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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

PA DEPARTMENT OF  
BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING AND	:	
SECURITIES, COMPLIANCE OFFICE	:	
	:	
v.	:	Docket No. 17 <u>0071</u> (BNK-CAO)
	:	
JAMES F. SCHMUCKER d/b/a	:	
GREYSTONE ENTERPRISES	:	

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**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Compliance Office ("Office"), has reviewed loans made by James F. Schmucker d/b/a Greystone Enterprises ("Schmucker"). Based on the results of its review, the Office concludes that Schmucker operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.*, and the Loan Interest and Protection Law, 41 P.S. § 10 *et seq.* Schmucker, in lieu of litigation, and without admitting or denying the allegations herein, and the parties to the above-captioned matter, 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 Mortgage Licensing Act and the Loan Interest and Protection Law.
2. The Office is primarily responsible for administering and enforcing the Mortgage Licensing Act and the Loan Interest and Protection Law for the Department.
3. James F. Schmucker d/b/a as Greystone Enterprises, an unlicensed entity, is engaged in the business of making purchase money loans on manufactured homes to individuals.
4. Schmucker operates from a location of Redacted

5 The loans were secured by first liens on manufactured homes and had an interest rates ranging from 7% to 12%. The loans also had a provision for late charges and a provision for an interest rate increase up to 15% if the loan was in default.

## VIOLATION

### Unlicensed Activity

6. The definition of "first mortgage loan" as found in Section 6102 of the Mortgage Licensing Act includes the language "secured by any first lien mortgage, deed of trust, or equivalent consensual security interest on a dwelling or residential real estate."

7 A manufactured home is a "dwelling" as defined by the Truth in Lending Act, 15 U.S.C § 1602(v) referenced by the Mortgage Licensing Act, 7 P.S. § 6121(3).

8 A loan secured by a manufactured home is considered to be a mortgage loan.

9. Section 6111 of the Mortgage Licensing Act states, in part, that "no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator as provided under this chapter." 7 Pa. C.S. § 6111.

10. Schmucker is not and was not licensed under the Mortgage Licensing Act.

11. By making mortgage loans when he was not licensed under the Mortgage Licensing Act, Schmucker is in violation of Mortgage Licensing Act.

12. Each mortgage loan which is made by an unlicensed person is a separate offense

### Excessive Interest Rates

13. Section 201(a) of the Loan Interest and Protection Law states, in pertinent part, "the maximum lawful rate of interest for the loan or use of money in an amount of fifty thousand dollars (\$50,000) or less in all cases where no express contract shall have been made for a less rate shall be six per cent per annum." 41 P.S. § 201(a).



14 The Federal Depository Institution and Deregulatory Monetary Control Act of 1980 ("DIDMCA") gives first mortgage lenders, including lenders on contracts secured by manufactured homes, pre-emption regarding state restrictions on rates and fees when the lender makes or holds more than \$1,000,000 in first mortgage loans in a calendar year

15. Many of the loans which Schmucker made were made before Schmucker reached the million-dollar pre-emption threshold established by DIDMCA.

16. By charging rates in excess of 6% per annum on loans of fifty thousand dollars or less before it reached the DIDMCA pre-emption threshold, Schmucker is in violation of Section 201(a) of the Loan Interest and Protection Law.

#### Authority of the Department

17. Section 6138(a)(4) of the Mortgage Licensing Act authorizes the Department to issue orders as may be necessary for the enforcement of the Mortgage Licensing Act.

18. Section 6140(a) of the Mortgage Licensing Act authorizes the Department to issue a fine of up to \$10,000 per offense against an unlicensed person.

19 Section 506(c) of the Loan Interest and Protection Law grants the Department authority to issue orders and to impose conditions by order or otherwise as the Department deems appropriate

20. Section 505 of the Loan Interest and Protection Law authorizes the Department to levy a fine of \$10,000 per offense.

#### **RELIEF**

21. Fine. Schmucker agrees to pay a fine of \$22,000. Payment of the fine will be made in four (4) monthly installments of \$5,500 with the first monthly payment due within thirty (30) days of the Effective Date of the Order as defined in paragraph 30 below. The fine payments shall be remitted by certified check or money order made payable to the "Department of Banking and Securities" and sent



to the attention of: Department of Banking and Securities, Compliance Office, 17 N 2nd Street, Suite 1300, Harrisburg, PA 17101-2290.

22. Corrective Action. Schmucker shall not engage in the mortgage loan business until and unless he is licensed under the Mortgage Licensing Act.

23. Schmucker shall reduce the interest rate on certain loans to 6% simple retroactive to the date of the loan. The Department has provided Schmucker with a list of the loans on which Schmucker will reduce the interest rate. Schmucker shall send notification of the rate reduction to the selected borrowers and shall send copies of the notifications to the Compliance Office. In addition, Schmucker shall not charge any late fees going forward and shall either refund or credit to the borrower's account any late charges already paid. Schmucker shall credit the resulting interest difference to principal, thereby reducing the total number of payments on each loan. In the event that the interest difference on a loan is greater than the loan principal, the loan will be paid off and any interest difference in excess of the principal will be refunded to the borrower.

#### FURTHER PROVISIONS

24. Consent. Schmucker hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Licensing Act and the Loan Interest and Protection Law and agrees that it understands all of the terms and conditions contained herein. Schmucker, 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.

25. Consumer's Rights. This Order shall not limit or impair a consumer's rights under the Loan Interest and Protection Law.

26. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking and Securities Code, 71 P.S. § 733-302.A.(5)



27. 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 Compliance Office and James F. Schmucker d/b/a Greystone Enterprises.

28. Binding Nature. The Department and James F. Schmucker d/b/a Greystone Enterprises intend to be and are legally bound by the terms of this Order.

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

30. Effectiveness. James F. Schmucker d/b/a Greystone Enterprises hereby stipulates and agrees that the Order shall become effective on the date that the Compliance Office executes this Order ("Effective Date").

31 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 James F. Schmucker d/b/a Greystone Enterprises in the future regarding all matters not resolved by this Order.

b. James F. Schmucker d/b/a Greystone Enterprises 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

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

33. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic mail in portable document format "PDF."



34 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 and Securities, Compliance Office and James F. Schmucker d/b/a Greystone Enterprises intending to be legally bound do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF  
PENNSYLVANIA, DEPARTMENT OF  
BANKING AND SECURITIES,  
COMPLIANCE OFFICE**

**JAMES F. SCHMUCKER d/b/a  
GREYSTONE ENTERPRISES**

Redacted  
James Keiser, Administrator  
Compliance Office  
Department of Banking and Securities

Redacted  
James F. Schmucker

Date: November 2, 2017

Date: 11/1/17



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