

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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In the Matter of

FRANKLIN FIRST FINANCIAL, LTD.,

CEASE AND DESIST ORDER

A Licensed Mortgage Banker Pursuant To
Article XII-D of the New York Banking Law
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Maria T. Vullo, the Superintendent of the New York State Department of Financial Services (“Superintendent”), having determined that Franklin First Financial Ltd. (“Franklin First”), a company licensed to engage in the business of a Mortgage Banker under Article 12-D of the New York Banking Law (“Banking Law”) and located at 538 Broadhollow Road, Suite 401 Melville, NY 11747, has engaged in, is engaging in, or is about to engage in acts or practices constituting violations of Article 12-D of the Banking Law and regulations promulgated thereunder, hereby issues the following Cease and Desist Order (“Order”) pursuant to Section 39 of the Banking Law.

I.

BACKGROUND

1. On August 7, 2017 the New York State Department of Financial Services (the “Department”) commenced an examination of Franklin First. The examination identified violations of New York State and federal laws and regulations and raised concerns regarding Franklin First’s financial condition. Specifically, the examination determined, among other things, that Franklin First improperly: (i) inaccurately booked a 2014 loan on the company’s balance sheet as a “correspondent loan sale receivable;” (ii) maintained large and unexplained balance due from settlement agents; (iii) made substantial lead generation payments to Franklin First employees in an apparent effort to evade federal restrictions on mortgage loan originator compensation; (iv) transferred \$130,000 to fund a

privately held business booked as travel and business expenses; (v) paid personal expenses of the principal of the company; and (vi) conducted business with unlicensed mortgage loan originators.

2. In addition, Franklin First violated Banking Law §§ 36 and 596 by failing to provide information requested by the Department concerning the issues listed above and subsequently, failed to provide information relating to the accuracy of the company's books and records that was purportedly stolen by Franklin First's former chief financial officer.

3. On November 16, 2018, the Department became aware that Franklin First terminated its employees and ceased originating loans. Franklin First failed to apprise the Department of this action.

II.

FINDINGS

Based on the information above, the Superintendent finds that:

1. Franklin First has engaged in acts or practices which warrant the belief that Franklin First is not operating fairly, nor demonstrating the financial responsibility or character and fitness required of licensed mortgage bankers pursuant to Section 592 of the Banking Law, which is a ground for revocation of Franklin First's license pursuant to Section 595 of the Banking Law.

2. Franklin First violated 2 CFR 1026.36(d)(1)(i) by paying additional compensation to its mortgage loan originators in the guise of lead generation payments.

3. Franklin First violated Section 38.7(a)(2) of Part 38 and Section 420.18 of Part 420 of the General Regulations of the Superintendent by conducting business with unlicensed mortgage loan originators.

4. Franklin First violated Section 410.7(a) of Part 410 of the Department's Regulations by failing to maintain books and records in a manner that allows the Superintendent to determine whether Franklin First is complying with applicable laws and regulations.

5. Franklin First violated Banking Law Section 596 by failing to provide books and records requested by the Department.

6. Franklin First violated 3 NYCRR Part 300 by failing to report the theft of certain books and records of the company by its former chief financial officer.

7. Pursuant to Section 595(1)(b) of the Banking Law, the Superintendent may revoke a mortgage banker's license if she finds that any fact or condition exists which, if it had existed at the time of original application for such license or registration, would have warranted the Superintendent in originally refusing to issue such license. The Superintendent has determined that, had the facts and conditions outlined herein existed at the time of the original mortgage lender license application submitted by Franklin First, the Superintendent would have been warranted in refusing to issue such license(s).

8. Pursuant to Section 595(2) of the Banking Law, the Superintendent may, for good cause shown, or where there is substantial risk of public harm, suspend a mortgage banking license for a period not exceeding 30 days, pending investigation. The facts and conditions set forth in Paragraphs 1 through 5 of the Background section present sufficient grounds for the immediate suspension of Franklin First's mortgage banker license pursuant to Section 595 of the Banking Law.

9. The Superintendent is authorized to take action to ensure the safe and sound operation of the institutions and entities that the Department regulates, and to make certain that such institutions and entities operate in an authorized manner and in accordance with applicable laws and regulations. Whenever it appears to the Superintendent that a licensed mortgage banker is conducting business in an unauthorized or unsafe and unsound manner, Section 39 of the Banking Law authorizes her to issue an order directing the discontinuance of such unauthorized or unsafe and unsound practices, among other things.

10. The Superintendent has concluded that prompt action is necessary to address the

violations set forth above and to determine whether additional enforcement action(s) may be necessary to protect the public interest.

III.

ORDER TO CEASE AND DESIST

NOW THEREFORE, the Superintendent hereby orders that:

1. Franklin First, its executive officers, employees, independent contractors, or agents operating on behalf of Franklin First and their successors or assigns, SHALL IMMEDIATELY CEASE, for a period not exceeding 30 days from the date of this Order, to engage in the activities of a mortgage banker, as defined under Section 590 of the Banking Law, relative to any residential property in New York, unless otherwise specifically permitted by the terms of this Order. In particular, Franklin First shall cease soliciting or accepting, either directly or indirectly, any residential mortgage loan applications from consumers for residential property located in New York.

2. All books and records shall be maintained until further notice. No record may be destroyed, removed or altered in any way without the prior consent of the Superintendent.

3. Pursuant to the authority granted under the provisions of Sections 595(1) and 44 of the New York Banking Law and a statement of charges to be provided, a hearing will be held at the Department before the end of the 30 day suspension period to determine whether to revoke Franklin First's license to act as a mortgage banker in New York.

4. No later than two business days of the date of this Order, Franklin First shall establish and maintain, at a bank insured by the Federal Deposit Insurance Corporation and located in New York, an escrow account for depositing mortgage loan payments received from borrowers serviced on an interim basis by Franklin First. In the escrow agreement covering the engagement of the escrow bank, the escrow bank shall subordinate, in favor of the borrowers who are beneficiaries of this Order,

any right of set-off or counterclaim or any lien or security interest in the escrow account, or the funds in such account, that the depository might otherwise have. Franklin First shall maintain accurate records with respect to all amounts placed in the escrow account and provide the Department with a daily statement reflecting the balance in such account.

5. Within seven (7) business days of the date of this Order, Franklin First shall submit to the Department a complete listing of all loans that it services, including any loans serviced on an interim basis. At a minimum, for every loan serviced by Franklin First, the list shall state, the:

- i. Borrower name(s);
- ii. Address and telephone number of the borrower(s);
- iii. Loan number;
- iv. Property address, if different from borrower's address above; and
- v. Amount of each loan.

6. Should the Department find that Franklin First is unable or unwilling to provide an accurate listing of loans serviced, Franklin First shall immediately retain the services of a third-party consultant approved by the Department to conduct a thorough review of its servicing portfolio and identify such loans.

7. Until further notice, Franklin First shall not pay or declare any dividend, member distribution, bonus or severance pay or otherwise authorize any other material distribution of Franklin First's assets to any officer, director, member, owner, employee or relative of any officer, director, member, owner or employee or any company owned, controlled or operated by such individuals without the prior approval of the Department.

8. Franklin First shall immediately implement or revise its practices and procedures, as necessary, to ensure that its financial books and records are accurately maintained, in a manner illustrating compliance with the provisions of this paragraph, and are available for review by the

Department's examiners upon request.

9. Nothing in paragraph 6 shall prevent Franklin First from paying ordinary operating expenses relating to leases and salaries of individuals employed or contracted to finalize the wind down of the Company's operations. However, Franklin First shall furnish to the Department upon request details of payments made pursuant to this paragraph. Franklin First is prohibited from making payments under this paragraph to any company owned directly or indirectly by, or any person related to, an officer, director, member, owner, employee or relative of such individuals.

10. All written communications to the Department regarding this Order should be sent as follows.

Attention:

Rholda L. Ricketts
Deputy Superintendent
Mortgage Banking Division
New York State Department of Financial Services
One State Street,
New York, New York 10004

In Witness Whereof, I have set my hand and affixed the official seal of the Department this 16th day of November, 2018.



Maria T. Vullo
Superintendent of Financial Services

