

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS



DEPARTMENT OF BUSINESS REGULATION
DIVISION OF BANKING
1511 PONTIAC AVENUE
CRANSTON, RI 02920

IN THE MATTER OF :
: 17BK002
RESIDENTIAL MORTGAGE SERVICES, INC. :

CONSENT AGREEMENT

It is hereby agreed by and between the Rhode Island Department of Business Regulation (“Department”), Banking Division, and Residential Mortgage Services, Inc., National Mortgage Licensing System Number 1760 (“Respondent”) as follows:

Licensing, Travel, and Authority

1. Respondent is the holder of Rhode Island Loan Broker License # 20122831LB and Rhode Island Lender License # 20092626LL (the “Licenses”) issued pursuant to the terms and provisions of R.I. Gen. Laws § 19-14-1 *et seq.*
2. On or about December 30, 2016, the New England Regulatory Mortgage Committee (NERMC) issued a Report of Examination (“Report”) to the Respondent that included findings, which in the Department’s view, raised certain compliance issues.
3. On or about February 8, 2017, the Respondent submitted its response to the Report.
4. The Department has the authority to address violations, including issues raised in the Report, by instituting disciplinary proceedings pursuant to R.I. Gen. Laws §§ 19-14-13 (license revocation), 19-14-15 (license suspension), and 19-14-23(f) (administrative

assessment up to \$1,000 per violation), but the parties have elected to resolve this matter by settlement as authorized by R.I. Gen. Laws § 42-35-9(d) in avoidance of a full administrative hearing and the attendant time and costs of such a hearing process.

Marketing Services Agreements

5. The Division alleges that with respect to certain Marketing Services Agreements (MSAs), the Respondent had insufficient documentation and supervision structures as required to demonstrate compliance with and protect against violation of Section 8(a) of the Real Estate Settlement Procedures Act, 12 U.S.C. 2601 *et seq.* (“RESPA”) as written and as construed by the Consumer Financial Protection Bureau, including through Compliance Bulletin 2015-05, and as incorporated as a requirement of the License under R.I. Gen. Laws § 19-14-33 (Compliance with federal law governing licensed activities).
6. Respondent represents that it self-identified the potential for violations of law related to its MSAs, took a series of steps to bolster compliance of these agreements and ultimately terminated the MSA program on its own accord prior to the Division's examination.
7. To address this allegation pertaining to MSAs, the Respondent has paid an administrative assessment in the amount of fifteen thousand dollars (\$15,000) and the **RESPONDENT FURTHER AGREES** that no later than thirty (30) days from the date of execution of this Consent Agreement, the Respondent will create, implement, and maintain on file written policies and procedures for evaluating and monitoring any outside contractors the Respondent utilizes for services related to the Respondent’s activities under its

License, including outside services marketing said activities, to assure compliance with RESPA.

Qualifying Individual

8. The Division alleges that at the time of the examination, the Respondent was out of compliance with Banking Regulation 6 *Lenders, Loan Brokers, Small Loan Lenders*, Section 5(D)(1), which requires the Respondent to “appoint a person that holds a valid Rhode Island Mortgage Loan Originator (“MLO”) license as the Qualified Individual or Branch Manager designated to operate the licensed business.”
9. The Respondent appointed a Rhode Island MLO as the Qualifying Individual during the course of the examination.
10. To ensure compliance with the above-cited Rhode Island Qualified Individual rule in the future, the **RESPONDENT AGREES** that no later than thirty (30) days from the date of execution of this Consent Agreement, the Respondent will create, implement, and maintain on file written policies and procedures for assuring compliance with this rule.

Rhode Island Home Loan Protection Act Disclosure Forms 1 and 2

11. The Division alleges that at the time of the examination, the Respondent was out of compliance with R.I. Banking Regulation 3, Section 5(A)(iv), which requires that each loan file must contain fully executed copies of Disclosure Forms 1 and 2 with verification that the date the Forms were submitted to the loan applicant was within three business days of the application. Form 1 is entitled “Prohibited Acts of Lenders and Loan Brokers in R.I. Gen. Laws § 34-25.2-1 et seq.; Prohibited Acts and Practices Disclosures Regarding All Home Loans.” Form 2 is entitled “Prohibited Acts of Lenders and Loan

Brokers in R.I. Gen. Laws § 34-25.2-1 et seq.; Prohibited Acts and Practices Disclosures Regarding High-Cost Home Loans.”

12. The Respondent responded to this allegation as follows: “Issuance of both of these forms has been implemented in the workflow, effective on or before January 1, 2017.”

RESPONDENT AGREES that written evidence of this corrected workflow and its implementation will be maintained on file such that all affected loan applicants are provided with all required disclosures and that copies of required disclosures are maintained in each respective loan file to evidence receipt by the borrower in the proscribed timeframe.

Legal Effects of Consent Agreement

13. *Waiver of Hearing and Appeal.* By agreeing to resolve this matter through the execution of this Consent Agreement, Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to pursue an appeal to the Superior Court under the Rhode Island Administrative Procedures Act, R.I. Gen. Laws § 42-35-1 et seq.
14. *Enforcement.* If the Respondent fails to comply with any term or condition of this Consent Agreement within any applicable time period set forth herein, the Respondent will be in violation hereunder and the Department shall be entitled to immediately to take enforcement or other action in accordance with applicable law.
15. *Compliance; Other Laws.* Compliance with the terms of this Consent Agreement does not relieve the Respondent of any obligation to comply with other applicable laws or regulations administered by or through the Department or any other governmental agency.

CONSENTED AND AGREED TO BY:

Respondent: RESIDENTIAL MORTGAGE SERVICES, INC.

James R. Seely
James R. Seely, President & CEO
Date: October 18, 2017

STATE OF MAINE
COUNTY OF CUMBERLAND

In South Portland, in said County, on the 18th day of October, 2017, before me personally appeared James R. Seely, to me known and known by me to be the President and Chief Executive Officer of and the person executing this instrument on behalf of Residential Mortgage Services, Inc., the party executing this instrument, and he acknowledged said instrument by him so executed to be his free act and deed in such capacity and the free act and deed of such corporation.

[Signature]
Notary Public Signature

N/A
Notary Number

Tracy Yannelli
Print Notary Name

11/20/23
Commission Expiration Date

The Division:

Elizabeth Kelleher Dwyer
Signature

Date: 10-25-17

Elizabeth Kelleher Dwyer, Esq.
Superintendent of Banking and Insurance

