlton testified that HLCs did not have access to the Automated Underwriting System (2/11/20 tr. 37).

81. John DiIorio testified that HLCs "were compensated at base salary and they were compensated when a loan funded based upon a sliding scale. And they were paid basis points on the amount as a tradition [sic] MLO would have been able to do." (2/27/20 tr. 91)

82. John DiIorio testified that MLOs were "paid differently in that their commissions were less and their salaries were more because we wanted them to be incented for quantity and quality, not for whether or not a loan closes or not. We wanted our MLOs, or control people, to [be] financially indifferent." (2/27/20 tr. 89-90)

83. John DiIorio testified that HLCs "were definitely incentified to sell, and they were paid bigger commissions and lower base salaries" than MLOs (2/27/20 tr. 92) although, on average, MLOs made 30% more than HLCs. (2/27/20 tr. 92)

84. Alexander Cottone testified that he received more compensation in commissions than salary (2/7/20 tr. 38).

85. A review of payroll records in Exhibit 218 indicates that HLCs and SCs received more in commissions than salary and that they regularly worked over 80 hours during a given two-week period.

86. From 2016 to early 2018, Respondent ran contests to reward Submission Coordinators and Home Loan Consultants for their performance. Quantity was valued over quality and no mention was made of the consumer. *See*, DOB Ex. 212, DOB Ex. 213, DOB Ex. 301, DOB Ex. 228, DOB Ex. 347, DOB Ex. 348, DOB Ex. 230.

87. On December 21, 2016, Frank Amato, Vice President of Production sent an email to various Submission Coordinators and others (DOB Ex. 212). The email, captioned "Gift Card Competition," offered a $100 gift card to whoever could bring in the most prequalifications before the end of the year, with one point scored for each prequalification. The competition continued into the first week of January 2017.

88. On January 23, 2017, Branch Amato and Branch Bender sent an email entitled "Celtics Game" to Jason Verraneault. The email announced a "Fastest Submission Contest." The top two submission coordinator/processor pairings who submitted the fastest filings would receive a pass to the Celtics game against the Pistons (DOB Ex. 213).

89. On July 5, 2017, branch manager Nicolas Allegro sent an email to various Submission Coordinators and others (DOB Ex. 301). The email stated: "The race to 15 is in full blast! team Shawn and team Rogue are on one board behind Cottone. We will be keeping tallies for every July application. Once you hit 15 you will have won a prize . . . If 13 people get to 15 applications in July and we hit 200 total applications there will be a branch prize. In anticipation for the monstrous August closeout after getting to this number of applications, we will go out as a team and celebrate the achievement."

90. On November 2, 2017, Jason Verraneault sent an email to various Submission Coordinators and others (DOB Ex. 228). The email was captioned "Prequal party tonight from 5-7 pm." Verraneault explained, "3 points for an app and 1 for a pre-qual. Top points gets to dip into the gift card bag. I threw some new cards in there. You could win $50 or could win $5 to McDonalds. Lots of great prizes."

91. On December 20, 2017, Team Leader Samantha Rogers sent an email to various Submission Coordinators and others (DOB Ex. 347). The email was captioned "Who is a closer?" Rogers explained, "Whomever can flip the most withdrawn files will get a gift card. (TL's will be reviewing the calls). You each have 51 shots at being the closer today. There are many deals here. Really talk to the borrower ... Take the time to listen, and the [sic] flip it around ... Go through Byte and remember to check the notes prior to calling. Please send this back to me and your immediate manager before you leave." The email included a jpg image depicting a quotation from the character Jim Young in the movie *Boiler Room.*

92. On January 8, 2018, Samantha Rogers, signing as Associate VP of Sales, sent an email to POD900HLC, with a copy to Verraneault and Nicolas Allegro (DOB Ex. 348). The email was captioned "Talk Time and App Challenge." In her email Rogers stated: "Everyone should be at least 5 hours of talk time per day. The Company depends on you guys to bring in the business." Rogers added that all calls should be logged in Velocify "as it skews the results if you are not . . . The apps and prequals will come, but we need you guys digging in. We are on the hook for 30 Apps and 160 Prequals this week . . . You guys will see an Application board near my desk. I am putting a Challenge out there. 100 Apps this month for the branch. Whomever leads us to our goal will get a $100 Visa gift card. On Feb. 1." Rogers then proceeded to provide a rundown of total call time for various staff members.

93. On February 6, 2018, Jason Verraneault emailed the Administrative Group list (DOB Ex. 230). The email was captioned "Contest Friday Night 2/9/18 Celtics v. Pacers." In his email Verraneault stated "Looking to send top performers to Celtics game - to win, have best status - Top 4 HLCs in applications this week; top MLO in applications; Top LPM/LC duo in submission/ top LPM/LC due in CTC; top AVP-sales in applications; top AVP-production in subs and CTCs. HLC top 3 Raushon; Alexis; Cole and Weis."

94. A review of Exhibit 396 (transcribed telephone calls occurring in 2017 and 2018) indicated that HLCs routinely asked consumers for permission to pull credit and were granted such permission. Pulling the consumer's credit report online was the means by which HLCs launched a discussion on products available to the consumer through Respondent. In several cases, HLCs offered advice on how the consumer might improve his or her credit score and thus qualify for a lower interest rate. The interest rates discussed varied according to the type of loan. However, HLCs tended to focus on FHA loans to the exclusion of others.

95. Alexander Cottone testified that, insofar as pulling credit was concerned, at times (2/7/2020 tr. 55) he would ask the borrower for permission to run credit "[a]nd I'd wait for a couple of seconds, and if they didn't object I would run credit right then."

96. A review of Exhibit 396 indicates that one HLC (Grace Alexander) consistently spoke to prospective borrowers about being "preapproved" (versus "prequalified").

97. MLO Amy Charlton testified that the HLC obtained the credit report from the borrower prior to her involvement (2/11/20 tr. 63).

98. MLO Amy Charlton testified that purchase and sale agreements were generally received by HLCs at Respondent (2/11/20 tr. 67) who would forward them to her.

99. Alexander Cottone testified that, during his tenure at Respondent, "[t]here are things in place that control what we can do, but it doesn't control what we relayed to the clients in terms of what we were telling them that they may be qualified for." (2/7/20 tr. 89).

100. While Cottone received a Corrective/Disciplinary Action Notice on November 22, 2017 for "discussing loan terms with a borrower without being licensed to do so" (DOB Ex. 166), Cottone remained an employee of Respondent until December 2018 (DOB Ex. 313).

Home Loan Consultant ("HLC") Testimony

Martin Murdock

101. Martin Murdock worked for Respondent from July 2016 to 2019, starting as a submission coordinator and then becoming a home loan consultant (2/6/20 tr. 9). Murdock testified that his duties as submission coordinator were similar to those performed by an HLC: "I talked to leads that were on Realtor.com, Zillow, and see if they were prequalified to purchase a home." (2/6/20 tr. 10)

102. Murdock testified that, prior to working for Respondent, he did not have any financial or mortgage experience (2/6/20 tr. 10).

103. Murdock testified that, while employed at Respondent, at times he would obtain property information from a potential borrower (2/6/20 tr. 13).

104. Murdock testified that he would routinely pull credit for a potential borrower (2/6/20 tr. 21). Murdock also indicated that he would make the prospective borrower aware that the borrower's credit did not qualify the borrower to move to the next stage of the process (2/6/20 tr. 60)

105. Murdock testified that he would ask the prospective borrower "there's a particular property that they had in mind. If they didn't, then I would leave that information out for property information, the final loan amount . . . If they did, I would let them know if that house is something that they could pursue." (2/6/20 tr. 14)

106. Murdock testified that once the inquiry screen was done, he would send it to a licensed MLO, but that "[i]f I knew they didn't qualify I wouldn't complete the full inquiry screen . . . If their credit score was too low, for example, in the 400s. Or if . . . they didn't have the down payment available for 10 percent. If they're 500 to 580, I wouldn't continue." (2/6/20 tr. 23-24)

107. Murdock testified that if the prospective borrower's credit score was too low "I would tell them that we cannot offer them at program at this time. Your credit would have to improve to qualify for a program loan." (2/6/20 tr. 24)

108. Murdock stated that he did not send out adverse action notices, so he did not know if any went out (2/6/20 tr. 24). He also stated that, within the Byte software program, he could mark the prospective borrower's status as "disqualified." (2/6/20 tr. 24). In declining a prospective borrower, Murdock indicated that "I always used, we cannot move forward with your information (2/6/20 tr. 26). Murdock testified that Respondent did issue a denial letter if a prospective borrower was denied and that he would communicate the denial to the borrower (2/6/20 tr. 26).

109. Murdock testified that he discussed particular loan products with potential borrowers (2/6/20 tr. 33), and that these primarily consisted of FHA loans and USDA loans: "I would choose which product fits best for them and I would let the loan originator know that this … product …is the … best in their situation." (2/6/20 tr. 33). Murdock also stated that, if a borrower was eligible for one of Respondent's loan products, "I would tell them this information looks good. I'm going to move this over to the loan originator to issue a prequalification letter." (2/6/20 tr. 27)

110. Murdock indicated in his testimony that he discussed interest rate ranges with potential borrowers and that he understood this to be permissible under Respondent's policies and procedures (2/6/20 tr. 34).

111. Murdock indicated in his testimony that he made more money in commissions while employed as a Submission Coordinator and a Home Loan Consultant at Respondent (2/6/20 tr. 41) and that his commissions were based on volume.

Sara Jenkins

112. Sara Jenkins was employed as a Submission Coordinator and a Home Loan Consultant with Respondent from July 2013 until 2019 (2/6/20 tr. 71)

113. Jenkins testified that, prior to 2016 or 2017 when Respondent got into more purchase money loans, loan officers would typically run credit (2/6/20 tr. 72). Jenkins testified that, while employed at Respondent, she would ask the borrower for permission to pull credit (2/6/20 tr. 114).

114. Jenkins testified that if a prospective borrower was not eligible for one of Respondent's products, she would discuss what the guidelines were with the borrower (2/6/20 tr. 77). For example, to be eligible, the borrower's credit score would have to be between 580 and 600 depending on the loan type (2/6/20 tr. 77). Jenkins testified that if a prospective borrower was ineligible, she would mark them as disqualified in the Byte software program (2/6/20 tr. 78). Jenkins added that she did not issue any adverse action notices (2/6/20 tr. 78).

115. Jenkins testified that prequalification letters were also signed by an MLO but sent to the borrower by her (2/6/20 tr. 84). Jenkins stated that she had the primary relationship with the borrower (2/6/20 tr. 85).

116. Jenkins testified that follow-up by an MLO consisted of locking in the interest rate and making other finalizing revisions (2/6/20 tr. 86). Jenkins stated that MLOs could take as little as 15 minutes when doing an application by phone (2/6/20 tr. 86).

117. Jenkins testified that she did discuss a range of interest rates with the prospective borrower but that the loan officer would determine the ultimate interest rate (2/6/20 tr. 91)

118. Jenkins testified that she was paid a base salary plus commission and that her commissions were based on volume (2/6/20 tr. 97-98)

119. When asked if she discussed specific dollar figures with prospective borrowers, Jenkins testified that "we could do a little math with them, yes." (2/6/20 tr. 120)

Home Loan Consultant and Submission Coordinator Emails With Prospective Borrowers

Wilbert Vazquez, Submission Coordinator
B.T., Prospective Borrower

120. Wilbert Vazquez was a Submission Coordinator with Respondent (DOB Ex. 66; DOB Ex. 199).

121. Wilbert Vazquez was not licensed as a mortgage loan originator with Respondent in Connecticut. (DOB Ex. 402)

122. During January 2017, Vazquez corresponded via email with prospective borrower B.T. In addition to attaching a prequalification letter, Vazquez, provided the prospective borrower with a closing cost estimate as well as a floating interest rate figure of 6.25%. (DOB Ex. 66). The prospective borrower advised Vazquez that she had put an offer on a property in Vernon, Connecticut, and that the offer was accepted. When the prospective borrower remarked that the interest rate was high, Vazquez replied that "The interest rate is where it is because [co-borrower J.] has extremely low credit and we go by the lower of the two scores." Vazquez also provided the prospective borrower with a monthly estimate of expenses as well as a copy of the credit report he had pulled. Vazquez received a copy of the real estate contract from the realtor and advised the prospective borrower "Can do app today over the phone." (DOB Ex. 66)

Alexis Feliciano, Submission Coordinator
C.B., Prospective Borrower

123. Alexis Feliciano was a Submission Coordinator with Respondent. (DOB Ex. 62)

124. Alexis Feliciano was not licensed as a mortgage loan originator with Respondent in Connecticut. (DOB Ex. 402)

125. From February 2017 through June 2017, Feliciano corresponded via e-mail with prospective borrower C.B. (DOB Ex. 204, 204A, 205 and 205A). The emailed communications were initiated by Feliciano (DOB Ex. 62). Feliciano asked for permission to repull C.B.'s credit and C.B. agreed (DOB Ex. 62).

126. On June 13, 2017, C.B. emailed Feliciano asking for final numbers on a $198,000 loan and providing a link to a real estate listing. C.B. later advised Feliciano that there was another offer for the property on the table. Feliciano replied that she would provide the figures "[a]s soon as my loan officer drafts up the letter and I told him to rush it." Feliciano later emailed C.B. an updated letter providing a "good faith estimate for your loan." C.B. questioned the figures, stating that "I don't have that kind of cash on hand as a single parent of 3. I've been looking for a year now and was never told that much down." Feliciano replied that "I actually think that our system is calculating this incorrectly … The number will be closer to $9500 for now. . . I am going to try and get this fixed immediately." (DOB Ex. 205)

Daniel Sindler, Submission Coordinator
S.J., Prospective Borrower

127. Daniel Sindler was a Submission Coordinator with Respondent (DOB Ex. 199).

128. Daniel Sindler was not licensed as a mortgage loan originator with Respondent in Connecticut. (DOB Ex. 402)

129. In April 2017, Sindler corresponded via email with prospective borrower S.J. S.J. received a prequalification letter covering a Home Loan FHA purchase product with a combined loan balance of up to $200,720 with a purchase price up to $208,000 for the purchase of a single-family home. The letter, signed by Eric Ward, Mortgage Loan Originator, advised S.J. to "contact your submission coordinator to schedule a time to complete the application and begin the final approval process" once S.J. selected a property. (DOB Ex. 159)

130. An April 26, 2017 email from Sindler to S.J. indicated that a copy of S.J.'s credit report had been provided to Respondent in conjunction with his recent application. Sindler advised S.J. that "[d]ebt to income looks good so far. I will keep you updated when I have everything sent to my loan officer." (DOB Ex. 231)

Alexander Cottone, Submission Coordinator
J.L., Prospective Borrower

131. Alexander Cottone was a Submission Coordinator with Respondent. (DOB Ex. 168)

132. Alexander Cottone was not licensed as a mortgage loan originator with Respondent in Connecticut in 2017 or 2018 (DOB Ex. 402).

133. Between June 2017 and August 2017, Alexander Cottone communicated via email with prospective borrower J.L. Cottone signed his emails "Submission Coordinator/Business Development Manager." (*see, e.g.* DOB Ex. 168)

134. On June 28, 2017, Cottone forwarded a prequalification letter to J.L. The letter, signed by MLO Eric Ward, prequalified J.L. for a Home Loan FHA purchase product with a combined loan balance of up to $180,000 with a purchase price up to $200,000. The prequalification letter advised the prospective borrower that once she selected a property, she should contact her Submission Coordinator "to complete the application and begin the final approval process." (DOB Ex. 168)

Alexis Feliciano, Submission Coordinator
D.M., Prospective Borrower

135. In August 2017, Feliciano reached out via email to prospective borrower, D.M. with whom Feliciano had been matched on Zillow (DOB Ex. 206). Ultimately, Feliciano forwarded the prospect's information to her loan officer who issued a prequalification letter. Feliciano worked with the prospective borrower to obtain documents showing that the borrower's student loans were all in a payment plan. Otherwise, Feliciano told the borrower, two of the loans "have larger balances . . . [and] [w]hen we include those loans with the payments the debt is too high for you to qualify."

Martin Murdock, Submission Coordinator
M.M., Prospective Borrower

136. Martin Murdock is a Submission Coordinator with Respondent (DOB Ex. 280).

137. Martin Murdock was not licensed as a mortgage loan originator of Respondent in Connecticut. (DOB Ex. 402)

138. Between June 2017 and August 2017, Murdock communicated with prospective borrower M.M. On June 24, 2017, Murdock congratulated M.M. on being prequalified, enclosing a June 23, 2017 prequalification letter signed by MLO Steven Cavanaugh, but adding, "When running findings through our automated underwriting system you came back high risk due to your mortgage lates. Now because of those mortgage payments being late I will have to see [additional documents]." (DOB Ex. 290)

139. On July 11, 2017, M.M. emailed Murdock that the house he was interested in was already under contract. (DOB Ex. 280). M.M. asked Murdock to "crunch some quick numbers" on another house he could get for $190,000 (DOB Ex. 281). On July 19, 2017, Murdock replied that he understood if M.M. needed to go higher on the purchase price, and that the prequalification letter could be extended but that he "would have to repull credit at that time to redo the prequalification." (DOB Ex. 284). On July 27, 2017, M.M. emailed Murdock a link to a Webster, Massachusetts property he was interested in buying. M.M. asked Murdock to crunch some numbers on this property in terms of a monthly payment. (DOB Ex. 283)

140. On August 2, 2017, M.M.'s realtor emailed Murdock (DOB Ex. 289). The realtor indicated that M.M.'s offer for the Webster, Massachusetts property was not accepted, and that M.M. was considering two other properties. The realtor asked for a monthly payment figure (DOB Ex. 289). On August 3, 2017, Murdock responded to the realtor, referencing an FHA loan with 3.5% down. Murdock pointed out that the figures provided were only estimates and that "At time of contract we send an Official Loan Estimate." (DOB Ex. 289) On August 4, 2017, M.M.'s realtor asked for comparative figures on two properties, based on a $217,000 purchase price. Murdock replied that the payments would be "pretty close – about 1,628."

141. On August 7, 2017, Murdock acknowledged receipt of the real estate contract (DOB Ex. 282). In an email to M.M. Murdock explained: "we are ready to move to the next step of the process, Loan Approval. Once you complete the application with the loan officer, what are called disclosures will be sent out with a loan estimate today. Be sure to complete the disclosures by docu signing within 48 hrs. Once completed we order the appraisal through 3 AMCS whichever has the best quote will send a payment link to you. Pay as soon as possible as turn times can be long for completion and it is important to know what the value and the repairs are early rather than late. At this point I need to start collecting documentation for loan approval. I need the below documentation as soon as possible to meet your loan contingency date. Meaning if I do not have approval before that date you are at risk of losing your initial deposit on the contract ..."

142. Murdock advised prospective borrower M.M. that: "I will be your guide throughout the loan approval process. I will reply with the prequalification letter once available."

Robert Dugas, Submission Coordinator
M.C., Prospective Borrower

143. Robert Dugas was a Submission Coordinator with Respondent. (DOB Ex. 194)

144. Robert Dugas was not licensed as a mortgage loan originator of Respondent in Connecticut. (DOB Ex. 402)

145. Between July 2017 and October 2017, Robert Dugas had emailed communications with prospective borrower M.C. and with M.C.'s realtor.

146. On July 28, 2017, M.C. questioned whether he had to then complete forms covering References and a Request for Verification of Rent or Mortgage, telling Dugas that "you are supposed to fill in the certain areas that pertain on the Lenders behalf" and that those portions were blank (DOB Ex. 196). Dugas replied: "Not entirely necessary now – will need those docs once you make a house offer and it's accepted." (DOB Ex. 196)

147. On August 25, 2017, responding to the realtor's request for an estimate, Dugas wrote, "I cannot give you a good faith estimate for [M.C.] until he is in application and [M.C.] cannot enter into application until he has a signed contract." (DOB Ex. 198)

148. Ultimately, M.C. executed a real estate contract and made an earnest money deposit on the property (DOB Ex. 195; DOB Ex. 193). Dugas advised M.C. that the next step was to "schedule phone call with Loan Officer Eric Ward for you to go through the official application process." Once the disclosures were signed, Respondent would order an appraisal. (DOB Ex. 195). Dugas corrected the email to indicate that the phone call would actually be with Spirit Souza. (DOB Ex. 193). Spirit Souza is a licensed MLO.

149. On October 17, 2017, Dugas advised M.C. that the initial closing disclosures did not have to be signed, but only consented to, and that M.C. should call Dugas on Dugas' cell phone if M.C. had questions. (DOB Ex. 197) Personal cell phone usage was prohibited by Respondent's cell phone policy (DOB Ex. 160).

Sonya Pellitier, Submission Coordinator
L.R., Prospective Borrower

150. Sonya Pellitier was a Submission Coordinator with Respondent. (DOB Ex. 322).

151. Sonya Pellitier was not licensed as an MLO of Respondent in Connecticut in 2017 or 2018. (DOB Ex. 402)

152. From July 2017 through November 2017, Pellitier had emailed communications with prospective borrower L.R. (DOB Ex. 322, 335, 338, 339, 341, 342)

153. On July 11, 2017, L.R. advised Pellitier that he had gotten a pay raise. L.R. asked if the "pre-approved amount" of the loan would change (DOB Ex. 338). In response, Pellitier wrote: "If we keep you in our FHA 3.5% down program we can pre-approve you for $240,000 possibly $250,000 depending on taxes. If we move you to a VA loan the ratios are much tighter so can only pre-approve you for $145,000 which is hard to find a great home in the areas you are looking in this price range." After L.R. stated that he wished to pursue the FHA loan, Pellitier attached an updated pre-approval letter for a $240,000 FHA loan with 3.5% down. (DOB Ex. 342)

154. Pellitier subsequently provided L.R. with specific figures for a property on Washington Avenue in Waterbury, Connecticut, including an estimated monthly payment of $2,003.95. Pellitier advised L.R. that if he found homes with a higher purchase price, he should send her the addresses so she could price them to ensure that the ratios would work. (DOB Ex. 339)

155. The July 19, 2017 prequalification letter that L.R. received was signed by Lauren Montanaro, MLO, and stated: "[o]nce you have selected a property, please contact your submission coordinator to schedule a time to complete the application and begin the final approval process." (DOB Ex. 342)

156. On November 9, 2017 Pellitier emailed L.R. advising him that her loan officer had reviewed everything; and that the file came back approved through Respondent's automated underwriting system. Pellitier asked that L.R. complete the documents so that once he had an accepted contract, the file would be ready to go to processing and underwriting. Pelliter furnished L.R. with estimated figures for the Waterbury, Connecticut property, including the purchase price, the amount of the down payment, monthly homeowners insurance; monthly property taxes; and a total estimated monthly amount. Pelliter closed her email with "You have my cell if you have questions during this time!" (DOB Ex. 322)

Raushon Chislom, Submission Coordinator
A.J., Prospective Borrower

157. Raushon Chislom is a Submission Coordinator with Respondent. (*See, e.g.*, DOB Ex. 157).

158. Raushon Chislom was not licensed as an MLO of Respondent in Connecticut. (DOB Ex. 402)

159. From August 2017 through October 2017, Chislom had emailed communications with prospective borrower A.J.. (DOB Ex. 38, DOB Ex. 157, DOB Ex. 159, DOB Ex. 160, DOB Ex. 168).

160. On September 25, 2017, A.J. emailed Chislom web links dealing with lending and requested that Chislom check them out. On September 27, 2017 Chislom replied, "There was only one that seemed eligible but they had income limits which dq'd [disqualified] you. The rest are lenders that would essentially look into your credit debts and income the same as what I did to determine if you are eligible." (DOB Ex. 160)

161. When A.J. asked for information on loan interest rates, Chislom replied on September 28, 2017 that the loan officer working the file will disclose the interest rate once you submit an offer. Chislom added, "I'm not a licensed loan officer so I don't really know. What I can tell you is it's based on credit and it will be a floating rate, meaning they won't lock it in till you are ready to close. At that point they will offer you an option to buy a lower rate if you wanted to." On September 28, 2017, Chislom advised A.J. that the loan officer said A.J.'s estimated closing costs would be around $6,500. (DOB Ex. 160)

162. On October 11, 2017, A.J.'s realtor notified Chislom that A.J. had made an offer on a Hamden, Connecticut property (DOB Ex. 38). The realtor provided the address for the property and requested a pre-approval letter. On October 20, 2017, A.J. requested an estimated interest rate on the loan, to which Chislom replied that it could range "around 3.0% to 6.25%." (DOB Ex. 157)

Seth Tostevin, Submission Coordinator
E.B., Prospective Borrower

163. Seth Tostevin was a Submission Coordinator with Respondent. (DOB Ex. 199)

164. Seth Tostevin was not licensed as an MLO of Respondent in Connecticut in 2017 (DOB Ex. 402).

165. On September 11, 2017, E.B.'s realtor emailed Tostevin a copy of the sales agreement for E.B.'s purchase of a property in Meriden, Connecticut and included a copy of the earnest money checks. (DOB Ex. 175). The email included the property address.

Joseph Ballinger, Submission Coordinator
S.S., Prospective Borrower

166. Joseph Ballinger was a Submission Coordinator with Respondent. (DOB Ex. 50)

167. Joseph Ballinger was not licensed as an MLO of Respondent in Connecticut. (DOB Ex. 402)

168. In October 2017 and November 2017, Ballinger had emailed communications with prospective borrower S.S. The communications began on October 3, 2017 when Ballinger sent S.S. an unsolicited email entitled, "Let 1st Alliance Lending Get You Prequalified!". The e-mail (DOB Ex. 50) identified Ballinger as being with Respondent and indicated that Zillow matched S.S. with Respondent "as the perfect lender." The email added that: "1st Alliance is a different kind of lender, so whether you have already been approved or denied by another lender, chances are we will be able to approve you at an even lower interest rate, and with less money down." The email referenced a minimum credit score of 500; down payments as low as zero; consideration for borrowers without credit scores for FHA financing; and specialization in helping buyers buy or refi their homes after just 1 year out of bankruptcy foreclosure or short sale. Ballinger represented that "I will be able to match you to one of the many programs we have to offer" and requested that S.S. complete a form.

169. On October 13, 2017 (DOB Ex. 45), Ballinger emailed S.S., stating the S.S.'s information had been passed by a loan officer and that "we can potentially get you preapproved for $298,000 FHA" pending the status of Sean's student loans.

170. On October 17, 2017, Ballinger emailed S.S. a Borrower Authorization for Credit Plus 2. The form authorized Respondent to order a consumer credit report and to verify other credit information (DOB Ex. 44). The evidence appears to indicate that co-borrower A.S. authorized Respondent to pull credit (DOB Ex. 359).

171. On October 20, 2017 (DOB Ex. 47), Ballinger advised S.S. that he and A.S. had been "preapproved" for a conventional loan up to $298,000 with 5% down. Ballinger added, "Before I can make official this preapproval there are certain documents I will need as soon as you can." When S.S. asked if he could fax over the documents, Ballinger replied, "be sure to write 'ATTN: Joseph Ballinger.'"

Ryan Batherson, Submission Coordinator
D.G., Prospective Borrower

172. Ryan Batherson was a Submission Coordinator with Respondent. (DOB Ex. 214)

173. Ryan Batherson was not licensed as an MLO of Respondent in Connecticut. (DOB Ex. 402)

174. In October 2017, Batherson communicated via email with prospective borrower D.G. and D.G.'s insurance agent. In discussing a new policy, D.G. described Batherson to his insurance agent as follows: "The loan officer is: Ryan Batherson, Submission Coordinator, 1st Alliance Lending, LLC." (DOB Ex. 51)

Ashley Bedard, Submission Coordinator
J.P., Prospective Borrower

175. Ashley Bedard is a Submission Coordinator with Respondent. (DOB Ex. 57)

176. Ashley Bedard was not licensed as an MLO of Respondent in Connecticut. (DOB Ex. 402)

177. Between November 2017 and January 2018, Bedard communicated by email with prospective borrower J.P. On November 5, 2017, Bedard received a copy of the executed real estate contract from J.P. (DOB Ex. 55). When J.P. mentioned to Bedard that she had addressed a student loan issue and inquired why her interest rate still stood at 6.25%, Bedard replied that Bedard had not reevaluated the rate, that the rate would not be locked in until after the appraisal and that Bedard had not yet pulled a new credit report on J.P. (DOB Ex. 55). When J.P. asked if she should still sign the document referencing the 6.25% rate, Bedard responded "yes" and that J.P. "was not locked into the rate – it just keeps us going moving forward." (DOB Ex. 55)

178. Ultimately, a Mortgage Lock In Agreement, signed by Lauren Montanaro, was finalized for J.P. (DOB Ex. 56). The property purchased was in Bristol, Connecticut (DOB Ex. 56).

Taylor Moskites, Submission Coordinator
C.G., Prospective Borrower

179. Taylor Moskites was a Submission Coordinator with Respondent. (DOB Ex. 285)

180. Taylor Moskites was not licensed as an MLO of Respondent in Connecticut. (DOB Ex. 402)

181. On November 7, 2017, Moskites forwarded a prequalification letter, signed by MLO Spirit Souza, to prospective borrower C.G., indicating that C.G. "was now free to use the prequal letter

to connect with a realtor and place an offer on a home within that price range." Moskites also asked for additional financial documentation from C.G. (DOB Ex. 287)

182. On November 9, 2017, C.G. forwarded Moskites a copy of the real estate contract which was signed on November 8, 2017 (DOB Ex. 285).

Trevon Benson, Home Loan Consultant
R.C., Prospective Borrower

183. Trevon Benson was a Home Loan Consultant with Respondent. (DOB Ex. 59)

184. Emailed communications introduced into evidence between Benson and prospective borrower R.C. (DOB Ex. 59) concerned Respondent's Reduced Document Streamline Refinance Program which was simpler than a traditional refinance and required no credit pull or appraisal. Benson signed his emails "Home Loan Consultant, Office of the President."

Michael Drega and Katherine Jasenski, Home Loan Consultants
D.K., Prospective Borrower

185. Michael Drega and Katherine Jasenski were Home Loan Consultants with Respondent (DOB Ex. 261; DOB Ex. 273).

186. Neither Drega nor Jasenski were licensed as MLOs of Respondent in Connecticut. (DOB Ex. 402)

187. In March 2018, Drega forwarded D.K. a prequalification letter, stating he would call the prospective borrower to go over it (DOB Ex. 261). The prequalification letter was signed by Mortgage Loan Originator Steven Cavanaugh.

188. On May 4, 2018, Jasenski sent D.K. an email introducing herself. Jasenski stated that that Drega had moved to a different branch in the company and that she was taking over (DOB Ex. 273). On May 7, 2018, Jasenski advised D.K. that she had not realized he was moving down south; that the co-borrower's income could not be considered since she did not have a job down south; and that, since the co-borrower would be removed, this would affect the prequalification process. Jasenski added that she wished to verify that the prior consultant had correctly calculated the prequalification amount. (DOB Ex. 273)

189. On May 8, 2018, Jasenski advised D.K. "Unfortunately, the loan officer and my manager were not able to prequalify you . . . Your income is not stable enough for us to prequalify you . . . If you would like to speak with my manager, Kyle Murphy, his number and email are located below." (DOB Ex. 273)

190. D.K. responded, commenting "I've spent upwards of $5,000 relying on the information previously presented by your company. I have travelled to 3 states to view houses and have another trip scheduled . . . Also, my house is officially listed for sale! I suppose I will need to follow up with a different mortgage broker to move forward." Jasenski then replied "Michael Drega (your previous consultant) should never have told you that you and [the co-borrower] were prequalified until he verified your income . . . When I received your file, it had not yet been reviewed by a loan officer (or properly reviewed by Michael for accuracy). Upon review from a loan officer (also myself and my manager), your file was determined that it did not prequalify." (DOB Ex. 273)

Use of Social Media by HLCs and SCs

191. The social media profiles used by certain HLCs exaggerated, to varying degrees, their job responsibilities at Respondent. Examples follow.

"Currently sell mortgage home loans" (Joseph Pantuosco III, Home Loan Consultant, DOB Ex. 233)

"*Specializing in FHA, USDA, Conventional mortgage financing. Provide financial direction for borrowers" "Responsible for loan movement from prequalification, application processing to closing*" (Katherine Jasenski, DOB Ex. 242)

"*Determines if leads are qualified for USDA, conventional and FHA programs*" "*Closed 8.7 Million for 2017*"; "*Determined if leads are qualified for mortgage financing by phone or email*" "*Main point of contact for all parties in each transaction and managing a pipeline size of 25-35 clients in 46 states*"; "*Reviewed appraisals*" (Martin J. Murdock, DOB Ex. 263)

"[S]tructuring each deal and overseeing it until the loan closes" (Alyssa Cunningham, Submission Coordinator, DOB Ex. 35)

"[R]elationship Manager at 1st Alliance Lending. I specialize in not-so-perfect credit, give me a call today! 860-936-3572." "If you're looking to get approved for a mortgage loan and you have not-so-perfect credit, give me a call! I'd love to get some more information and hopefully get you pre-approved today!" (Nicholas Cottone, via Twitter, DOB Ex. 300)

The 2018 Department Examination and its Aftermath

192. Daniel Landini is an Associate Financial Examiner with the Department of Banking (9/24/19 tr. 48).

193. Examiner Landini is responsible for mortgage company supervision, licensing, examinations and investigations (9/24/19 tr. 49).

194. Examiner Landini testified that Respondent was on an examination cycle to be examined, along with other companies (9/24/19 tr. 50). Examiner Landini testified that the examination period covered was the first quarter of 2016 to May 3, 2018 (9/24/19 tr. 75).

195. Examiner Landini testified that all examinations were conducted unannounced (9/24/19 tr. 68).

196. On May 3, 2018, Examiner Landini, accompanied by Associate Financial Examiner Beata Zuber, visited Respondent's place of business at 111 Founders Plaza, East Hartford, Connecticut (9/24/19 tr. 68). Examiner Landini announced that he and Examiner Zuber were there to "conduct a routine examination." (9/24/19 tr. 68).

197. Examiner Zuber testified that Respondent was randomly chosen from a list of companies the Department had to examine and that the choice was "[m]ostly based on the last date of the - the date of their last examination and also that they were local." (1/22/20 tr. 9)

198. Eric Sanders of Respondent met with the examiners and set them up in a conference room (9/24/19 tr. 68).

199. The examiners emailed Eric Sanders and Briana Massey a Uniform Manager's Questionnaire (DOB Ex. 325) and a request for a loan list (9/24/19 tr. 69; DOB Ex. 325). Examiner Landini testified that the Uniform Manager's Questionnaire was "a standard questionnaire that we give to all licensees for mortgage exams, from the smallest brokers to the largest lenders." (9/24/19 tr. 70) Eric Sanders certified that the info in the Uniform Manager's Questionnaire was correct (9/24/19 tr. 70).

200. The responses to the Uniform Manager's Questionnaire indicated that Eric Sanders title was Chief Executive of Loan Servicing; that Respondent purchased leads from Lending Tree, Zillow and Realtor.com (9/24/19 tr. 71); and that Respondent's owners were John DiIorio, Chief Executive Officer, Kevin St. Lawrence (President of Production) and Soc Aramburu, President of Capital Markets (9/24/19 tr. 71).

201. In response to the Uniform Manager's Questionnaire, the examiners received various items, including, without limitation, a loan listing (9/24/19 tr. 72), an employee list (9/24/19 tr. 75; DOB Ex. 199), and Respondent's 2017 Internal Audit (9/24/19 tr. 94; DOB Ex. 19) which was also received onsite (9/24/19 tr. 131)

202. The May 4, 2018 Uniform Manager's Questionnaire, covering the period from the first quarter of 2016 forward was signed by Eric Sanders, with Briana Massey being listed as the examination contact person (DOB Ex. 325). The Uniform Manager's Questionnaire stated that: "We use paperless processing, which means all documents are housed within the LOS, Byte Pro." and that during the past three years, the main source of Respondent's business was derived from the purchase of leads from Lending Tree, Zillow and Realtor.com.

203. The May 4, 2018 Uniform Manager's Questionnaire stated that Respondent did not employ an internal auditor and that "we do not have a business plan." (DOB Ex. 325). However, Respondent used Parmelee, Poirier and Associates for its financial audit (DOB Ex. 325).

204. Examiner Landini testified that, in connection with the examination, Respondent also provided job descriptions for the Submission Coordinator position (9/24/19 tr. 77; DOB Ex. 365) and the Senior Home Loan Consultant position (9/24/19 tr. 85-86; DOB Ex. 351).

205. Between May 3, 2018 and late May 2018, the examiners communicated via email with Brianna Massey and Eric Sanders, requesting documents. Emails were sent on May 3, 2018, May 4, 2018, May 7, 2018, May 8, 2018, May 10, 2018, May 16, 2018, May 17, 2018 and May 22, 2018. Compliance Analyst Brianna Privott was also involved in the communications, although Brianna Massey was the primary contact. During that time, Respondent's staff provided the requested documents, including call logs and payroll records, with reasonable dispatch. (*See, e.g.*, Respondent's Ex. 110, Respondent's Ex. 111, Respondent's Ex. 112, Respondent's Ex. 117, Respondent's Ex. 116, Respondent's Ex. 115)

206. While onsite, the examiners interviewed various personnel of Respondent.

207. Massey testified that she found it unusual that the examiners were interviewing rank and file Submission Coordinators and Home Loan Consultants (12/18/19 tr. 125) as opposed to executive staff, and asking them what she felt were leading questions.

208. During his testimony, Examiner Landini stated: "You talk to employees that are actually doing the job to find out what they're actually doing is what our approach was." (1/8/20 tr. 92)

209. Massey testified that she called CEO John DiIorio and that he sat in on some of the staff interviews (12/18/19 tr. 132)

210. While the communications with the examiners were ongoing and following the examiners' interviews with various personnel of Respondent, on May 22, 2018, Briana Massey emailed John DiIorio, with a cc to David Ward, stating that she did not believe Respondent had a systematic issue with HLCs taking applications.

Instead, according to Massey, "[Respondent] had a systematic *training issue* in which many of our employees either did not know or decided to forget the boundaries that were set for them in our P&Ps in 2017." Massey added that: "My interpretation is that as long as HLCs do not collect subject property information we are clear of the application part. However, it is unclear to me how regulators would feel about our HLCs letting consumers know they are pre-qualified for a loan amount of X, which includes a down payment of Y. While they are not discussing the rate and term that goes into that calculation, it is still an integral part. My hope is that I am being overly conservative." (Emphasis added) (Respondent's Ex. 122).

211. Massey's email to John DiIorio contradicted the statements in the 2017 Internal Audit that she prepared. The 2017 Internal Audit stated that, with respect to the S.A.F.E. Act "Submission Coordinators (SCs) were found to present an unacceptable amount of risk. <u>The issues found were systemic and required immediate attention</u>." (Emphasis added) (DOB Ex. 19; DOB Ex. 14D).f The 2017 Internal Audit did not isolate the issue as only involving a training deficiency.

212. On May 30, 2018 Massey began documenting the Connecticut examination in a written "Observations and Timeline" (Respondent's Ex. 121).

213. Massey testified that John DiIorio asked her to prepare the Timeline. (12/18/19 tr. 122)

214. In the Observations and Timeline, Massey noted that her first interaction with the examiners was on the morning of May 8, 2018 and that "after this interview they rarely communicated with me and days would go by where we did not speak." In the Observations and Timeline, Massey did not reference her May 10, 2018, May 16, 2018, May 17, 2018 or May 22, 2018 emailed communications with the Department.

215. Massey's May 30, 2018 Observation and Timeline also noted that, on May 15, 2018, the examiners interviewed Home Loan Consultants David Syzmanski, Grace Alexander, Stephen Brennan, Samantha Rogers and Ryan Batherson (Senior Home Loan Consultant) as well as Alyssa Raponey (LPM), Kate Doran (UW), Steve Cavanaugh (MLO) and Shaneka Brown (Call center TL). The Observations and Timeline also indicated that on May 16, 2018, the examiners had discussions with Eric Sanders and John DiIorio.

216. Massey's May 30, 2018 Observation and Timeline stated that she found it "suspicious" that "[d]uring the interviews each employee was not asked the same question the same way." The Observations and Timeline added that: "During the third interview, John D. [DiIorio] was present and sat listening to the questioning. After hearing roughly one and a half interviews (if memory serves) he began to question their tactics and motives."

217. The Observations and Timeline were formalized on June 12, 2018 (Respondent's Ex. 121).

Post-Department Examination Events

218. On June 20, 2018, Respondent revised its record keeping and document retention policy to reduce the call retention period to 120 days (DOB Ex. 23C; DOB Ex. 23D).

219. On July 19, 2018 Home Loan Consultant Shawn Toussaint emailed Briana Massey a request to team up with a Willimantic, Connecticut realtor to put on a free class for the community on buying a home with zero down in the Windham area. Toussaint wanted to know if he could use the company logo on promos (which he would finance) for the class, whether he could use his job title and whether he could refer to Respondent during the presentation. (DOB Ex. 268). Massey replied that a loan officer would have to be present and that she was "also currently putting together an all-inclusive advertising and marketing policy that once approved, will be distributed." (DOB Ex. 268)

220. On August 7, 2018, a Corrective/Disciplinary Action Notice was issued to Home Loan Consultant Tanielle Chambers concerning cell phone use during work hours. (DOB Ex. 162).

221. In September 2018, Respondent terminated various employees (DOB Ex. 353) holding the following positions: Loan Coordinator; Closing Representative; Call Center Team Lead; Post Closing Representative; Loan Coordinator; Relationship Manager; Vice President of Operations; Loan Process Manager; Senior Vice President of Production; Underwriter; Internal Quality Control Analyst; Loan Administrator; Corporate Trainer; Call Center Rep. ; Servicing Manager; Home Loan Consultant; Senior Home Loan Consultant; and Loan Process Manager.

222. On September 19, 2018, Department of Banking attorney Stacey Serrano emailed Briana Massey a request for the production of records (DOB Ex. 355). The records requested covered commissions/incentive compensation paid from October 1, 2017 to March 31, 2018. Attorney Serrano also requested emails sent and received over a four-month period, to wit from September 1, 2017 to October 31, 2017 and from January 1, 2018 to February 28, 2018. The emails did not cover all of Respondent's employees but were limited to the following ten individuals: Steven Cavanaugh, David Hoffman, Katherine Jasenski, Sara Jenkins, Briana Massey, Taylor Moskites, Martin Murdock, David Roberts, Devyn Ryan and Jason Verraneault Jason. Attorney Serrano also requested a detailed list of all employees laid off or otherwise terminated in September 2018 as well as copies of communications advising them of their cessation of employment. Attorney Ross Garber was cc'd on the email.

223. On September 19, 2018, Attorney Serrano narrowed the compensation request to residential mortgage loans made, or applications received, relating to a Connecticut residential property. By email dated September 26, 2018, Attorney Garber, responded to the compensation request and noted that employee terminations were done in person. As to the email production request, Attorney Garber noted that the affected individuals generated over 200,000 emails in total, that most did not relate to Connecticut consumers; that some might not be work related; and that some might involve attorney-client privilege. By email dated September 27, 2018, Attorney Serrano indicated that she would be willing to work with Attorney Garber on rolling production of the emails; and that emails protected by the attorney-client privilege need not be produced. After an unsuccessful discussion on the use of search terms, on October 5, 2018 Attorney Garber advised Attorney Serrano that the affected emails might involve privileged information such as parent and child; husband and wife; and patient and physician as well as irrelevant emails such as those generated by employees and involving on-line shopping. (DOB Ex. 355; Respondent's Ex. 124)

224. On October 5, 2018, following a telephone conversation, Attorney Serrano emailed Attorney Garber indicating that email production would exclude messages protected by the attorney-client privilege. However, emails not relating to a Connecticut property would remain relevant because they might pertain to Respondent's supervisory structure, training, general fitness, financial responsibility or character. Attorney Serrano requested that Respondent submit a privilege log for other assertions or privilege (Respondent's Ex. 124).

225. On October 5, 2018, Karen Ramos, Human Resources Director of Respondent issued a letter "to whom it may concern" (DOB Ex. 316). Karen Ramos indicated that, in September 2018, Respondent terminated 33 employees and accepted voluntary resignations of two that they it did not intend to currently replace; that all but two of the terminations were done in person (two people were not in the office and were notified over the phone); and that "[t]o my knowledge, no employees were informed of their termination in writing. It is informal Company policy to terminate employees in person, rather than to send an email or letter."

226. On October 9, 2018, during an Executive Meeting of Respondent (DOB Ex. 315), it was noted that Respondent had lost $2.2 million in September; that the loan application count had decreased as the result of a lower prequalification count; that more home loan consultants would be hired in the near future; that "byte is not being utilized correctly" and that "[t]asks were rolled out three times previously, but with so many changes it can't be managed properly."

227. On November 6, 2018, Carmine Costs, Director of the Consumer Credit Division of the State of Connecticut Department of Banking issued a compliance letter to Respondent (DOB Ex. 164).

228. On December 20, 2018, a S.A.F.E. Act Internal Audit was presented to Respondent's Executive Management (Respondent's Ex. 36). The S.A.F.E. Act Internal Audit tracked the Multistate Mortgage Committee (MMC) S.A.F.E. Act Examination Guidelines excluding any review of the financial condition of Respondent. The Respondent's S.A.F.E. Act Internal Audit covered the limited period from January 1, 2018 through December 10, 2018. The S.A.F.E. Act Internal Audit indicated that the Director of Human Resources was responsible for S.A.F.E. Act compliance issues and that Compliance would be responsible for annual follow-up including renewal and training. In response to a question regarding whether procedures existed to add a notation that the job was a S.A.F.E. Act position and what the requirements were, there was a blank response.

229. On June 14, 2019, the Consumer Credit Division provided Respondent with an Opportunity to Show Compliance With Legal Requirements for Retention of Mortgage Lender License (DOB Ex. 237). The letter included additional regulatory concerns not in the earlier November 6, 2018 letter (DOB Ex. 237)

230. Respondent's Uniform Mortgage Lender/Mortgage Broker Business Application (MU1 Filing) made through the NMLS on September 11, 2019 indicates that it had requested surrender of its license in 38 states and that it was not accepting applications or transacting business through its website (DOB Ex. 312).

CONCLUSIONS OF LAW

Jurisdiction and Procedure

1. The Commissioner has jurisdiction over the licensing and regulation of mortgage lenders, correspondent lenders, brokers and loan originators pursuant to Part I of Chapter 668, Sections 36a-485 to 36a-534b, inclusive, of the Connecticut General Statutes.

2. As required by Section 4-182(c) of the Connecticut General Statutes, through the June 14, 2019 communication sent to Respondent on behalf of the Commissioner (DOB Ex. 237), Respondent was afforded an Opportunity to Show Compliance With Legal Requirements for Retention of Mortgage Lender License which compliance letter supplemented the November 6, 2018 Opportunity to Show Compliance issued by the Department to Respondent (DOB Ex. 164).

3. The July 15, 2019 Amended Notice issued by the Commissioner against Respondent comported with the requirements of Section 4-177(b) of Chapter 54 of the Connecticut General Statutes and with Sections 36a-50, 36a-51 and 36a-52 of the Connecticut General Statutes.

4. Respondent received notice of the hearing and an opportunity to present evidence, rebuttal evidence and argument on all issues of fact and law to be considered by the Commissioner.

5. Respondent is a "mortgage lender" as defined in Section 36a-485(19) of the Connecticut General Statutes. Section 36a-485(19) defines "mortgage lender" as "a person engaged in the business of making residential mortgage loans in such person's own name utilizing such person's own funds or by funding loans through a warehouse agreement, table funding agreement or similar agreement."

6. Respondent was licensed as a mortgage lender in Connecticut until October 4, 2019 when the Commissioner revoked such license due to Respondent's failure to maintain required surety bond coverage.

7. At all times pertinent hereto and prior to October 4, 2019, Respondent was licensed as a mortgage lender in Connecticut.

8. Respondent is not a depository institution or a subsidiary owned and controlled by a depository institution.

Interplay of State and Federal Law: State Law Prohibitions

Section 36a-498e(a) of the Connecticut General Statutes provides, in part, that:

> 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 . . . (7) Fail to make disclosures as required by sections 36a-485 to 36a-498e, inclusive, 36a-498h, 36a-534a and 36a-534b *and any other applicable state or federal law including regulations thereunder* . . . [or] (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*." (Emphasis added)

Section 36a-486(b)(1) of the Connecticut General Statutes, for example, states that: "No person licensed as a mortgage lender . . . shall engage the services of a mortgage loan originator . . . required to be licensed under this section unless such mortgage loan originator . . . is licensed under section 36a-489."

Significance of the S.A.F.E. Act and its Impact on State Law and this Case

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the "S.A.F.E. Act") was enacted by Congress in 2008, 12 U.S.C. § 5101 et seq., P.L. 110-289, Title V. Section 5101 of the S.A.F.E. Act expressed a Congressional purpose to increase uniformity, reduce regulatory burdens, enhance consumer protection and reduce fraud in the mortgage lending industry. Congress enacted the S.A.F.E. Act to ensure that mortgage loan originators "would, to the greatest extent possible, be required to act in the best interests of the consumer." *Id.* § 5101(8). The S.A.F.E. Act required that each state enact legislation regulating mortgage loan originators that was consistent with standards set forth in the S.A.F.E. Act. Section 5107 of the S.A.F.E. Act provided that states failing to enact consistent legislation risked losing the ability to regulate individual mortgage loan originators in favor of the U.S. Department of Housing and Urban Development ("HUD"). Congress later transferred S.A.F.E. Act authority from HUD to the federal Consumer Financial Protection Bureau ("CFPB"). *See*, Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub.L. 111-203, § 1100, 124 Stat. 2106 (2010) (codified at 12 U.S.C. § 5301). The CFPB then published Regulation H, S.A.F.E. Mortgage Licensing Act – State Compliance and Bureau Registration System, 12 CFR Part 1008, based on HUD's regulation. 76 Fed. Reg. 78483, Dec. 19, 2011.

The standards set forth in the S.A.F.E. Act represented a regulatory floor. States could exceed the standards, but prescribing more relaxed standards at the state level could jeopardize a state's regulatory authority.

Accordingly, the Conference of State Bank Supervisors ("CSBS") and the American Association of Residential Mortgage Regulators ("AARMR") developed a Model State Law, ultimately approved by HUD, to implement the S.A.F.E. Act.

Section .030(6)(a) of the Model State Law defines the term "mortgage loan originator" to mean "(i) . . . an individual who for compensation or gain or in the expectation of compensation or gain - (A) Takes a residential mortgage loan application; or (B) Offers or negotiates terms of a residential mortgage loan; (ii) Does not include an individual engaged solely as a loan processor or underwriter except as otherwise provided in . . . .040(4) [dealing with independent contractor loan processors or underwriters, not applicable here]; (iii) Does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with [State] law . . . and (iv) Does not include a person or entity solely involved in extension of credit relating to timeshare plans ...."

Comments accompanying the Model State Law explained the difference between the federal and state provisions (https://nationwidelicensingsystem.org/SAFE/NMLS%20Document%20Library/Final-SAFE-table.pdf):

> The original S.A.F.E. language for this section presents a significant problem in the licensing of mortgage loan originators (MLOs). By using the word "and" between (A) and (B) instead of "or" *S.A.F.E. effectively exempts an extremely large number of loan originators who have traditionally been licensed under state law. The MSL changes "and" to "or" to be consistent with most state laws. This change is consistent with a State's ability to establish standards in legislation that exceed the standards in S.A.F.E.* (Emphasis supplied)

Section 36a-486(b)(1) of the Connecticut General Statutes provides, in part, that: "No person licensed as a mortgage lender . . . shall engage the services of a mortgage loan originator . . . required to be licensed under this section unless such mortgage loan originator . . . is licensed under section 36a-489."

Section 36a-485(20) of the Connecticut General Statutes mirrors Section .030(6)(a)(i) of the Model State Law approved by HUD in describing mortgage loan originator functions in the disjunctive (*i.e.* through use of the word "or"). Section 36a-485(20) defines "mortgage loan originator" to mean "an individual who for compensation or gain or with the expectation of compensation or gain, either for such individual or for the person employing or retaining such individual, (A) takes a residential mortgage loan application, or (B) offers or negotiates terms of a residential mortgage loan." Connecticut's response to the S.A.F.E. Act was implemented with the enactment of Public Act 09-209 (effective July 31, 2009).

In its brief, the Division argues that Regulation H, promulgated by the CFPB, is important in addressing the licensing issues in this case.

Regulation H, 12 C.F.R. §1008, covers the S.A.F.E. Mortgage Licensing Act, State Compliance and Bureau Registration System and includes Appendices which provide examples of affected activities.

In reviewing Regulation H, the following factors concerning Respondent should be kept in mind:

- HLCs/SCs rather than licensed MLOs were the main point of contact for all potential borrowers
- The HLC/SC position was an entry level job, with personnel having little to no prior financial experience
- HLCs/SCs working in Respondent's call center did not simply transfer consumer inquiries to licensed MLOS for follow-up or simply enter data on a computer, but performed a more participatory role
- The job of HLCs/SCs was to ensure that only "serious" borrowers passed through to the licensed MLOs
- The prequalification letters issued by licensed MLOs all directed the would-be borrower to contact the HLC/SC if he or she had questions
- HLCs/SCs were part of Respondent's sales team. They were not directly supervised by licensed MLOs
- HLCs/SCs were employees of Respondent, a regulated mortgage lender, and not independent contractors
- HLCs/SCs earned a commission based on the success of the application submitted (i.e. the volume of loans actually closed)
- HLCs/SCs were consistently aware of a prospective borrower's interest in a particular property and used this information to determine initial eligibility for a loan
- While HLCs/SCs did not have the authority to lock in an interest rate or issue a firm loan commitment, they routinely discussed the range of interest rates with a borrower as well as loan products
- HLCs/SCs pulled credit while communicating with potential borrowers and used this information, together with other financial data shared by the borrower, to provide preliminary feedback on whether the borrower would qualify for a loan.

Section 1008.103(a) of Regulation H provides that, for a state to operate a S.A.F.E. compliant program, it must prohibit an individual from engaging in the business of a loan originator with respect to any dwelling or residential real estate in the state unless the individuals maintains a valid loan originator license from the state.

Takes a Residential Mortgage Loan Application (Section 1008.103(b))

Subsection (c)(1) of Section 1008 explains that to take a residential mortgage loan application, an individual must receive a residential mortgage loan application to facilitate a decision on whether to extend an offer of residential mortgage terms to a borrower or prospective borrower. Here, HLCs/SCs did receive applications from prospective borrowers. Those applications were initiated by the borrower. Although the application may not have been complete during the prospective borrower's dealings with the HLC/SC, there is no requirement in Regulation H that the application received be fully completed. In addition, since Section 1008.23 defines "application" to mean "a request in any form for an offer", the term is not limited to the Uniform Residential Loan Application (Form 1003).

Appendix A of Regulation H indicates that taking a residential mortgage loan application exists even if:

- "The individual . . . Is not responsible for verifying information . . . for example, the individual is a mortgage broker who collects and sends that information to a lender". In this case, Respondent's call center employees routinely collected application information although final verification was the responsibility of the licensed MLO.

- "[The individual] Only inputs the information into an online application or other automated system." Here, Respondent argued that since its call center personnel only had access to a Byte software program for data entry, they were not functioning as MLOs. Under Regulation H, use of a data entry system is not a key factor.

- "[The individual] Is not involved in approval of the loan, including determining whether the consumer qualifies for the loan. Similar to an individual who is not responsible for verification, an individual can still 'take a residential mortgage loan application' even if he or she is not ultimately responsible for approving the loan. A mortgage broker, for example, can take a residential mortgage loan application even though it is passed on to a lender for a decision on whether the borrower qualifies for the loan and for the ultimate loan approval." Here, Respondent's argument was that, since licensed MLOs were ultimately responsible for formally qualifying the borrower and approving the loan, the call center employees could not take an application. Appendix A refutes this argument.

However, Appendix A also indicates that certain activities do not rise to the level of taking a loan application. These are:

- Receiving a loan application through the mail and forwarding it, without review, to loan approval personnel. Here, loan information was received telephonically and via email. More important, HLCs/SCs did not just pass the application on to a licensed MLO. They reviewed it.

- Assisting a borrower or prospective borrower who is filling out an application by explaining the contents of the application and where particular borrower information is to be provided on the application. Here, HLCs/SCS captured financial data relayed to them telephonically and via email by would-be borrowers and entered that information into Respondent's software program. Thus, this exception does not apply.

- Generally describing for a borrower or prospective borrower the loan application process without a discussion of particular loan products. There were a few instances where call center personnel

refrained from getting into individual product related advice with the prospective borrower, recommending that such matters would be addressed by the licensed MLO. To the extent products were mentioned, they were referenced only generically (e.g. publicly available information on the general criteria for obtaining an FHA loan). Thus, not all call center personnel performed an evaluative function vis a vis the prospective borrower. However, this was the exception rather than the rule.

- In response to an inquiry regarding a prequalified offer that a borrower or prospective borrower has received from a lender, collecting only basic identifying information about the borrower or prospective borrower on behalf of that lender. There is no evidence that Respondent's call center employees collected only basic identifying information about borrowers or prospective borrowers who previously received a prequalified offer from Respondent.

Offers or Negotiates Terms of a Residential Mortgage Loan for Compensation or Gain

Regulation H states that an individual offers or negotiates terms of a residential mortgage loan if the individual: 1) presents particular residential mortgage loan terms for consideration by a borrower or prospective borrower; 2) communicates, directly or indirectly, with a borrower or prospective borrower in order to reach a mutual understanding about prospective mortgage loan terms; or 3) 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 on a compensated basis.

Appendix A explains that presenting particular loan terms for a prospective borrower's consideration can be made verbally or in writing and that such activity exists even though 1) Further verification of information is necessary; 2) the offer is conditional; 3) other individuals must complete the loan process; 4) the individual lacks authority to negotiate the interest rate or other loan terms; or 5) the individual lacks authority to bind the person that is the source of the prospective financing (i.e. Respondent). The record in this case demonstrates that Respondent's call center employees presented particular loan terms for consideration by prospective borrowers within the meaning of Regulation H.

Appendix A explains that communicating with a prospective borrower to reach a mutual understanding about prospective loan terms includes responding to the prospective borrower's request for a different rate or different fees on a pending loan application by presenting the prospective borrower with a revised loan offer, even if a mutual understanding is not subsequently reached. There is insufficient evidence in the record to support a finding that Respondent's call center employees communicated revised loan offers to prospective borrowers.

Regulation H provides certain exceptions from "offering or negotiating terms of a loan." These include explaining loan terminology or lending policies; and explaining or describing the steps that a borrower or prospective borrower would need to take in order to obtain a loan offer, including providing general guidance about qualifications or criteria that would need to be met that is not specific to that borrower or prospective borrower's circumstances. The record in this case indicates that while certain call center employees limited themselves to generic discussions with would-be borrowers (thus entitling them to the exception), others were more assertive in performing an evaluative function tailor-made to the borrower's circumstances. *See, e.g*. the following emails: Daniel Sindler (evaluating borrower's debt-to-income ratio); Alexis Feliciano (advising borrower that student loans were too high for her to qualify for a loan); Martin Murdock (providing comparative loan figures to borrower's realtor); Sonya Pellitier (advising borrower about impact of pay raise on loan amount); Katherine Jasenski (advising borrower that his prior HLC never should have told him he was prequalified until the HLC verified the borrower's income, and that the borrower's file had not been reviewed by a loan officer).

In explaining the meaning of "for compensation or gain", Regulation H points out that the compensation must be in connection with the individual's activities and includes "anything of value, including, but not limited to, payment of a salary, bonus, or commission. The concept 'anything of value' is interpreted broadly and is not limited only to payments that are contingent upon the closing of a loan." Respondent's compensation structure for its call center employees clearly meets the definition of "for compensation or gain."

As an aside, Regulation H also provides that a state is not required to impose the prohibitions on unlicensed activity for individuals performing clerical or support duties as long as such duties are at the direction of, and subject to the supervision and instruction of an MLO. As members of Respondent's sales team, the call center employees involved here were not supervised by licensed MLOs.

Fair Credit Reporting Act

The Amended Notice alleged that unlicensed individuals violated the federal Fair Credit Reporting Act by failing to provide adverse action notices to prospective borrowers whom they disqualified over the phone based on credit score or debt-to-income ratios.

The Fair Credit Reporting Act requires that an adverse action notice 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." 15 USC Section 1681m(a). "Adverse action" is defined 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).

On at least one occasion, Respondent's call center personnel discouraged would-be borrowers from applying based on information gleaned from their credit report, and did not supply those borrowers with an adverse action notice. Respondent appears to contend that its policy was only to generate adverse action notices when a "full application" on Form 1003 was completed (DOB Ex. 32; DOB Ex. 330).

An application on Form 1003 is not a prerequisite to generating an adverse action notice. In Cochran v. Northeast Mortgage, LLC (D. Conn. 8/21/2007; Civil No. 3:06CV01131 AWT), the consumer plaintiff submitted a mortgage loan application to the defendant mortgage broker who obtained a credit report. After evaluating the credit report, the defendant decided not to submit the loan application to any lenders. The defendant never gave the consumer notice explaining that it had taken adverse action on her loan application or the reasons for the adverse action. In granting partial summary judgment, the court noted that there was the no dispute that the defendant's action constituted adverse action within the scope of the Federal Credit Reporting Act. The court cited with approval Treadway v. Gateway Chevrolet Oldsmobile Inc., 362 F.3d 971 (7th Cir. 2004) which noted that a car dealer's decision not to forward a credit application "is a denial of credit to the consumer just as much as if it had been made by a lender."

Here, the call center employees actually worked for Respondent lender. The fact that the Form 1003 was not completed is of no consequence insofar as the adverse action notice is concerned and Respondent has cited no persuasive authority to the contrary.

In fact, in its brief, Respondent conceded that it had failed to send adverse action notices (Respondent Brief, at 64). The Respondent violated the Fair Credit Reporting Act and therefore Sections 36a-498e(a)(7) and (8) of the Connecticut General Statutes.

Truth in Lending Act

As the result of Dodd-Frank, the CFPB issued rules (Regulation Z) simplifying the mortgage disclosure process (effective August 1, 2015). The new disclosure forms integrated Truth in Lending Act and Real Estate Settlement Procedures Act disclosures into a single "Loan Estimate" that borrowers would receive within 3 days of the loan application, and a "Closing Disclosure" that borrowers would receive three days before the loan closing date (settlement).

Section 36a-678(a) of the Connecticut General Statutes provides that: "Except as otherwise provided in the Connecticut Truth-in-Lending Act or regulations adopted by the commissioner, each person shall comply with all provisions of the Consumer Credit Protection Act that apply to such person, including the delivery of integrated disclosures required by 12 USC 5301 et seq. [the Dodd-Frank Wall Street Reform and Consumer Protection Act] and implemented through regulations adopted by the Bureau of Consumer Financial Protection."

The Amended Notice alleges that consumers did not receive the federal Loan Estimate disclosure document from Respondent.

Section 1026.19(e)(2)(iii) of Regulation Z, 12 CFR § 1026.19(e)(2)(iii), states that a "creditor . . . shall not require a consumer to submit documents verifying information related to the consumer's application before providing the disclosures required by paragraph (e)(1)(i) of this section." Many times, Respondent's call center personnel required prospective borrowers to verify financial information before any disclosures were made, and it was not uncommon for the call center representative to be aware of one or more properties in which the consumer was interested.

Section 1026.2(a)(3) of Regulation Z defines "application" to mean "the submission of a consumer's financial information for the purposes of obtaining an extension of credit." The interpretation accompanying this provision construes the term broadly, by stating that a "submission may be in written or electronic format and includes a written record of an oral application." Thus, the collection and recording of consumer financial information by call center personnel constituted an "application."

Notably, Section 1026.2(a)(3)(ii) of Regulation Z provides that, for mortgage transactions such as those involved here, an application consists of six pieces of information. These are: 1) the consumer's name; 2) the consumer's income; 3) the consumer's Social Security number to obtain a credit report; 4) the property address; 5) an estimate of the value of the property, and 6) the mortgage loan amount sought. This information is so basic that it was collected most of the time by Respondent's call center employees. Since consumers were referred to Respondent by realtor.com and Zillow (real estate sites), many consumers had one or more properties in mind when starting their dialogue with Respondent's call center.

Respondent argues that there was no "application" (and hence no need for a Loan Estimate) until the would-be borrower actually put pen to paper and signed a real estate contract with a seller. Under Respondent's reasoning, a consumer would have to contractually commit to buying a house before getting ballpark figures on how much his or her associated mortgage would be. Respondent further argues that a Loan Estimate would be premature absent a signed real estate contract. However, that is what the final Closing Disclosure is for. And that is why the initial disclosure is called an "Estimate."

Respondent's position is contrary to the CFPB's Official Interpretation of Section 1026.19(e)(2)(iii) which provides that "[a] creditor may ask for the sale price and address of the property, but the creditor may not require the consumer to provide a purchase and sale agreement to support the information the consumer provides orally before the creditor provides the disclosures required by § 1026.19(e)(1)(i)."

In addition, insofar as property address is concerned, the CFPB's Official Interpretation of Section 1026.37 (Loan Estimate) notes that: "The disclosure of multiple zip codes [on the Loan Estimate] is permitted *if the consumer is investigating home purchase opportunities in multiple zip codes*." (Emphasis added). Obviously, if the consumer is investigating multiple home purchase opportunities, he or she has not entered into a real estate contract with any one seller.

As one legal commentator noted, "the sooner that the borrower receives the Loan Estimate the better in order to enhance the borrower's ability to reject a problematic loan and shop around and seek Loan Estimates for loans from other lenders with better terms." (Stark, "Dodd-Frank 2.0: Creating Interactive Home-Loan Disclosures to Enable Shrewd Consumer Decision-Making", 27 Loyola Consumer Law Review 95 (2014) at n. 46)

Respondent's practice of not providing consumers with Loan Estimates absent the verification of information and/or an executed real estate contract is not legally supportable, violated Section 36a-678(a) of the Connecticut General Statutes and could have discouraged would-be borrowers from shopping around for better loan terms elsewhere.

Aiding and Abetting

Section 36a-498e of the Connecticut General Statutes provides, in 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) Conduct any business as a mortgage lender . . . without holding a valid license as required under sections 36a-485 to 36a-498e, inclusive, 36a-498h, 36a-534a and 36a-534b *or assist 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 . . . .* " (Emphasis added)

Section 36a-486(b)(1) of the Connecticut General Statutes provides, in part, that: "An individual, unless specifically exempted under subdivision (2) of this subsection, shall not engage in the business of a mortgage loan originator on behalf of a licensee . . . with respect to any residential mortgage loan without first obtaining and maintaining annually a license as a mortgage loan originator under section 36a-489. An individual . . . *shall be deemed to be engaged in the business of a mortgage loan originator if such individual: (A) Acts as a mortgage loan originator in connection with any residential mortgage loan on behalf of a licensee . . . or (B) makes any representation to the public through advertising or other means of communication that such individual can or will act as a mortgage loan originator on behalf of a licensee . . . .*" (Emphasis added)

Certain call centers employees of Respondent engaged in the business of mortgage loan originator through their business activities as more fully described above. In addition, through the use of social media, such call center employees held themselves out to the public as being able to perform the functions typically performed by MLOs on behalf of Respondent. Therefore, such personnel engaged in the business of MLOS within the meaning of Section 36a-486(b)(1) of the Connecticut General Statutes.

Despite being aware of various red flags regarding unlicensed MLO activity, Respondent permitted the activity to go on. In fact, Respondent urged call center employees to go beyond the call of duty through closing contests that motivated them to overstep the boundaries of their positions. Call center employees were also paid commissions tied in to successful loan closings. And when an employee asked to be licensed, Respondent's position was that licensing was too expensive (testimony of Alexander Cottone, 2/7/20 tr. 63). The evidence supports a finding that Respondent aided and abetted the unlicensed activities of call center personnel in violation of Section 36a-498e(a)(6) of the Connecticut General Statutes.

Failure to Cooperate

The Department's dispute with Respondent focuses on two items.

The first concerns the Department's request for "copies of any and all communications made to ... employees [laid off or otherwise terminated in September 2018] informing them of the cessation of employment." Respondent construed the request to mean written communications advising employees that their termination was imminent. Respondent initially replied that employee terminations were done in person (presumably rather than with advance written notice), but neglected to mention that the in-person terminations were accompanied by written Employee Termination forms. The Employee Termination Forms, which provided information on the reasons for the termination as well as compensation due, were provided to the Department after it prodded Respondent. If there was any doubt in Respondent's mind about the Employee Termination forms, it should have informed the Department of their existence and asked if the Department wished to obtain copies.

The Department argues that Respondent's failure to timely provide the Employee Termination forms constitutes a violation of Section 36a-53a of the Connecticut General Statutes. Section 36a-53a states that: "No person shall make or cause to be made orally or in any document filed with the commissioner or in any proceeding, investigation or examination under this title, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect."

Since the Department's request for the written communications was susceptible to more than one interpretation, Respondent's initial failure to provide the Employee Termination forms does not constitute a violation of Section 36a-53a.

The second item in dispute focuses on the Department's request for e-mailed communications. More specifically, on September 19, 2018 Department attorney Stacey Serrano requested emails sent and received over a seventeen-week (four-month) period for ten of Respondent's employees, primarily HLCs. Attorney Serrano volunteered to work with Respondent on a rolling production and advised Respondent that emails protected by the attorney client privilege would not have to be produced. During the hearing the Department noted that no emails were produced in response to the request, notwithstanding the Department's subsequent issuance of a subpoena (DOB Ex. 18) with which Respondent failed to comply.

Prior to the Department's issuance of the subpoena, Respondent's counsel, Ross Garber, responded to Attorney Serrano that the seventeen-week production request for the ten employees involved "more than 10,000 emails per person (more than 200,000 in total)" and that some of the emails involved privileged information such as parent and child; husband and wife; and patient and physician as well as irrelevant emails such as those involving on-line shopping (unaddressed was why Respondent would permit its employees to use office equipment for personal shopping during business hours).

Respondent's claim of hardship is not persuasive. In addition, as a regulated member of the financial services industry serving consumers in Connecticut and other states, Respondent's failure to comply with a governmental subpoena is unacceptable.

Section 36a-17(e) of the Connecticut General Statutes provides 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.

Respondent's failure to produce the requested emails even after the agency subpoenaed them constitutes a violation of Section 36a-17(e) of the Connecticut General Statutes. As a then-licensed mortgage lender, Respondent had an obligation to comply with state laws governing the operation of its licensed business.

Supervision

Section 36a-498e covers Prohibited Acts by those in the mortgage industry. Subsection (b)(1) of that section provides, in part, that: "No person . . . 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 [describing prohibited practices, including unlicensed personnel]." Subsection (b)(3) of Section 36a-498e adds that: "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."

While Respondent had a patchwork of policies and procedures that were modified over time, these were insufficient to address the violations involved in this case. More important, such policies and procedures were not enforced. Respondent hired employees with no prior experience or training in the financial services industry to be the main point of consumer contact; did not sufficiently address the red flags associated with call center employee conduct; assigned call center employees to sales rather than having them supervised by a licensed MLO; offered only sporadic training (one to two days according to DOB Ex. 23P in the record) which was at odds with the compensation structure and employee contests that encouraged call center employees to snare borrowers at any cost; and did not utilize a predictable and consistent pattern of discipline in dealing with problem employees. While Respondent argues that it subsequently attempted remedial measures, including discipline, in some instances, this was a case of "too little, too late."

The evidence supports a finding that Respondent violated Section 36a-498e(b) of the Connecticut General Statutes.

Section 36a-496

Section 36a-496 of the Connecticut General Statutes is captioned "Applications and referrals from unlicensed mortgage brokers or mortgage loan originators."

The Amended Notice alleges that Respondent violated Section 36a-496 of the Connecticut General Statutes.

The section provides 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-498e,

inclusive, 36a-534a and 36a-534b or exempt from licensing, shall accept applications or referral of applicants from, or pay a fee to, any mortgage broker or 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 broker's or mortgage loan originator's services in connection with loans made or to be made by the mortgage lender or mortgage correspondent lender, licensed to act as such by the commissioner, if the mortgage lender or mortgage correspondent lender has actual knowledge that the mortgage broker or mortgage loan originator was not licensed by the commissioner."

Although the Department argues that this provision should be applied to Respondent's own employees, it would appear that the intent was to prohibit a mortgage lender from paying or splitting compensation with an outside nonlicensed person. The provision was in effect since 1991 (see P.A. 91-306) and was expanded to cover mortgage loan originators in 2002 (see P.A. 02-111). The provision predated the S.A.F.E. Act. The OLR Amended Bill Analysis for SSB 231 (File 80, as amended by Senate "A") states only that "The bill prohibits first mortgage lenders from accepting applications or applicant referrals from unregistered originators if the lender knows that the commissioner has not registered them." There is no relevant case law interpreting the provision and the Department has cited no legal authority in support of its interpretation. (In addition, since Section 36a-486(b) prohibits a licensed mortgage lender from engaging the services of an unlicensed mortgage loan originator - and since engaging such services would undoubtedly involve compensation - the Department's interpretation would duplicate Section 36a-486(b)).

Therefore, the evidence does not indicate that Respondent violated Section 36a-496 of the Connecticut General Statutes.

Section 36a-53b

The Department argues that Respondent engaged in fraudulent practices within the meaning of Section 36a-53b of the Connecticut General Statutes.

Section 36a-53b provides that: "No person shall, in connection with any activity subject to the jurisdiction of the commissioner: (1) Employ any device, scheme or artifice to defraud; (2) make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person."

A similar provision, extending to persons requiring licensure who are subject to Sections 36a-485 to 36a-498e, inclusive,and 36a-534a and 36a-534b, is contained in subsections (a)(1) and (a)(2) of Section 36a-498e. That provision prohibits such persons from "employ[ing] any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person; [or] . . . engag[ing] in any unfair or deceptive practice toward any person." However, since it was not referenced in the Amended Notice, it will not be considered here.

The Department maintains that Respondent violated Section 36a-53b by: 1) holding out unlicensed MLOs to potential borrowers as the individuals primarily responsible for mortgage loan origination; 2) not disclosing to potential borrowers that the individuals were unlicensed; and 3) disclosing to investors, government agencies and regulators that licensed MLOs were the individuals primarily responsible for the origination of mortgage loans.

The Respondent did not have the degree of scienter required to establish a Section 36a-53b(1) claim based on the evidence the Department cited. However, the evidence does support a violation of

subsections (2) and (3) of Section 36a-53b which do not require scienter. More specifically, Respondent omitted to state to prospective borrowers the material fact that the call center employees were not licensed MLOs, and engaged in an act, practice or course of business that operated or would operate as a fraud or deceit on the lending public in so doing.

The Department also bases its Section 36a-53b fraud claim on Respondent's holding out unlicensed MLOs as the individuals who would primarily be responsible for mortgage loan origination.[1] Although it is certainly true that certain call center personnel held themselves out as being able to perform functions analogous to those performed by an MLO (and since Respondent did not effectively supervise them), there is insufficient evidence to show that Respondent itself held out the call center workers as being primarily responsible for mortgage loan origination. Licensed MLOs signed the prequalification letters provided to borrowers, and in various cases, the call center employees specifically informed the borrower that the borrower's information would be forwarded to a loan officer. Regarding the Department's claim that Respondent defrauded investors by telling them that licensed MLOs were primarily responsible for loan origination, the record does not indicate that Respondent had investors. In addition, the Department has supplied no legal authority supporting its attempt to apply Section 36a-53b to a claim that Respondent misrepresented the role of MLOs to government agencies and regulators (as opposed to the public or nongovernmental persons) and the Hearing Officer has found no such authority.

It is worth mentioning that no prospective or actual borrower testified during the course of the hearing. Such testimony would have shed additional light on the Department's Section 36a-53b claim.

CONCLUSION

Based on the evidence presented in the record, the Commissioner finds that:

1. Respondent violated Sections 36a-486(b)(1) and 36a-498e(a)(8) of the Connecticut General Statutes by engaging the services of unlicensed mortgage loan originators.

2. Respondent violated the Fair Credit Reporting Act and therefore Sections 36a-498e(a)(7) and 36a-498e(a)(8) of the Connecticut General Statutes by failing to send adverse action notices to prospective borrowers.

3. Respondent's practice of not providing consumers with Loan Estimate disclosures absent the verification of information and/or an executed real estate contract violated Sections 36a-678(a) and 36a-498e(a)(7) of the Connecticut General Statutes.

4. Respondent aided and abetted the unlicensed activities of call center personnel in violation of Section 36a-498e(a)(6) of the Connecticut General Statutes.

5. Respondent's failure to produce records to the agency even after the agency subpoenaed them constitutes a violation of Section 36a-17(e) of the Connecticut General Statutes.

[1] The Department also alleges that Respondent violated Section 36a-678(a) of the Connecticut General Statutes by failing to identify unlicensed mortgage loan originators on loan documents even though the individuals had "primary responsibility for origination." Since the evidence does not indicate that the call center personnel had "primary responsibility for origination", the record does not support a finding that Respondent violated Section 36a-678(a) of the Connecticut General Statutes.

6. Respondent violated Section 36a-498e(b) of the Connecticut General Statutes by failing to establish, enforce and maintain policies and procedures reasonably designed to achieve compliance with regulatory requirements.

7. Respondent violated Section 36a-53b(2) of the Connecticut General Statutes by omitting to state to prospective borrowers the material fact that call center employees were not licensed mortgage loan originators.

8. By doing nothing to dispel the notion that its call center representatives were licensed, Respondent violated Section 36a-53b(3) of the Connecticut General Statutes by engaging in an act, practice or course of business that operated or would operate as a fraud or deceit on the borrowing public.

9. The foregoing violations support the imposition of a civil penalty against Respondent pursuant to Section 36a-50(a)(2) of the Connecticut General Statutes. Section 36a-50(a)(2) of the Connecticut General Statutes provides, in part, that: "After the hearing, if the commissioner finds that the person has violated any such provision, regulation, rule or order, 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."

10. The foregoing violations support the entry of an Order to Cease and Desist against Respondent pursuant to Section 36a-52(a) of the Connecticut General Statutes.

11. The foregoing violations by Respondent support proceedings to revoke Respondent's mortgage lender license under Sections 36a-494(a)(1)(C) and 36a-51 of the Connecticut General Statutes.

ORDER

Having read the record**, I HEREBY ORDER**, pursuant to Sections 36a-50, 36a-52, 36a-494 and 36a-51 of the Connecticut General Statutes that:

1. **1st ALLIANCE LENDING, LLC CEASE AND DESIST** from violating Section 36a-17(e) of the Connecticut General Statutes; Section 36a-53b(2) of the Connecticut General Statutes; Section 36a-53b(3) of the Connecticut General Statutes; Section 36a-486(b)(1) of the Connecticut General Statutes; Section 36a-498e(a)(6) of the Connecticut General Statutes; Section 36a-498e(a)(7) of the Connecticut General Statutes; Section 36a-498e(a)(8) of the Connecticut General Statutes; Section 36a-498e(b) of the Connecticut General Statutes; and Section 36a-678(a) of the Connecticut General Statutes;

2. A **CIVIL PENALTY** of Seven Hundred Fifty Thousand Dollars ($750,000) be imposed upon 1st Alliance Lending, LLC, to be remitted to the Department of Banking by electronic funds payment, cashier's check, certified check or money order made payable to "Treasurer, State of Connecticut", no later than thirty (30) days from the date this Order is mailed;

3. The license of 1st Alliance Lending, LLC to act as a mortgage lender in Connecticut from 111 Founders Plaza, Suite 1300, East Hartford, Connecticut, be and is hereby **REVOKED**[2];

4. In accordance with Section 36a-52(b) of the Connecticut General Statutes, the Temporary Order to Cease and Desist contained in the Amended Notice shall no longer be in effect upon entry of the Permanent Order to Cease and Desist herein contained; and

5. This Order shall become effective when mailed.

So ordered at Hartford, Connecticut
this 16th day of April, 2021.

_____/s/_____
Jorge L. Perez
Banking Commissioner

[2] The revocation sanction may become moot if the agency's prior revocation of Respondent's mortgage lender license is upheld by the Connecticut Supreme Court (*1st Alliance Lending LLC v. State of Connecticut Department of Banking et al*., Docket No. SC 20560).

CERTIFICATION

I certify that on this 16th day of April 2021, a copy of the foregoing Findings of Fact, Conclusions of Law and Order was sent by email and by certified mail, return receipt requested, to Respondent, Respondent's counsel and counsel to the Consumer Credit Division of the State of Connecticut Department of Banking as indicated below.

1st Alliance Lending, LLC c/o John DiIorio (jdiiorio65@gmail.com) 65 Hamlet Hill Road Pomfret Center, Connecticut 06259	Certified Mail No. 7019 1640 0000 1584 4268
1st Alliance Lending, LLC 111 Founders Plaza, Suite 1300 East Hartford, Connecticut 06108	Certified Mail No. 7019 1640 0000 1584 4275
Craig A. Raabe, Esq. (craabeikrlaw.com) Seth R. Klein, Esq. (sklein@ikrlaw.com) Izard Kindall & Raabe LLP 29 South Main Street, Suite 305 West Hartford, Connecticut 06107	Certified Mail No. 7019 1640 0000 1584 4244
Ross H. Garber, Esq. (rgarber@thegarbergroup.com) The Garber Group, LLC 100 Pearl St., 14th Floor Hartford, Connecticut 06103	Certified Mail No. 7019 1640 0000 1584 4237
Stacey Serrano, Esq. (stacey.serrano@ct.gov) State of Connecticut Department of Banking	(E-mail only)
Jeffrey Schuyler, Esq. (Jeffrey.Schuyler@ct.gov) State of Connecticut Department of Banking	(E-mail only)

____/s/_____
Julie Carta
Administrative Assistant

APPENDIX A

PROCEDURAL HISTORY AND HEARING OFFICER EXHIBITS

*To ensure conformity with Section 4-177(d) of the Connecticut General Statutes, motions, objections and rulings not reflected in the transcripts are marked here as Post hearing Exhibits.

Hearing Officer Exhibit Number	Date	Description
1	12/5/2018	Banking Commissioner issues a 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 against Respondent. The Notice sets the hearing date to February 7, 2019.
1	12/11/2018	Attorney Ross Garber files an appearance on behalf of Respondent
1	12/19/2018	Attorney Craig Raabe files an appearance on behalf of Respondent
1	12/20/2018	Notification of Hearing and Designation of Hearing Officer
2	12/20/2018	Respondent, through Attorney Ross Garber files Request for Bill of Particulars
3	12/21/2018	Email from Hearing Officer stating that Request for Bill of Particulars is under consideration
4	12/27/2018	Email from Department stating that it would be objecting to the Request for Bill of Particulars the following week
5	1/2/2019	Department objects to Respondent's Request for Bill of Particulars
6	1/4/2019	Respondent, through Attorney Ross Garber, files Request for Pre-Hearing Conference and Scheduling Order
7	1/4/2019	Hearing Officer response to Request for Pre-Hearing Conference and Scheduling Order
8	1/7/2019	Hearing Officer schedules Pre-Hearing Conference for January 9, 2019
9	1/8/2019	Hearing Officer rules on Respondent's Request for Bill of Particulars
10	1/9/2019	Respondent, through Attorney Ross Garber, files a Request for Inspection and Copying
11	1/10/2019	Department files its response to Bill of Particulars
12	1/14/2019	Department files its Discovery Request
13	1/16/2019	Joint request to continue the February 7, 2019 hearing to a date to be determined. Continuance needed to resolve discovery issues. Proposed discovery schedule emailed by Attorney Serrano.
14	1/16/2019	Hearing Officer issues response to proposed Discovery Schedule. Hearing continued to a date to be determined.
15	1/30/2019	Hearing Officer receives notice from Department paralegal Tina Daigle that on January 30, 2019, the Department filed an objection to Respondent's Request for Inspection and Copying by email to Attorneys Ross Garber and Craig Raabe.

16	2/14/2019	Attorney Seth Klein, writing on behalf of both parties, requests an extension of time to prepare briefs and opposition briefs regarding discovery issues.
17	2/15/2019	Hearing Officer modifies deadlines set forth in the Hearing Officer's January 16, 2019 Response to Proposed Discovery Schedule
18	2/26/2019	Department requests that the Hearing Officer order the production of all records requested by the Department's February 13, 2019 Discovery Request, regardless of Respondent's Revised Objections and Responses.
19	2/26/2019	Respondent, through counsel, files a motion to compel the inspection and copying of certain documents from the Department.
20	3/5/2019	Department files its response to Respondent's February 26, 2019 Motion to Compel Department Production
21	3/5/2019	Respondent files its opposition memorandum, with exhibits, to the Department's February 26, 2019 motion to compel.
22, 23	3/12/2019	Hearing Officer issues 1) Ruling on Agency Request to Compel Production; and 2) Ruling on Respondent's Request to Compel Production from Agency
24	4/11/2019	Department files Amended Discovery Request
25	4/17/2019	Department relays draft Protective Order to Hearing Officer
26	4/17/2019	Attorney Klein advises the Hearing Officer that Respondent is still assessing its position on the draft Protective Order and has sent proposed edits to the Department
27	4/18/2019	Attorney Serrano submits draft Protective Order to Hearing Officer for review
28	4/18/2019	Hearing Officer executed Protective Order emailed to parties
29	4/18/2019	Department provides Respondent's counsel with discovery production
30	4/29/2019	Attorney Serrano advises the Hearing Officer that Respondent has indicated that it is working on document production and expects to complete same in 2-3 weeks
31	5/1/2019	Hearing Officer requests clarification on Department's request to compel production
32	7/15/2019	Attorney Serrano advises the Hearing Officer via email that on July 15, 2019, the Commissioner issued an Amended and Restated Notice against Respondent and attaches a copy of the Amended and Restated Notice
33	7/26/2019	Attorney Seth Klein emails the Hearing Officer, indicating that the parties have conferred and that they jointly request that the initial hearing dates be September 24, 2019 and September 25, 2019.
34		Scheduling emails sent by the Hearing Officer setting hearing dates for September 24, 2019 and September 25, 2019
35	8/8/2019	Respondent, through its counsel files a combined Motion to Strike and Motion in Limine regarding the Department's use of privileged information, with Exhibits A and B.
36	8/9/2019	Hearing Officer issues Ruling on Respondent's Motion to Strike and Motion in Limine Regarding Privileged Documents
37		Scheduling emails relating to September 12, 2019 conference call
38	9/18/2019	Respondent files a Motion to Preclude Expert Testimony by the Department
39	9/23/2019	Respondent files a Motion for Department to Request Other States' Examination Reports for Admission into Evidence.

40	9/23/2019	Email from Hearing Officer expressing concerns about Motion to Request Other States' Examination Reports
41	9/23/2019	Department files Disclosure of Expert Witness (Ken Perry) and Objection to Motion to Preclude Expert Testimony
	9/24 and 9/25/2019	Hearing held
42	9/30/2019	Hearing Officer response regarding the parties current inability to reach consensus on a stipulation
43	10/16/2019 and 10/17/2019	Scheduling related emails between the Hearing Officer, the Department and Respondent
Post 47	10/21/2019	Department files a Motion in Limine concerning subpoenas issued to the Banking Commissioner, Carmine Costa and Attorney Serrano.
Post 48	10/22/2019	Hearing Officer issues Preliminary Ruling on Motion in Limine to Preclude Testimony of Certain Department Employees
	10/23/2019	Hearing Held
	10/24/2019	Hearing Held
Post 49	10/28/2019	Attorney Klein files Respondent's opposition to the Department's Motion in Limine regarding the subpoenaed testimony of Attorney Serrano, Carmine Costa and Banking Commissioner Perez.
	10/30/2019	Hearing Held
Post 50	11/1/2019	Respondent requests a postponement of the hearing scheduled for November 1, 2019 due to the unavailability of counsel. The postponement request was granted by the Hearing Officer.
Post 51	11/1/2019	Respondent, through its counsel Seth Klein, files a Motion to Preclude the Expert Testimony of Ken Perry
Post 52	11/5/2019	Department files a Reply to Respondent's Opposition to Motion in Limine
Post 53	11/5/2019	Email from Attorney Klein indicating he had mistakenly identified Attorney Serrano as the author of certain opinion letters referenced in Respondent's opposition brief
Post 54	11/6/2019	Hearing Officer issues Ruling on Respondent's Opposition to Motion in Limine to Preclude Testimony of Certain Department Employees and Department Response Thereto
44	11/13/2019	John DiIorio advises the Hearing Officer via email that "Respondent will represent itself for the remainder of the Departments presentation. Counsel is still representing 1st Alliance, and previous appearance notices remain intact. Please ensure all correspondence related to the hearing are sent to myself, Natalia Fillion (nfillion@1agroup.com), and Christine Branciforte (cbranciforte@1agroup.com). We will forward to Mr. Garber, Mr. Raabe, and Mr. Klein as necessary." The email included a November 12, 2019 Appearance form signed by John C. DiIorio.
Post 55	11/13/2019	Via email, the Hearing Officer advises John DiIorio that "Attorneys Garber, Raabe and Klein previously filed appearances in this case to represent 1st Alliance Lending, LLC. Until such time as those appearances are withdrawn, I will continue to copy them in on case related e-mails." In response, John DiIorio replied, "please do not worry about extending courtesy to counsel. We will be sure they receive anything important, and/or necessary . . . we respectfully ask the hearing

		officer, and/or any counsel for the Department communicate with us, and us only. We are the point of contact from today forward."
	11/14/2019	Hearing Held
45	11/14/2019	Hearing Officer issues Ruling on Proposed Testimony of Expert Witness Ken Perry
Post 56	11/15/2019	In response to a November 15, 2019 email from John DiIorio concerning scheduling and stipulations, Attorney Serrano responds that the Department would consider any draft stipulation provided by Respondent but that no stipulation had been offered to date.
Post 57	11/19/2019	Attorney Serrano provides the Hearing Officer and Respondent a copy of the Department's proposed witness list
	11/21/2019	Hearing Held
	11/22/2019	Hearing Held
Post 58	12/9/2019	John DiIorio advises the 1Agroup.com domain had been terminated and that his email address should be updated to a Gmail address.
	12/18/2019	Hearing Held
	1/8/2020	Hearing Held
46A	1/19/2020	Respondent requests that the hearing scheduled for January 22, 2020 be continued due to the unavailability of John DiIorio
46A	1/21/2020	Hearing Officer denies Respondent's continuance request, noting that Respondent's three attorneys remained available
46B	1/21/2020	Email from John DiIorio regarding scheduling
	1/22/2020	Hearing Held
	2/6/2020	Hearing Held
	2/7/2020	Hearing Held
	2/11/2020	Hearing Held
Post 59	2/13/2020	Attorney Klein emails Hearing Officer indicating that Respondent was unable to locate its copies of rebuttal exhibits and requesting that Hearing Officer provide same. On February 13, 2020, the Hearing Officer advised Attorney Klein that she had made copies of the exhibits and that they were available for pickup.
Post 60	2/13/2020	Emailed discussion between counsel and Hearing Officer regarding Exhibit 165 (social media policy).
Post 61	2/20/2020	Email from Attorney Raabe to Department counsel suggesting the closing oral arguments be skipped "because this case will require post-hearing briefs due to its volume"
Post 62	2/24/2020	Department acquiesces to skipping closing oral arguments
Post 63	2/26/2020	Email from John Diiorio to counsel and to the Hearing Officer requesting that the court reporter do an audio recording of Thursday's testimony and that a State Trooper be in attendance.
	2/27/2020	Hearing Held
Post 64	3/12/2020	Email from Attorney Klein requesting copies of Hearing Officer exhibits, together with Hearing Officer response emailing exhibits to Respondent's counsel and to the Department
Post 65	3/17/2020	As requested by the Department, Hearing Officer provides scanned versions of Respondent's exhibits to the Department via email
Post 66	3/23/2020 and 3/24/2020	Department requests an extension of the briefing schedule from April 24, 2020 to May 22, 2020. John DiIorio objects to an extension and proposes that either 1) "the Department drop all the allegations, except for licensing related allegations. Then, we can slim down the briefs and

		avoid an extension"; or 2) "The hearing officer dismiss all the allegations, except for licensing related allegations; again, providing opportunity for less briefing." Hearing Officer responds that she cannot dismiss the charges summarily, and that briefing deadline is extended to May 22, 2020.
Post 67	5/8/2020	Respondent requests permission to supplement the hearing record by adding 1) John McGaffigan's LinkedIn profile (Proposed Ex. 178); and 2) Respondent's November 2014 Policy Manual (Proposed Ex. 179).
Post 68	5/11/2020	Department objects to Respondent's request to supplement the hearing record and Respondent responds to the Department's objection
Post 69	5/12/2020	Department responds to Respondent's May 11, 2020 e-mail
Post 70	5/13/2020	John DiIorio voices objection to proposed Exhibit 410 as a standalone email
Post 71	5/14/2020	Hearing Officer grants Respondent permission to supplement the record with 1) Ex. 178 (LinkedIn profile for John McGaffigan; and 2) Respondent's November 2014 Policy Manual. Hearing Officer grants Department permission to supplement the record with 1) Exhibit 410 (February 15, 2017 email from John McGaffigan introduced to show Mr. McGaffigan's self-acknowledged responsibilities as Senior Vice President and Chief Compliance Officer; 2) Exhibit 411 (John DiIorio's LinkedIn profile; and 3) Exhibit 31 (transcript from the September 3, 2019 bond hearing). (May 13, 2020 email request from Department included.)
Post 72	5/15/2020	John DiIorio requests an extension of time to file brief to July 3, 2020. The Department consented to the extension and requested that the due date for its reply brief be extended to July 31, 2020. Both requests were granted by the Hearing Officer on May 15, 2020.
Post 73	5/22/2020	Request by the Department to make Exhibit 208 a full exhibit to conform to the transcript.
	5/22/2020	Department files its brief.
Post 74	6/2/2020	Exhibit 208 made a full exhibit
Post 75	6/15/2020	Email from the Hearing Officer to Respondent and the Department expressing concern about a June 15, 2020 emailed request to the Hearing Officer from nonparty Scott Olson of Olson Advocacy Group to include a document in the record. Neither counsel to Respondent nor counsel to the Department were cc'd on the email.
Post 76	6/15/2020	Motion by Respondent (through Attorney Garber) to admit the Scott Olson letter into evidence
Post 77	6/16/2020	Motion by Attorney Garber to strike Scott Olson email from record if motion to admit the Scott Olson letter is denied
Post 78	6/17/2020	Department objects to Respondent's Motion to Admit Olson Letter and Alternative Motion to Strike Olson Email and References Thereto from the Record
Post 79	6/17/2020	Hearing Officer denies Respondent's Motion to Admit Olson Letter and Alternative Motion to Strike Olson Email and References Thereto from the Record
Post 80	6/19/2020	Respondent requests an extension to July 17, 2020 to file its brief which was granted by the Hearing Officer the same day. Department counters with a similar request.

Post 81	6/19/2020	Hearing Officer grants Department's request for an extension to August 14, 2020 to file its reply brief.
Post 82	7/14/2020	Due to COVID 19, Respondent requests an extension to July 24, 2020 to file its brief. The Hearing Officer granted Respondent's request on July 14, 2020.
Post 83	7/24/2020	Respondent submits its hearing brief. Respondent includes a motion to supplement the record with the BYTE data logs of several consumers discussed in the Department's brief and Appendix B.
Post 84	7/28/2020	Department objects to the introduction of the BYTE data logs. Respondent responded to the Department's objection on July 28, 2020.
Post 85	7/29/2020	Email from John DiIorio in support of admitting BYTE data logs.
Post 86	8/2/2020	Hearing Officer denies Respondent's motion to supplement the record with BYTE data logs and confirms that Department reply brief is due by August 21, 2020.
	8/21/2020	Department files its reply brief
Post 87	8/21/2020 and 8/24/2020	Respondent files a request for remote oral argument or, in the alternative, permission to file a surreply brief. Respondent also requests that Appendix A of the Department's Reply Brief be stricken as presenting new arguments rather than replying to Respondent's arguments. The Department opposes Respondent's request for oral argument.
Post 88	9/4/2020 and 9/15/2020	Hearing Officer declines Respondent's request for oral argument but grants Respondent's request to file a surreply brief by October 2, 2020. John DiIorio requests an extension to October 16, 2020 for Respondent to file its surreply brief.
Post 89	9/17/2020	Hearing Officer grants Respondent's request for an extension to file its surreply brief.
Post 90	10/16/2020	Respondent files its surreply brief. Respondent also files a Motion to Reopen the Record to Admit Improperly Withheld CFPB Correspondence
	10/19/2020	Respondent files corrected surreply brief
Post 91	10/20/2020	Department files its opposition to Respondent's Motion to Reopen the Record to Admit Improperly Withheld CFPB Correspondence
Post 92	11/29/2020	Hearing Officer responds indicating that she will not reopen the record to admit the CFPB correspondence but will consider it as a supplement to Respondent's brief
Post 93	12/31/2020	Responding to a December 31, 2020 email from John DiIorio requesting that the Hearing Officer avoid further delay, the Hearing Officer explained the limitations involved in working remotely and indicated that the decision was taking longer than expected.
Post 94	1/4/2021	Attorney Klein requests confirmation that the Department will issue its final decision by January 18, 2021.
Post 95	1/5/2021	Hearing Officer responds to Attorney Klein that, based on his email, she surmises that the probability of the Consumer Credit Division and Respondent agreeing to an extension is not high.
Post 96	1/5/2021	Attorney Klein advises the Hearing Officer that Respondent is unable to consent to an extension "due to other circumstances that will be impacted by the timing of a decision in this matter." Attorney Klein does not state what those circumstances are.

Post 97	1/6/2021	Respondent's counsel advises the Department's counsel and the Hearing Officer that the unspecified "external circumstances are irrelevant."
Post 98	1/7/2021	Acting pursuant to Governor Lamont's Executive Order 7M (responding to COVID), the Commissioner issues an Order extending the final decision timeline to April 19, 2021
	1/12/2021	Respondent brings an action in Superior Court against the Commissioner and the Hearing Officer to compel the issuance of a final decision by January 18, 2021. The action was dismissed by the court on March 5, 2021 (*1st Alliance Lending LLC v. State of Connecticut Department of Banking et al*., Docket No. HHD-CV21-6137031-S)