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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

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PA DEPARTMENT OF  
BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA :	:
DEPARTMENT OF BANKING AND :	:
SECURITIES, COMPLIANCE OFFICE :	:
	:
v. :	DOCKET NO. 20 <u>0059</u> (BNK-CAO)
	:
PETER LAX, an individual :	:
	:
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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 Peter Lax, an individual ("Lax"). Based on the results of its review, the Office believes that Lax 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. 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 Mortgage Licensing Act and the Loan Interest Protection Law, 41 P.S. § 10 et seq.

2. Lax's principal place of business is located at Redacted

3. Lax is not licensed as a Mortgage Lender or Mortgage Servicer under the MLA.

4. Lax is a private individual who was engaged in the business of making loans to other individuals.

5. "Mortgage servicer" is defined as "A person who engages in the mortgage loan business by directly or indirectly servicing a mortgage loan." 7 Pa. C.S. § 6102.

6. "Service mortgage loan" is defined as "A collecting or remitting payment or the right to collect or remit payments of principal, interest, tax, insurance or other payment under a mortgage loan." 7 Pa. C.S. § 6102.

7. A person engaged in the mortgage loan business as a mortgage servicer is required to be licensed as a Mortgage Servicer. 7 Pa. C.S. § 6111(a).

#### Excessive Interest Rates

8. Section 301(b) of the Loan Interest Protection Law states, in pertinent part, "The maximum lawful rate of interest for residential mortgages, as defined in this act, entered into or contracted for during any calendar month shall be equal to the Monthly Index of Long Term United States Government Bond Yields for the second preceding calendar month plus an additional two and one-half per cent per annum rounded off to the nearest quarter of one per cent per annum." 41 P.S. §301(b).

9. The Office contends that Lax made residential mortgage loans at interest rates in excess of those allowed by Section 301(b) of the Loan Interest and Protection Law.

#### Unlicensed Servicing

10. Act 81 of 2017, which included the requirement that a mortgage servicer be licensed, was signed into law on December 22, 2017.

11. The Mortgage Servicer licensing requirement found in Section 6111(a) of the MLA became effective April 27, 2018.

12. The Department began accepting applications for licensure as a Mortgage Servicer on April 1, 2018.

13. Although the Mortgage Servicer licensing requirement became effective on April 27, 2018, the Department provided an administrative grace period allowing unlicensed persons until June 30, 2018 to apply for a license without penalty for unlicensed activity.

14. The Department issued press releases on January 23, 2018, February 6, 2018, March 28, 2018 and June 15, 2018, through many sources including the Department's website, on NMLS, via social media

platforms, and by e-mail to thousands of industry e-mail addresses including the mortgage associations and all existing mortgage licensees, informing both the general public and particularly existing mortgage servicers of the mortgage servicer licensing requirements.

15. The Office contends that Lax serviced mortgage loans which he was not licensed to do so.

16. The Office contends that by servicing mortgage loans, Lax acted as a mortgage servicer when he was not licensed to do so.

#### Authority of the Department

17. The Department has the authority to issue orders as may be necessary for the proper conduct of the mortgage loan business by licensees and the enforcement of the MLA. 7 Pa. C.S. § 6138(a)(4).

18. The Department may fine a person, whether licensed or subject to the provisions of this chapter and not licensed, who violates the act or commits any action which would subject the license to suspension, revocation or nonrenewal under Section 6139 up to \$10,000 per offense. 7 Pa. C.S. § 6140(a) and (b).

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.

#### **VIOLATION**

21. The Office contends that Lax violated the MLA when he engaged in the business of a mortgage servicer while not licensed as a Mortgage Servicer. 7 Pa. C.S. § 6111(a).

22. The Office contends that Lax violated the Loan Interest and Protection Law by charging over the maximum interest rate for residential mortgages.

#### **RELIEF**

23. Fine. Lax agrees to pay a fine of eleven thousand five hundred dollars (\$11,500), if not done so already, with the payment due within thirty (30) days of the Effective Date of the Order. The fine payment shall be made by ACH or wire transfer, or if ACH or wire transfer is unavailable by certified

check, cashier's check, teller's check or money order made payable to the "Department of Banking and Securities" and shall be mailed, or delivered in person to the attention of: Department of Banking and Securities, Compliance Office, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101-2290.

24. Corrective action. Lax shall not engage in the mortgage loan business until and unless he is licensed under the Mortgage Licensing Act.

25. Lax shall retroactively reduce the interest rate on all applicable loans to the maximum lawful interest rate for residential mortgages as defined in the Loan Interest Protection Law. Within 30 days of the effective date of this order, Lax shall reduce the loan balances accordingly or, if the loan would have been paid off, shall refund any excess payments. Lax shall send notification of the account reductions or refunds to all applicable borrowers and shall send copies of the notifications to the Compliance Office.

26. Within 30 days of the effective date of this order, Lax shall assign all mortgage servicing to a licensed mortgage servicer or license-exempt entity.

#### FURTHER PROVISIONS

27. Consent. Lax hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Department's order authority under the MLA and agrees that he understands all of the terms and conditions contained herein. Lax, 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.

28. Consumer's Rights. The Order shall not limit or impair a consumer's rights under the MLA.

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

30. 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 Office and Lax.

31. Binding Nature. The Department, Lax, and all officers, owners, directors, employees, heirs and assigns of Lax intend to be and are legally bound by the terms of this Order.

32. Counsel. This Order is subject to review by the Department's Legal Division. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

33. Effectiveness. Lax hereby stipulates and agrees that the Order shall become effective on the date that the Department's Legal Division docket this Order ("Effective Date").

34. 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 Lax in the future regarding all matters not resolved by this Order.
- b. Lax 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.

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

36. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic format.

37. 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 Lax 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

FOR PETER LAX, an individual

Redacted

Redacted

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(Signature)

John Talalai, Administrator  
Compliance Office  
Department of Banking and Securities

PETER LAX  
(Print Name)

Date: 12/14/2020

OWNER  
(Title)

Date: 12-14-2020

