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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING, BUREAU OF  
SUPERVISION AND ENFORCEMENT

PA DEPT OF BANKING

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: Docket No. 08 0048 (CO)  
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v.

LOAN EXPRESS, INC.

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking, ("Department") Bureau of Examinations has conducted an examination into the business practices of Loan Express, Inc., ("Loan Express"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Supervision and Enforcement ("Bureau") believes that Loan Express operated in violation of the Mortgage Bankers and Brokers & Consumer Equity Protection Act ("MBBCEPA"), 63 P.S. § 456.101 *et. seq.* The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order ("Order").

**BACKGROUND**

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the MBBCEPA.
2. The Bureau is primarily responsible for administering and enforcing the MBBCEPA for the Department.

3. Loan Express is licensed as a First Mortgage Broker, license no. 8571, with a Pennsylvania principal place of business (“Principal Place”) located at 300 Rutter Ave, Kingston, PA 18704-4646.

4. From July 17, 2007 through August 15, 2007, an examiner from the Department conducted an on-site examination (“Examination”) of Loan Express at the Principal Place.

5. The Examination revealed that on at least fifty three (53) occasions in 2005 and 2006, Loan Express permitted four brokers to originate, on its behalf, residential first mortgage loans in Pennsylvania from its Principal Place and compensated these individuals as independent contractors via IRS Form 1099.

6. The four brokers that originated the loans were not licensed by the Department.

7. Loan Express knew that the brokers were not licensed at the time that these loans were originated.

8. However, by the time of the Examination in August 2007, two of the four brokers had obtained their own mortgage broker’s license with the Department, one of the brokers was paid by Loan Express as an employee with a W-2 Form, and one of the brokers was no longer doing business for Loan Express.

### VIOLATIONS

9. Section 303(a) of the MBBCEPA provides, in relevant part, that “no person shall act as a mortgage banker, loan correspondent, mortgage broker or limited mortgage broker in this Commonwealth *without a license.*” 63 P.S. § 456.303(a) (emphasis added).

10. However, employees of a licensed mortgage banker, mortgage broker and loan correspondent do not have to maintain their own license. 63 P.S. § 456.303(b)(11) (“The following persons shall not be required to be licensed under this chapter in order to conduct the

first mortgage loan business . . . [e]mployees of a mortgage banker, mortgage broker and loan correspondent licensee or excepted persons acting for their employers.”).

11. In 2005 and 2006, Loan Express compensated the four brokers working on its behalf via 1099, thus, these individuals were not employees of Loan Express but were independent contractors.

12. As a result, the brokers were engaging in unlicensed activity when they originated and closed the residential first mortgage loans on behalf of Loan Express.

13. Section 314(c) of the MBBCEPA provides that, “[a]ny person licensed under the provisions of this chapter. . . who . . . *shall direct or consent to such violations* [of this chapter] shall be subject to a fine levied by the department of up to \$2,000 for each offense.” 63 P.S. § 456.314(c) (emphasis added).

14. Loan Express directed and/or consented to the brokers’ unlicensed activity by processing and closing the fifty-three (53) first mortgage loans that the unlicensed brokers originated.

15. By directing and/or consenting to the activity of the unlicensed brokers, Loan Express violated Sections 303(a) and 314(c) of the MBBCEPA.

### **RELIEF**

16. Fine. Loan Express agrees to pay the Department a fine in the amount of \$15,000 payable in six payments of \$2,500. The first payment shall be due and payable within thirty (30) days of the Effective Date of this Order and the remaining five payments shall be due by the first day of the following month thereafter. Payments shall be remitted by certified check or money order made payable to the Department of Banking, and will be sent to the Attention of the Non-

Depository Institutions, Supervision and Enforcement, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

17. Corrective Action. Loan Express further agrees that it shall cease and desist from accepting first mortgage loan applications from any and all unlicensed persons including, but not limited to, those persons acting as independent contractors. Loan Express further agrees that it will employ unlicensed persons originating or brokering loans on its behalf and will properly reflect their compensation on a W-2 form.

### FURTHER PROVISIONS

18. Consent. Loan Express hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the MBBCEPA and agrees that it understands all of the terms and conditions contained herein. Loan Express, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

19. Publication and Release. Loan Express consents to the publication and release of this Order.

20. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Bureau and Loan Express.

21. Binding Nature. The Bureau, Loan Express, and all officers, owners, directors, employees, heirs and assigns of Loan Express intend to be and are legally bound by the terms of this Order.

22. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

23. Effectiveness. Loan Express hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (“Effective Date”).

24. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against Loan Express in the future regarding all matters not resolved by this Order.

b. Loan Express acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

25. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

26. Counterparts. This Order may be executed in separate counterparts.

27. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department of Banking, Bureau of Supervision and Enforcement, and Loan Express, Inc. intending to be legally bound do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING, BUREAU OF  
SUPERVISION AND ENFORCEMENT**

Ryan M. Walsh, Administrator  
Bureau of Supervision and  
Enforcement  
Department of Banking

Date: March 4, 2008

**FOR LOAN EXPRESS, INC.**

(Print Officer Name)

President  
(Title)

Date: 01-16-08