

IN THE MATTER OF:

**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

v.

ALHASANE AGUIBOU SOUMAH

Respondent.

BEFORE THE MARYLAND

COMMISSIONER OF

FINANCIAL REGULATION

CASE NO.: CFR-FY2023-44

CASE NO.: CFR-FY2024-17

SUMMARY ORDER TO CEASE AND DESIST

This Summary Order to Cease and Desist (the “Order”) is issued this 5th day of December, 2023, by the Maryland Commissioner of Financial Regulation (the “Commissioner” or the “Agency”) against the Alhasane Aguibou Soumah (the “Respondent”).

WHEREAS, the Agency is a part of the Maryland Department of Labor and undertook an investigation into the business and other activities of the Respondent.

WHEREAS, as a result of that investigation, the Commissioner finds grounds to allege that the Respondent violated various provisions of the Annotated Code of Maryland, including Financial Institutions Article (“FI”), §11-501 *et seq.* (the Maryland Mortgage Lender Law, or “MMLL”) and Real Property Article (“RP”) §7-401 *et seq.* (the Maryland Mortgage Fraud Protection Act, or “MMFPA”); and the Commissioner finds that action under FI § 2-115, and State Government Article (“SG”), §10-226(c)(2), is appropriate.

NOW, THEREFORE, the Commissioner has determined, for the reasons set forth below, that the Respondent’s activities constitute a pattern of mortgage fraud in violation of the MMFPA as well as in violation of the MMLL, and that the public interest imperatively requires that the Respondent immediately **CEASE AND DESIST** from engaging in mortgage fraud, or from

conspiring to engage in mortgage fraud, involving Maryland residential real property; and that the Respondent immediately CEASE AND DESIST from soliciting, brokering, lending, servicing, originating, or engaging in any other activities pertaining to mortgage loans involving Maryland residential real property:

1. FI §2-115 sets forth the Commissioner's authority to issue summary cease and desist orders, and to take additional actions for violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction, providing as follows:

(a) When the Commissioner determines that a person has engaged in an act or practice constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, and that immediate action against the person is in the public interest, the Commissioner may in the Commissioner's discretion issue, without a prior hearing, a summary order directing the person to cease and desist from engaging in the activity, provided that the summary cease and desist order gives the person:

(1) Notice of the opportunity for a hearing before the Commissioner to determine whether the summary cease and desist order should be vacated, modified, or entered as final; and

(2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of receipt of the summary cease and desist order.

(b) When the Commissioner determines after notice and a hearing, unless the right to notice and a hearing is waived, that a person has engaged in an act or practice constituting a violation of a law, regulation, rule, or order over which the Commissioner has jurisdiction, the Commissioner may in the Commissioner's discretion and in addition to taking any other action authorized by law:

(1) Issue a final cease and desist order against the person;

(2) Suspend or revoke the license of the person;

(3) Issue a penalty order against the person imposing a civil penalty not exceeding:

(i) \$10,000 for a first violation; and

(ii) \$25,000 for each subsequent violation;

(4) Issue an order against the person requiring the person to take affirmative action to correct the violation, including making restitution to any person aggrieved by the violation; or

(5) Take any combination of the actions specified in this subsection.

Md. Code. Ann., FI §§2-115 (2023).

2. Pursuant to the MMLL, the Commissioner is responsible for licensing and regulating, *inter alia*, the activities of mortgage lenders, mortgage brokers, and mortgage servicers pertaining to consumer loans secured by residential real property located in the State of Maryland (the "State").

3. Pursuant to FI §11-515(b)(2), "the Commissioner may make any other investigation of any person if the Commissioner has reasonable cause to believe that the person has violated any provision of this subtitle, of any regulation adopted under this subtitle, or of any other law regulating mortgage loan lending in the State."

4. FI §11-516 provides, in part, as follows:

(a) *Issuance.* - If the Commissioner finds that the conduct of any other business conceals a violation or evasion of this subtitle or of any rule or regulation adopted under this subtitle, or of any law regulating mortgage loan lending in the State, the Commissioner may issue a written order to a licensee to:

(1) Stop doing business at any place in which the other business is conducted or solicited; or

(2) Stop doing business in association or conjunction with the other business.

(b) *Penalties.* - A licensee who violates an order of the Commissioner issued under this section shall be subject to the penalties provided by §11-517 of this subtitle.

5. FI §11-517 provides, in part, as follows:

(a) *Suspension or revocation of license – In general.* – Subject to the hearing provisions of §11-518 of this subtitle, the Commissioner may suspend or revoke the license of any licensee if the licensee or any owner, director, officer, member, partner, stockholder, employee, or agent of the licensee:

* * *

(1) Makes any material misstatement in an application for a license;

* * *

(3) In connection with any mortgage loan or loan application transaction:

(i) Commits any fraud;

- (ii) Engages in any illegal or dishonest activities; or
- (iii) Misrepresents or fails to disclose any material facts to anyone entitled to that information;
- (4) Violates any provision of this subtitle or any rule or regulation adopted under it or any other law regulating mortgage loan lending in the State; or
- (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or any other quality that indicates that the business of the licensee has not been or will not be conducted honestly, fairly, equitably, and efficiently.

* * *

(c) *Enforcement of subtitle, regulations, etc. – Orders, civil penalties.*

(1) The Commissioner may enforce the provisions of this subtitle, regulations adopted under §11-503 of this subtitle, and the applicable provisions of Title 12 of the Commercial Law Article by:

(i) Issuing an order:

1. To cease and desist from the violation and any further similar violations; and
2. Requiring the violator to take affirmative action to correct the violation including the restitution of money or property to any person aggrieved by the violation; and;

(ii) Imposing a civil penalty not exceeding \$1,000 for each violation.

* * *

6. FI §11-523(a) provides additional penalties for “willful violations,” stating as follows: any person who willfully violates any provision of this subtitle or any rule or regulation adopted under it is guilty of a felony and on conviction is subject to a fine not exceeding \$50,000 or imprisonment not exceeding 10 years or both.

7. Pursuant to RP §7-404.1, the Commissioner may enforce the provisions of the MMFPA by exercising any of the powers provided under FI §§2-113 through 2-116, including issuing a summary cease and desist order provided in FI §2-115, as provided:

(a) The Commissioner may enforce the provisions of this subtitle by exercising any of the powers provided under §§2-113 through 2-116 of the Financial Institutions Article.

(b)(1) The Commissioner may seek an injunction to prohibit a person who has engaged or is engaging in a violation of this subtitle from engaging or continuing to engage in the violation:

(2) The court may enter any order or judgment necessary to:

- (i) Prevent the use by a person of any prohibited practice;
 - (ii) Restore to a person any money or real or personal property acquired from the person by means of any prohibited practice; or
 - (iii) Appoint a receiver in case of willful violation of this subtitle.
- (3) In any action brought by the Commissioner under this subsection, the Commissioner is entitled to recover the costs of the action for the use of the State.
- (c) The Commissioner may enforce the provisions of this subtitle by requiring a violator to take affirmative action to correct the violation including the restitution of money or property to any person aggrieved by the violation.
- (d) The Commissioner may:
- (1) Investigate violations of this subtitle; and
 - (2) Aid any other unit of State government that has regulatory jurisdiction over the business activities of the violator.

Md. Code Ann., RP §7-404.1 (2023)

8. RP § 7-401 (“Definitions”) provides, in relevant part, as follows:

- (d) “Mortgage fraud” means any action by a person made with the intent to defraud that involves:
- (1) Knowingly making any deliberate misstatement, misrepresentation, or omission during the mortgage lending process with the intent that the misstatement, misrepresentation, or omission be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - (2) Knowingly creating or producing a document for use during the mortgage lending process that contains a deliberate misstatement, misrepresentation, or omission with the intent that the document containing the misstatement, misrepresentation, or omission be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - (3) Knowingly using or facilitating the use of any deliberate misstatement, misrepresentation, or omission during the mortgage lending process with the intent that the misstatement, misrepresentation, or omission be relied on by a mortgage lender, borrower, or any other party to the mortgage lending process;
 - (4) Receiving any proceeds or any other funds in connection with a mortgage closing that the person knows resulted from a violation of item (1), (2), or (3) of this subsection;
 - (5) Conspiring to violate any of the provisions of item (1), (2), (3), or (4) of this subsection; or
 - (6) Filing or causing to be filed in the land records in the county where a residential real property is located, any document relating to a mortgage loan that the person knows to contain a deliberate misstatement, misrepresentation, or omission.

(e)(1) "Mortgage lending process" means the process by which a person seeks or obtains a mortgage loan.

(2) "Mortgage lending process" includes:

(i) The solicitation, application, origination, negotiation, servicing, underwriting, signing, closing, and funding of a mortgage loan; and

(ii) The notarizing of any document in connection with a mortgage loan.

(f) "Mortgage loan" has the meaning stated in §11-501 of the Financial Institutions Article.

(g) "Pattern of mortgage fraud" means two or more incidents of mortgage fraud that:

(1) Involve two or more residential real properties; and

(2) Have similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics.

9. Pursuant to RP § 7-402, "[a] person may not commit mortgage fraud."

10. Penalties for violations of the MMFPA are set forth in RP §7-407, which

provides, in relevant part, as follows:

(a) *In general.* - Except as provided in subsections (b) and (c) of this section, a person who violates this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 10 years or both.

* * *

(c) *Enhanced penalties - Pattern of mortgage fraud or conspiracy.* - If a violation involves engaging or participating in a pattern of mortgage fraud or a conspiracy or endeavor to engage or participate in a pattern of mortgage fraud, a person who violates this subtitle is guilty of a felony and on conviction is subject to a fine not exceeding \$100,000 or imprisonment not exceeding 20 years or both.

(d) *Restitution.*-

(1) A person convicted of violating this subtitle shall pay restitution to any person damaged by the violation.

(2) Restitution shall be ordered in addition to a fine or imprisonment or both.

(e) *Separate offenses.* - Each residential real property transaction subject to a violation of this subtitle constitutes a separate offense, and shall not merge with any other crimes set forth in the Criminal Law Article.

(f) *Applicability of §5-106(b) of the Courts Article.* - A person who violates this subtitle is subject to §5-106(b) of the Courts Article.

11. During April 2023, the Agency began an investigation into the Respondent's business activities based upon a consumer complaint alleging that the Respondent engaged in mortgage fraud involving a Maryland residential property. Pursuant to the Agency's preliminary inquiry into that and subsequent complaints received involving Respondent, the Agency developed reasonable grounds to believe that the Respondent had engaged in a pattern of mortgage fraud in violation of various provisions of Maryland Law, including, but not limited to, the MMFPA and MMLL. The factual bases for these determinations are described below.

12. When the Agency initiated its investigation, the Respondent was employed as the Vice President of Apex Mortgage, LLC, located in Columbia, Maryland. In this capacity, the Respondent assisted borrowers in obtaining mortgage loans. The Respondent was subsequently terminated from his position at Apex Mortgage. The Respondent is currently employed by Fairway Asset Corporation located in Rockville, Maryland.

13. The Agency's investigation into the initial complaint involving the Respondent uncovered at least five (5) independent instances of mortgage fraud pertaining to mortgages involving Maryland residential properties.

14. To perpetrate his mortgage fraud scheme, the Respondent collected large sums of money, up to \$62,000, from borrowers under the guise of assisting them in applying for and obtaining a line of credit and/or a low-interest mortgage in furtherance of purchasing a Maryland residential property. Instead of pursuing a mortgage on behalf of borrowers, the Respondent deposited these funds into his own personal bank account(s) and thereafter made no efforts to assist borrowers in obtaining a mortgage loan.

15. In each instance of mortgage fraud uncovered by the Agency's investigation, the Respondent followed a similar pattern of conduct:

a. The Respondent exploited existing business relationships he cultivated with Maryland borrowers while employed by Apex Mortgage to perpetrate his mortgage fraud scheme. The Respondent previously assisted many of his victims in obtaining a mortgage loan in the past. Other victims were referred to the Respondent by a friend or family member for whom the Respondent previously assisted in obtaining a mortgage loan.

b. In advance of borrowers receiving approval for a mortgage loan, the Respondent required borrowers to make "collateral payments" purportedly to secure or collateralize the mortgage loans the borrowers were hoping to obtain. The Respondent required that these payments be made directly to the Respondent either by cash, cashier's checks, and/or money transfer apps (such as Zelle and Venmo).

c. Based upon their previous business dealings or referrals, borrowers trusted the Respondent was acting in their best interest and made the "collateral payments" in the methods he required.

d. The Respondent deposited these payments into his personal accounts at banks and/or other financial institutions.

e. The Respondent thereafter made no effort to obtain or assist borrowers in obtaining a mortgage loan. The Respondent oftentimes provided borrowers with a fraudulent approval letter from a third-party lender.

f. As the closing date for the sale of the property approached, the Respondent concocted a reason for why the sale of the property could not proceed, continuing the charade for up to six (6) weeks. Eventually, the sale of the

residential property for which the borrowers executed a contract of sale fell through due to lack of funding.

g. When borrowers demanded a full refund of all "collateral payments" after the sale fell through, the Respondent promised effusively to refund borrowers in full, but instead of fully refunding borrowers' payments the Respondent compounded his fraud by depositing only partial refunds, attempting to deposit checks with insufficient funds into borrower's accounts, or providing forged ACH transaction information to borrowers. The Respondent then feigned surprise or confusion when borrowers could not access their full refund, leaving borrowers without access to the funds they required to find alternative living arrangements and, in some cases, leaving consumers homeless.

16. Upon information and belief, the Commissioner believes that the Respondent is continuing to engage in the mortgage fraud scheme described above on other unsuspecting and vulnerable Maryland consumers.

17. Upon information and belief, the Commissioner believes the Respondent has engaged in the mortgage fraud scheme without the knowledge or consent of his past and current employers, Apex Mortgage and Fairway Asset Corp.

18. The Respondent's conduct as described above demonstrates a knowing and willful pattern of mortgage fraud and/or a conspiracy to engage in or commit a pattern of mortgage fraud, involving Maryland consumers and Maryland residential real property. Based on the foregoing, the Commissioner has determined that, by committing and/or conspiring to commit a pattern of mortgage fraud, Respondent has violated Maryland Law, including, but not limited to, the MMFPA and the MMLL as described above.

WHEREFORE, having determined that immediate action is in the public interest, the Commissioner of Financial Regulation, **HEREBY**

SUMMARILY ORDERS that the Respondent shall immediately **CEASE AND DESIST** from engaging in mortgage fraud, or from conspiring to engage in mortgage fraud, involving Maryland residential real property; and it is further

SUMMARILY ORDERS that the Respondent shall immediately **CEASE AND DESIST** from engaging in any mortgage lending, brokering, servicing, originating, or any other activities pertaining to mortgage loans involving Maryland residential real property, *including both direct activities as well as indirect activities through other individuals or business entities*; and it is further

SUMMARILY ORDERS that the Respondent shall immediately **CEASE AND DESIST** from violating the aforementioned statutory provisions of Maryland law, including, but not limited to the Financial Institutions Article ("FI"), § 11-501 *et seq.* (the Maryland Mortgage Lender Law) and Real Property Article ("RP") § 7-401 *et seq.* (the Maryland Mortgage Fraud Protection Act).

FURTHERMORE,

THE RESPONDENT is hereby notified that, pursuant to FI §§ 2-115(a), the Respondent is entitled to a hearing before the Commissioner to determine whether this Order should be vacated, modified, or entered as a final Order of the Commissioner; and further,

THE RESPONDENT is hereby notified that, pursuant to FI §§ 2-115(a), this Order will be entered as a final Order of the Commissioner if the Respondent does not request a hearing within 15 days of the receipt of this Order; and further,

THE RESPONDENT is hereby notified that, pursuant to FI §§ 2-115(b), when the Commissioner determines after notice and a hearing (unless the right to notice and a hearing is waived) that a person has engaged in an act or practice constituting a violation of a law, regulation, rule, or order over which the Commissioner has jurisdiction, the Commissioner may in the Commissioner's discretion:

- (1) Issue a final cease and desist order against the person;
- (2) Suspend or revoke the license of the person;
- (3) Issue a penalty order against the person imposing a civil penalty not exceeding:
 - (i) \$10,000 for a first violation; and
 - (ii) \$25,000 for each subsequent violation;
- (4) Issue an order against the person requiring the person to take affirmative action to correct the violation, including making restitution to any person aggrieved by the violation; or
- (5) Take any combination of the actions specified in FI § 2-115.

and further,

THE RESPONDENT is hereby notified that any and all requests for a hearing in this matter must conform to the requirements stated above, must be made in the form of a signed, written request, and must be submitted to the following address:

Director of Enforcement
Office of the Commissioner of Financial Regulation
Maryland Department of Labor
1100 N. Eutaw Street, Suite 611
Baltimore, MD 21201

and further,

RESPONDENT is hereby notified that, pursuant to FI § 2-115(b), as a result of a hearing, or of Respondent's failure to timely request a hearing in the manner described above, the Commissioner may, in the Commissioner's discretion and in addition to taking any other action authorized by law, enter an Order making this Order final, issue a penalty order against Respondent for the violations cited above imposing a civil penalty up to \$10,000 for a first violation and up to \$25,000 for each subsequent violation, issue an order against the Respondent

requiring the Respondent to take affirmative action to correct the violation, including making restitution to any person aggrieved by the Respondent's violations or may take any combination of the aforementioned actions against the Respondent.

**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

December 5, 2023
Date

By: Meredith Merchant
Meredith Merchant
Assistant Commissioner of Financial Regulation