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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU OF
COMPLIANCE, INVESTIGATION AND
LICENSING

Docket No.: 08 0319 (ENF-ORD)

v.

BRIAN TRAY

ORDER OF PROHIBITION

Background

WHEREAS, the Department of Banking (the "Department") is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce 7 Pa. C.S. § 6101 et seq. (the "Mortgage Act"); and

WHEREAS, the Bureau of Compliance, Investigation and Licensing (the "Bureau") is primarily responsible for administering and enforcing the Mortgage Act for the Department; and

WHEREAS, the Mortgage Act is the successor statute to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (the "MBBCEPA"), 63 P.S. § 456.301 et seq., and the Secondary Mortgage Loan Act (the "SMLA"), 7 P.S. § 6601 et seq. On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Act; and

WHEREAS, Brian Tray was employed by America's Mortgage Outlet Corporation which was operating as a first mortgage broker under the MBBCEPA, license no. 4260, and as a secondary mortgage broker under the SMLA, license no. 1655, and had a principal place of business located at 824 1st Street, Verona, PA 15147-1440; and

WHEREAS, America's Mortgage Outlet Corporation's licenses were cancelled effective July 1, 2005, and America's Mortgage Outlet is no longer licensed by the Department; and

WHEREAS, Brian Tray was also employed by Single Source Mortgage Services, Inc. which was operating as a first mortgage broker under the MBBCEPA, license no. 4648, and as a secondary mortgage broker under the SMLA, license no. 2075, and had a principal place of business located at 1831 Murray Ave, Ste 210, Pittsburgh, PA 15217-1656; and

WHEREAS, Single Source Mortgage Services, Inc.'s licenses were cancelled effective July 1, 2008, and Single Source Mortgage Services, Inc. is no longer licensed by the Department; and

WHEREAS, on or around January 30, 2008, Mr. Tray was indicted by the U.S. Attorney's Office (See Superseding Indictment attached as Exhibit A); and

WHEREAS, Mr. Tray was charged with wire fraud, bank fraud, and two counts of conspiracy (the "Charges") in the Superseding Indictment; and

WHEREAS, the Charges relate to the mortgage industry; and

WHEREAS, on August 6, 2008, Mr. Tray entered a plea with the U.S. Attorney's Office wherein he agreed to plead guilty to all four counts in the Superseding Indictment. (See Plea attached as Exhibit B); and

WHEREAS, on November 14, 2008, Mr. Tray was sentenced to 41 months in prison, supervised release of 5 years, restitution of \$205,038.98 and total special assessment of \$400. (See Sentencing Sheet attached as Exhibit C); and

WHEREAS, Section 6138(a)(4) of the Mortgage Act (corresponding to Sections 310(a) of the MBBCEPA and 16(1) of the SMLA) grants the Department broad authority to issue orders

for the enforcement of the Mortgage Act. 7 Pa. C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a) and 7 P.S. § 6616(1)); and

AND NOW THEREFORE, based upon the foregoing recitals, the Bureau, under the authority cited above, hereby imposes the following order. **Upon the effective date of this Order:**

1. Pursuant to the Department's authority under Section 6138(a)(4) of the Mortgage Act (corresponding to Sections 310(a) of the MBBCEPA and 16(1) of the SMLA), Brian Tray, as a natural person or as a corporation or as any other form of organization of any kind whatsoever, is hereby prohibited from working in the mortgage loan business as regulated by the Mortgage Act as a licensee, employee, independent contractor, agent, representative, or in any other capacity of any kind whatsoever, in any way whatsoever.

IT IS SO ORDERED.

Date: 11/19/2008

M. Lalai, Administrator
Department of Banking,
Bureau of Compliance, Investigation and Licensing
Market Square Plaza
17 N. 2nd Street, Suite 1300
Harrisburg, PA 17101

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA) Criminal No. 06-60
))
) (18 U.S.C. §§ 371, 1344(1) and
) 2, and 1343)
v.))
BRIAN TRAY))

SUPERSEDING INDICTMENT

COUNT ONE

The grand jury charges:

THE CONSPIRACY AND ITS OBJECTS

1. From in or around October 2004, and continuing thereafter until in or around November 2004, in the Western District of Pennsylvania and elsewhere, the defendant, BRIAN TRAY, knowingly and willfully did conspire, combine, confederate and agree with persons known to the grand jury, to commit offenses against the United States, that is:

- a. Mail Fraud, in violation of Title 18, United States Code, Section 1341; and
- b. Wire Fraud, in violation of Title 18, United States Code, Section 1343.

MANNER AND MEANS OF THE CONSPIRACY

2. It was a part of the conspiracy that an individual known to the grand jury as BC, through the defendant, BRIAN TRAY, applied for a mortgage loan from a mortgage company known to the grand jury, in connection with the purchase a multi-unit residence located at 929-931 Manton Way, Pittsburgh, Pennsylvania.

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CLERK
U.S. DISTRICT COURT

3. It was further a part of the conspiracy that BC, and the defendant, BRIAN TRAY, made various misrepresentations and provided various false documents in connection with the mortgage loan application, when they then well knew that said representations and documents were false.

4. During the course of the conspiracy, the defendant, BRIAN TRAY, utilized both interstate wires and interstate carriers in furtherance of the conspiracy.

OVERT ACTS

5. In furtherance of the conspiracy, and to effect the objects of the conspiracy, the defendant, BRIAN TRAY, and BC, did commit and cause to be committed, the following overt acts, among others, in the Western District of Pennsylvania:

a. - c. In or around November 2004, the defendant, BRIAN TRAY, in connection with the mortgage loan application of BC, knowingly submitted, and caused to be submitted, false documents to the mortgage company known to the grand jury, including but not limited to: (a) a false Verification of Employment form; (b) a fraudulent appraisal that materially overstated the true value of the property; and (c) a false Verification of Rent form, each such false submission representing a separate overt act.

d. On or about November 30, 2004, BC signed various documents at the closing for the property located at 929-931 Manton

Way, Pittsburgh, Pennsylvania, and the related mortgage loan, when she then well knew that the mortgage loan was based on false documents and representations provided to and made to the mortgage company.

In violation of Title 18, United States Code, Section 371.

COUNT TWO

The grand jury further charges:

6. At all times material to this Superseding Indictment, the Flagstar Bank was a federally insured financial institution.

7. From in or around March 2002, and continuing to in or around May 2003, in the Western District of Pennsylvania and elsewhere, the defendant, BRIAN TRAY, did knowingly execute and attempt to execute a scheme and artifice to defraud Flagstar Bank.

8. It was part of the scheme and artifice that, the defendant, BRIAN TRAY, and other persons known and unknown to the Grand Jury, developed a scheme to deceive Flagstar Bank, one form of which was to represent to Flagstar Bank and other lending institutions that applications presented to Flagstar Bank and other lending institutions were for real property re-finance loans, when in actuality these applications were for real property purchase loans.

9. It was further a part of the scheme and artifice that the defendant, BRIAN TRAY, and other persons known and unknown to the Grand Jury, in order to deceive Flagstar Bank in the manner described in paragraph 8 above, created false documents and provided them to Flagstar Bank and to support false statements made in mortgage loan applications.

10. It was further a part of the scheme and artifice that the defendant, BRIAN TRAY, and other persons known and unknown to the Grand Jury, in order to deceive Flagstar Bank, frequently

submitted loan applications that the defendant, BRIAN TRAY, knew contained false information regarding the applicants' assets, liabilities, or equity ownership in properties used as collateral, as well as false representations concerning employment, income, liquid assets, and home ownership.

11. It was further a part of the conspiracy that the defendant, BRIAN TRAY, and other persons known and unknown to the Grand Jury, caused numerous mortgage loans, including but not limited to the mortgage loans specifically noted below, to be funded by Flagstar Bank, and caused mortgage loan proceeds in the amounts noted below to be paid by Flagstar Bank, and disbursed by the settlement agent, based upon the types of false representations referred to above:

Borrower	Loan #	Settlement Date	Amount
Long	998641312	3/25/2005	\$88,000
Robinson	998895970	9/11/2002	\$64,000

In violation of Title 18, United States Code, Sections 1344(1) and 2.

COUNTS THREE and FOUR

The grand jury further charges:

THE SCHEME AND ARTIFICE

12. From in or around July 2004, and continuing thereafter to in or around November 2004, in the Western District of Pennsylvania, the defendant, BRIAN TRAY, devised and intended to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, well knowing at the time that the pretenses, representations and promises were false and fraudulent when made.

13. It was part of the scheme and artifice to defraud that the defendant, BRIAN TRAY, was a loan officer at Single Source Mortgage.

14. It was further a part of the scheme and artifice to defraud that the defendant, knowingly submitted to Novastar Mortgage loan applications that contained material misrepresentations.

15. It was further a part of the scheme and artifice to defraud that the defendant, BRIAN TRAY, in connection with the fraudulent loan applications, knowingly submitted to Novastar Mortgage fraudulent documents that falsely represented the financial position of the borrowers and the collateral associated with the loans.

THE INTERSTATE WIRE - COUNT THREE

16. On or about August 25, 2004, in the Western District of Pennsylvania, the defendant, BRIAN TRAY, for the purpose of executing and attempting to execute the scheme and artifice to defraud, did cause to be transmitted in interstate commerce, by means of a wire communication, that is, a wire transfer of approximately \$53,058.85 sent from UBS Real Estate Securities Inc., in New York, New York to the PNC Bank account of Land Options located in Pittsburgh, Pennsylvania, said wire transfer funding the loan of an individual known to the grand jury as RC.

All in violation of Title 18, United States Code, Section 1343.

THE INTERSTATE WIRE - COUNT FOUR

17. The allegations set forth in paragraphs 12 - 15 are incorporated herein as if set forth in full.

18. On or about November 30, 2004, in the Western District of Pennsylvania, the defendant, BRIAN TRAY, for the purpose of executing and attempting to execute the scheme and artifice to defraud, did cause to be transmitted in interstate commerce, by means of a wire communication, that is, a wire transfer of approximately \$71,528.65 sent from UBS Real Estate Securities Inc., in New York, New York to the PNC Bank account of Land Options located in Pittsburgh, Pennsylvania, said wire transfer funding the loan of an individual known to the grand jury as BC.

All in violation of Title 18, United States Code, Section 1343.

True Bill,

FOREPERSON

MARY BETH BUCHANAN
United States Attorney
PA ID No. 50254

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
 v.) Criminal No. 06-60
)
BRIAN TRAY)

CERTIFICATION AND NOTICE FOR FILING PRETRIAL MOTIONS

I hereby certify that I have been notified by the United States Magistrate Judge that all pretrial motions must be filed within ten (10) days of Arraignment unless the Court extends the time upon written application made within said ten (10) day period.

Date

Attorney for Defendant
BRIAN TRAY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

BRIAN TRAY

)
)
)
)
)

Criminal No. 06-60

ARRAIGNMENT PLEA

Defendant BRIAN TRAY

being arraigned, pleads _____

in open Court this _____ day of

_____, 20____.

(Defendant's Signature)

(Attorney for Defendant)

CRIMINAL CASE INFORMATION SHEET

Pittsburgh Erie _____ Johnstown _____

Related to No. _____ Judge _____
(All criminal prosecutions arising out of the same criminal transaction or series of transactions are deemed related).

- CATEGORY: 1. _____ Antitrust & Securities Fraud
 2. _____ Tax
 3. General Criminal

06-60

Defendant's name: Brian Tray

Is Indictment waived: yes _____ no

Pretrial Diversion: _____ yes no

Juvenile proceeding: _____ yes no

Defendant is: Male _____ Female

Superseding Indictment or Information: yes _____ no

Previous case number: 06-60

If superseding, previous case was/will be:

- _____ Dismissed on defendant's motion
 Dismissed on government's motion
 _____ After appellate action
 _____ Other (explain)

County in which first offense cited occurred: Allegheny County

Previous proceedings before Magistrate Judge: _____

Case No.: _____

PLEASE INCORPORATE MAGISTRATE CASE WITH CRIMINAL CASE

Date arrested or date continuous U.S. custody began: _____

Defendant: _____ is in custody is not in custody

Name of Institution: _____

Custody is on: _____ this charge _____ another charge
 _____ another conviction

_____ State _____ Federal

Detainer filed: _____ yes _____ no
Date detainer filed: _____
Total defendants: 1
Total counts: 4
Data below applies to
defendant No.: 1
Defendant's name: Brian Tray

SUMMARY OF COUNTS

<u>COUNT NO.</u>	<u>U.S. CODE</u>	<u>OFFENSE</u>	<u>FELONY</u>	<u>MISDEMEANOR</u>
1	Conspiracy	18 U.S.C. § 371	X	
2	Bank Fraud	18 U.S.C. §§ 1344(1) and 2	X	
3-4	Wire Fraud	18 U.S.C. § 1343	X	

I certify that to the best of my knowledge the above entries are true and correct.

DATE: JAN 30 2008

BRENDAN T. CONWAY
Assistant U.S. Attorney
PA ID No. 78726

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	
)	
v.)	Criminal No. 06-60
)	
BRIAN TRAY,)	
Defendant.)	

PLEA

AND NOW, the defendant,
BRIAN TRAY, in the
above entitled case hereby
withdraws his plea of
NOT GUILTY, entered February
7, 2008, and now pleads
GUILTY to counts 1, 2, 3 and
4 in open court this 6th
day of August, 2008.

Defendant _____

Attorney

CERTIFIED FROM THE RECORD	
Date	AUG 18 2008
ROBERT V. BARTH, JR., CLERK	
_____	Deputy Clerk

Exhibit C

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU OF
COMPLIANCE, INVESTIGATION AND
LICENSING

Docket No.: 08 0319 (ENF-ORD)

PA DEPT OF BANKING

v.

BRIAN TRAY

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Order of Prohibition upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code § 33.31:

BY FIRST CLASS MAIL

Brian Tray
76 S. 19th Street
Pittsburgh, PA 15203-1862

Dated this 19th day of November, 2008.

Lauren A. Sassani
Assistant Counsel
Attorney I.D. # 203016
Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471