

IN THE MATTER OF:

**ROSE E TRAVERS, and
MARGARET D TRAVERS,**

Respondents.

**BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION**

Case No.: CFR-FY2013-161

AMENDED SUMMARY ORDER TO CEASE AND DESIST

WHEREAS, the Maryland Office of the Commissioner of Financial Regulation (the “Agency”) undertook an investigation into the mortgage lending business activities of Rose E. Travers and Margaret D. Travers (collectively the “Respondents”); and

WHEREAS, as a result of that investigation, the Deputy Commissioner of Financial Regulation (the “Deputy Commissioner”) found evidence to support charges that Respondents have engaged in acts or practices constituting a violation of a law, regulation, rule or order over which the Commissioner of Financial Regulation (the “Commissioner”) has jurisdiction, namely that Respondents have violated various provisions of the Annotated Code of Maryland, including, but not limited to, Title 11, Subtitle 5 of the Financial Institutions Article (“FI”), Annotated Code of Maryland (the Maryland Mortgage Lender Law, or “MMLL”) and Title 12, Subtitle 1 of the Commercial Law Article (“CL”), Annotated Code of Maryland; and the Agency finds that action under FI §§ 2-115 and 11-517(c) is appropriate.

WHEREAS, the Deputy Commissioner issued a Summary Order to Cease and Desist and Order to Produce (the “Summary Order”) against Respondents on June 14, 2013, after determining that Respondents were in violation of several of the aforementioned

provisions of Maryland law, and that it was in the public interest that Respondents cease and desist from lending, brokering, originating, mitigating, or engaging in any other activities involving Maryland mortgage loans or otherwise pertaining to the mortgage industry in Maryland; and

WHEREAS, pursuant to the Deputy Commissioner's continued investigation into this matter, the Deputy Commissioner has determined that Respondents provided unlicensed mortgage lending, brokering, and loan origination services related to Maryland residential real property involving Maryland consumers, and engaged in a mortgage fraud scheme, all in violation of various provisions of Maryland Law, including, but not limited to, the MMLL and Title 12, Subtitle 1 of the Commercial Law Article;

NOW, THEREFORE, based on the Deputy Commissioner's continued investigation into this matter, the Summary Order is amended and superseded by this Amended Summary Order to Cease and Desist (the "Amended Summary Order"), and for the reasons set forth below, it has been determined that Respondents are in violation of Maryland law, and that it is in the public interest that Respondents continue to cease and desist from lending, brokering, originating, mitigating, or engaging in any other activities involving Maryland mortgage loans or otherwise pertaining to the mortgage industry in Maryland.

Maryland Mortgage Lender Law

1. FI § 11-501, provides the following definitions:
 - (j) *Mortgage lender*. –
 - (1) "Mortgage lender" means any person who:
 - (i) Is a mortgage broker;
 - (ii) Makes a mortgage loan to any person; or
 - (iii) Is a mortgage servicer.

* * *

(k) *Mortgage lending business.* –

(1) “Mortgage lending business” means the activities set forth in the definition of “mortgage lender” in subsection (j) of this section which require that person to be licensed under this subtitle.

(2) “Mortgage lending business” includes the making or procuring of mortgage loans secured by a dwelling or residential real estate located outside Maryland.

2. Pursuant to FI § 11-504, “[a] person may not act as a mortgage lender unless the person is . . . (1) [a] licensee . . . or (2) [a] person exempted from licensing under this subtitle.”

3. Additionally, pursuant to FI § 11-517(c), the Commissioner may enforce the provisions of the MMLL, and applicable regulations, by issuing an order (i) requiring a violator to cease and desist from any violation of the MMLL and any further similar violation; and (ii) requiring a violator to take affirmative action to correct any violation, including the restitution of money or property to any person aggrieved by any violation. Additionally, the Commissioner may impose a civil penalty not exceeding \$5,000 for each violation, as well as \$5,000 for each subsequent violation.

4. FI § 11-523 provides additional penalties for violations of the MMLL, as follows:

(a) *Willful violations.* – 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.

(b) *Unlicensed persons.* – Any unlicensed person who is not exempt from licensing under this subtitle who makes or assists a borrower in obtaining a mortgage loan in violation of this subtitle may collect only the principal amount of the loan and may not collect any interest, costs, finder’s fees, broker fees, or other charges with respect to the loan.

Commercial Law Article, Title 12, Subtitle 1

5. CL § 12-106 requires a lender to provide specific statements and disclosures to a borrower as follows:

(b) *Statement before loan* – (1) Before the execution of a loan contract under this title, the lender shall furnish to the borrower a written statement which sets forth:

(i) The total principal amount of the loan and the total amount of finance charge as defined in the federal Truth in Lending Act to be paid, stated in dollars, except that on loans payable on demand, the total amount of finance charge to be paid shall be stated on a per diem basis;

(ii) The annual effective rate of simple interest charged, stated in percentage calculated to the nearest 0.2 percent; and

(iii) The itemized amount of payments in addition to interest payable to the lender in connection with the loan at the time the loan is made, stated in dollars.

* * *

(c) *Statement of payments on loan secured by real property.* – At least annually and, on request of the borrower, at any other reasonable time or interval, a lender who receives scheduled monthly periodic payments on more than five loans secured by an interest in real property shall furnish to the borrower a written statement informing the borrower of the amount of:

(1) Payments credited to reducing the principal;

(2) Payments credited to interest as defined in this subtitle; and

(3) The remaining unpaid principal balance.

6. Additionally, CL § 12-125 provides:

(a) *Definitions.* – (1) In this section the following words have the meanings indicated.

(2) “Borrower” means a person who makes an application for a loan secured by a first mortgage or first deed of trust on a 1- to 4-family home to be occupied by the borrower as the borrower’s primary residence.

* * *

(4) "Financing agreement" means a written agreement between a borrower and a lender which sets for the terms of a purchase money loan or a refinancing of an existing loan that:

(i) Results in or is secured by a first mortgage or a first deed of trust on a 1- to 4-family home to be occupied by the borrower; and

(ii) Is offered or extended to the borrower.

(5) (i) "Lender" means a person subject to the licensing requirements of Title 11, Subtitle 5 of the Financial Institutions Article.

(ii) "Lender" does not include a person exempt from licensure under § 11-502 of the Financial Institutions Article.

* * *

(b) *In general.* – (1) A lender who offers to make or procure a loan secured by a first mortgage or first deed of trust on a 1- to 4-family home to be occupied by the borrower shall provide the borrower with a financing agreement executed by the lender within 10 business days after the date the loan application is completed.

(2) The financing agreement shall provide:

(i) The term and principal amount of the loan;

(ii) An explanation of the type of mortgage loan being offered;

(iii) The rate of interest that will apply to the loan and, if the rate is subject to change or is a variable rate or is subject to final determination at a future date based on some objective standard, a specific statement of those facts;

(iv) The points, if any, to be paid by the borrower or the seller, or both; and

(v) The term during which the financing agreement remains in effect.

7. Further, CL § 12-127 provides:

(b) *In general.* – A lender may not make a mortgage loan without giving due regard to the borrower's ability to repay the mortgage loan in accordance with its terms, including the fully indexed rate of the mortgage loan, if applicable, and property taxes and homeowner's insurance whether or not an escrow account is established for the collection and payment of these expenses.

(c) *Proof of ability to repay.* – (1) Due regard to a borrower's ability to repay a mortgage loan must include:

(i) Consideration of the borrower's debt to income ratio, including existing debts and other obligations; and

(ii) Verification of the borrower's gross monthly income and assets by review of third-party written documentation reasonably believed by the lender to be accurate and complete

COMAR

8. Pursuant to the Code of Maryland Regulations (“COMAR”) 09.03.06.21, the Commissioner has promulgated special rules for “Nontraditional and Higher-Priced Mortgage Loans.” This regulation provides the following:

A. In this regulation the following terms have the meanings indicated:
(2) “Nontraditional mortgage loan” means any mortgage loan that allows the borrower to defer repayment of principal, interest, or both, including, but not limited to, all interest-only mortgage loans and payment-option ARMS.

B. Marketing and Promotion.

(1) Licensee marketing and promotional communications and materials for nontraditional and higher-priced mortgage loans shall include information about the costs, terms, features, and risks of nontraditional and higher-priced loans that can assist consumers in their product selection, including, as applicable information on the following:

* * *

(d) Balloon payments including:

(i) That a balloon payment is a scheduled lump sum usually due at the end of the mortgage loan term that is significantly larger than the other regularly scheduled periodic payments; and

(ii) That the inability to make a balloon payment could result in a foreclosure.

* * *

(e) Responsibility for taxes and insurance when:

(i) The borrower is required to make payments for real estate taxes and property insurance, in addition to the loan payment; and

(ii) The lender does not establish an escrow account for the collection and disbursement of these payments, including the fact that the cost of taxes and insurance may be substantial.

9. COMAR 09.03.10.01 provides the following definitions:

(1) Balloon Payment.

(a) "Balloon payment" means any scheduled payment on a mortgage loan that is more than two times the average of all other payments scheduled to repay the mortgage loan.

(b) "Balloon payment" does not include a down payment.

(6) "Regulated person" means an individual, corporation, business trust, financial institution, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity that is subject to the regulatory authority of the Commissioner pursuant to Financial Institutions Article, or Commercial Law Article, Annotated Code of Maryland.

10. COMAR 09.03.10.03 provides:

A. Mortgage Loan Provisions Requiring Disclosure. A regulated person that offers to make or procure a mortgage loan secured by residential real estate shall provide the borrower the disclosures set forth in §B of this regulation if the terms of the mortgage loan:

(1) Include a balloon payment;

(2) Do not provide for the establishment of an escrow account for the payment of taxes and insurance; or

(3) Include mandatory and binding arbitration.

The Commissioner's General Authority

11. FI §§ 2-115(a) and (b) set forth the Commissioner's general authority to issue summary cease and desist orders, and to take additional actions for any violation of laws, regulations, rules, and orders over which the Commissioner has jurisdiction (in addition to taking any other action permitted by law, and subject to a hearing or waiver of hearing), providing as follows:

(a) *Summary cease and desist orders.*— 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) *Other authorized actions for violations.*— 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 up to the maximum amount of \$1,000 for a first violation and a maximum amount of \$5,000 for each subsequent violation; or
- (4) Take any combination of the actions specified in this subsection.

12. FI §§ 2-114(a) and (b) set forth the Commissioner's general authority to order the production of information, as well as documents and records, while investigating potential violations of laws, regulations, rules, and orders over which the Commissioner has jurisdiction (which is in addition to the Commissioner's specific investigatory authority set forth in various other Maryland statutes and regulations). Thus, FI § 2-114(a)(2) provides that the Commissioner may "[r]equire ... a person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all the facts and circumstances concerning the matter to be investigated." Further, pursuant to FI § 2-114(b), "the Commissioner or an officer designated by the Commissioner may," among other things, "take evidence, and require the production of books, papers, correspondence, memoranda, and agreements, or other documents.

Charges

13. In the present matter, in May 2013, the Commissioner began an investigation into the business activities of the Respondents. The Commissioner's investigation

determined that Respondents engage in mortgage-related business activities in the State of Maryland involving Maryland consumers and Maryland residential real property. Pursuant to this investigation, the Commissioner developed reasonable grounds to believe that the Respondents provided unlicensed mortgage lending services related to Maryland residential real property involving Maryland consumers and that the Respondents violated Title 12, Subtitle 1 of the Commercial Law Article. The legal and factual basis for this determination is described below.

14. The Agency's investigation determined that Respondents Rose E. Travers and Margaret D. Travers reside in Aberdeen, Maryland. The investigation further revealed that Respondents engage in mortgage-related business activities in the State of Maryland involving Maryland residential real property.

15. More specifically, the Agency investigation revealed the following:

a. That in approximately January, 2010, [REDACTED] (collectively, Consumers A) obtained a one-year mortgage for \$95,000 at 9% interest from Respondent Rose E Travers for the purchase of residential real property in Street, Maryland;

b. That although the mortgage obtained by Consumers A was only a one-year mortgage, the monthly payment amount was determined by amortizing the loan over 30 years such that Consumers A made monthly payments were \$850 for one year, with a balloon payment for the full amount of remaining principal and interest due at the end of one year;

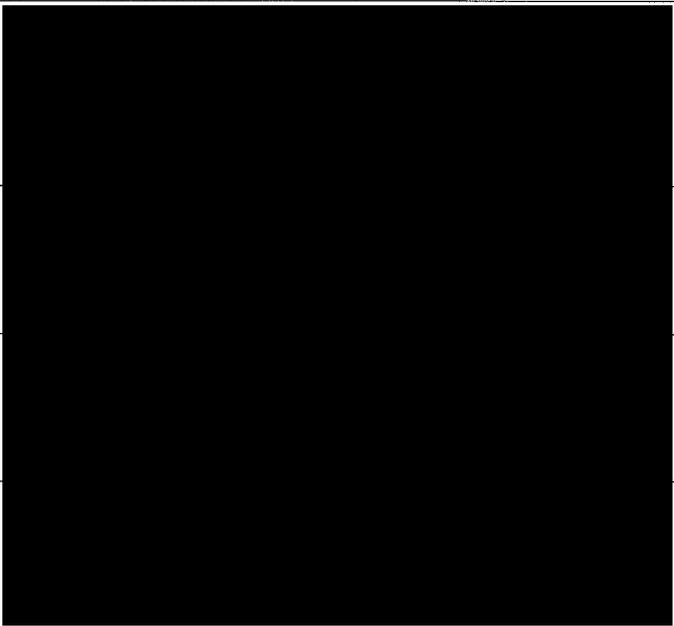
c. That Respondent Rose E. Travers failed to provide Consumers A with the disclosures required under CL §12-106;

d. That in making a residential mortgage loan to Consumers A, Respondent Rose E. Travers failed to give due regard to the borrower's ability to repay the mortgage loan in accordance with its terms as required by CL § 12-127;

16. Subsequent investigation revealed that both Respondents have regularly engaged in the business of mortgage lending with Maryland consumers since at least the year 2000.

17. The Agency's investigation further revealed that in the following years, Respondents made a sufficient number of loans to require licensure under the MMLL, but failed to obtain a license or the requisite surety bonds as required by the MMLL:

a. Rose E. Travers:

Year	Number of Loans	Consumer Names
2000	6	
2002	4	
2004	4	
2005	4	

b. Margaret D. Travers:

Year	Number of Loans	Consumer Names
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2001	4	
2005	4	

18. Respondents have thus engaged in mortgage lending activities without the proper licensure in violation of Title 11, Subtitle 5 of the Financial Institutions Article.

19. The Agency’s investigation further revealed that in each and every transaction for which they were required to be licensed, Respondents failed to provide borrowers with the Financing Agreement required by CL §12-125.

20. The Agency’s investigation further revealed that all of the mortgages made by Respondents contained substantially the same terms as the one obtained by Consumers A.

21. Further, as each of the loans identified above provided for a balloon payment, Respondents were required to provide the borrowers with the specific disclosures identified in COMAR 09.03.06.21 and 09.03.10.03, but they failed to do so.

22. The Agency’s investigation further revealed that in the following years, Respondents made loans to Maryland consumers that were subject to Title 12, Subtitle 1 of the Commercial Law Article, but failed to provide those consumers with an information statement before making the loan as required by CL § 12-106:

a. Rose E. Travers:

Year	Number of Loans	Consumer Names
2000	6	

2001	3	
2002	4	
2003	2	
2004	4	
2005	4	
2006	2	
2007	1	
2008	1	
2009	1	
2010	3	
2011	1	
2012	1	

b. Margaret D. Travers:

Year	Number of Loans	Consumer Names
2000	3	
2001	4	

2002	2	
2003	1	
2004	2	
2005	4	
2006	3	
2007	2	
2009	2	
2010	2	
2011	2	
2012	2	

23. Further, based on the records provided to the Agency by Respondents in response to the original Summary Order, there is no evidence that Respondents considered the borrowers' ability to repay when making the above referenced mortgage loans, as required by CL § 12-127.

WHEREFORE, having determined that immediate action is in the public interest, and pursuant to the aforementioned provisions of the Annotated Code of Maryland and associated regulations, it is, by the Maryland Commissioner of Financial Regulation, hereby

ORDERED that the Summary Order issued on June 14, 2013, is **AMENDED** and **SUPERSEDED** by this Amended Summary Order; and it is

ORDERED that Respondents shall immediately **CEASE** and **DESIST** from engaging in any of the following: any and all activities which constitute a mortgage lending business as defined in FI § 11-501(k), including acting as a mortgage broker as defined under FI § 11-501(i) or as a mortgage lender as defined under FI § 11-501(j); acting as a mortgage originator as defined in FI § 11-601(q); or in any other way acting as a mortgage lender, broker, or originator in the State of Maryland or with Maryland residents, either by acting directly, or by acting indirectly through other individuals or business entities; and it is

ORDERED that Respondents shall immediately **CEASE** and **DESIST** from violating the aforementioned statutory provisions of Maryland law, including, but not limited to the MMLL and Title 12, Subtitle 1 of the Commercial Law Article, Annotated Code of Maryland and that Respondents should be assessed statutory monetary penalties and ordered to take affirmative action to correct the violations described herein; and further

THE RESPONDENTS ARE HEREBY NOTIFIED that a hearing in this case will automatically be scheduled and Respondents will receive a notice of hearing under separate cover. If for any reason a hearing is not automatically scheduled, Respondents may request a hearing by submitting a written request to:

Carmen Rivera, Proceedings Administrator
Office of the Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, Maryland 21202

And further,

THE RESPONDENTS ARE HEREBY NOTIFIED that at the scheduled hearing Respondents will be afforded the opportunity to defend against the charges set forth herein. The hearing will be conducted pursuant to FI § 11-616, SG § 10-201, *et seq.* (the “Administrative Procedure Act”), and COMAR §§ 09.01.02 and 03. A copy of the hearing procedure is available to you upon request and without cost to you; and further

THE RESPONDENTS ARE HEREBY NOTIFIED that pursuant to COMAR 09.01.02.08, and SG §§ 9-1607.1, 10-206.1, and 10-207, and in accordance with SG § 10-207(b)(4), the Respondents are only permitted to request a hearing, and to appear at such hearing, on behalf of themselves/itself individually, or through an attorney authorized to practice law in Maryland at the Respondent’s own expense. Pursuant SG §§ 9-1607.1 and 10-206.1, and in accordance with SG § 10-207(b)(4), business entities are **ONLY** permitted to appear at such hearing through an attorney authorized to practice law in Maryland at the Respondent’s own expense. In any event, no postponement will be granted by reason of the Respondents’ failure to obtain counsel. COMAR § 09.01.02.10. The Respondents may subpoena and call witnesses. COMAR § 09.01.02.12. The Respondents may cross-examine those witnesses called against Respondents. COMAR § 09.01.02.13. Further, Respondents are entitled to introduce documentary evidence in his defense. COMAR § 09.01.02.14. If the Respondents fail to appear at the scheduled hearing, the hearing may proceed in the Respondents’ absence and a determination may be made regarding the validity of the charges. COMAR § 09.01.02.09; and further

THE RESPONDENTS ARE HEREBY NOTIFIED that a request for a postponement of the scheduled hearing will not be considered unless written notification is given no later than ten (10) days prior to the hearing date, pursuant to COMAR §

09.01.02.10. Any questions about hearing procedures, requests for postponement, or requests for subpoenas should be directed to Carmen Rivera, Proceedings Administrator, at the address set forth above; and further

THE RESPONDENTS ARE HEREBY NOTIFIED that any questions regarding the substance of this case or settlement negotiations should be directed to the presenter of evidence assigned to this case:

Rebecca J. Coleman, Assistant Attorney General
Office of the Attorney General
500 North Calvert Street, Suite 406
Baltimore, Maryland 21202.

And further,

THE RESPONDENTS ARE HEREBY NOTIFIED that, pursuant to FI §§ 2-115(b), and 11-517(c), as a result of a hearing the Commissioner may, in the Commissioner's discretion, and in addition to taking any other action authorized by law, take the following actions: enter an order making this Amended Summary Order final; issue an order requiring that Respondents refund all interest, costs, originator fees, broker fees, and/or other charges paid by Maryland consumers to Respondents in conjunction with residential mortgage loans that were originated, brokered, or closed during periods when the Respondents did not hold the appropriate license under the MMLL, or otherwise were in violation of those provisions of any other law governing mortgage loan lending in the State of Maryland; issue an order requiring Respondents to take affirmative action to correct the violations described herein, including providing restitution of money or property to any person aggrieved by these violations; issue a penalty order against Respondents imposing a civil penalty up to \$5,000 for each violation of the MMLL (including violations of Title 12,

Subtitle 1 of the Commercial Law Article committed while Respondents were required to be licensed under the MMLL); issue a penalty order against Respondents imposing a civil penalty up to \$1,000 for each violation of Title 12, Subtitle 1 of the Commercial Law Article committed at times during which the Respondents were not required to be licensed under the MMLL; issue a penalty order against Respondents imposing a civil penalty up to \$1,000 for each violation of FI § 2-114; issue a penalty order against the Respondents imposing a civil penalty up to \$5,000 for each subsequent violation of these laws; issue an order against Respondents imposing a \$250 per-day investigation fee for each employee investigating this matter; or may take any combination of the aforementioned actions against the Respondents. The Commissioner may also refer this matter to the appropriate law enforcement agency for criminal prosecution for the violations described herein.

**MARYLAND COMMISSIONER OF
FINANCIAL REGULATION**

11/25/13

Date

Cynthia Jones

By: Cynthia Jones
Acting Deputy Commissioner