

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
WCS Lending, LLC,)	CONCLUSIONS OF LAW
951 Yamato Road, Suite 150)	AND
Boca Raton, Florida)	CONSENT ORDER

NMLS No. 4260

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director, pursuant to its authority under the Residential Mortgage Licensing Act, Neb. Rev. Stat. §§ 45-701 to 45-754 (Reissue 2010; Supp. 2011) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-741 (Reissue 2010), the DEPARTMENT has investigated the actions of WCS Lending, LLC, 951 Yamato Road, Suite 150, Boca Raton, Florida (“WCS”). As a result of such investigation, and being duly advised and informed in the matter, the Director and WCS enter into the following Findings of Fact, Conclusions of Law, and Consent Order.

FINDINGS OF FACT

1. On September 12, 2008, the DEPARTMENT issued a Mortgage Banker License to WCS pursuant to the Act. WCS has renewed its license annually since issuance.
2. On January 2, 2008, the DEPARTMENT joined the NMLS, an online licensing database. The NMLS utilizes standardized application forms including the Form MU1, Uniform Mortgage Lender/Mortgage Broker Form (“Form MU1”). Form MU1 is used by each mortgage banker licensee and applicant to report information to the

DEPARTMENT including its legal name, trade names, address, ownership, and any regulatory orders and/or proceedings. In addition, the NMLS assigns each company, branch, and individual a unique identifier which allows regulators to track licensees across state lines and over time. The NMLS assigned WCS the unique identifier #4260.

3. Form MU1 includes a section captioned “Disclosure Questions” which requires the applicant to answer questions concerning certain criminal, regulatory, and civil actions taken by regulatory agencies and law enforcement authorities in regard to the applicant or licensee. Licensees are required to provide additional supplemental material explaining any “Yes” answer to a Disclosure Question.

4. Question (9)(C)(4) of the Disclosure Question Section states as follows:

In the past ten years, has any State or federal regulatory agency or foreign financial regulatory authority entered an order against the entity or a control affiliate in connection with a financial services-related activity?

5. The instructions to the Form MU1 provide the following definitions of the terms used in the Disclosure Questions Section:

FINANCIAL SERVICES OR FINANCIAL SERVICES-RELATED – Pertaining to securities, commodities, banking, insurance, consumer lending, or real estate (including, but not limited to; acting as or being associated with a bank or savings association, credit union, mortgage lender, mortgage broker, real estate salesperson or agent, closing agent, title company, or escrow agent).

ORDER – A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an *order*.

6. As part of each Form MU1 filing, WCS attested to the accuracy of the information contained in its Form MU1 as follows:

I . . . make oath and say as follows, that I executed this form on behalf, and with the authority, of said Applicant and said Applicant agrees to and represents the following:

(1) That the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, are current, true and complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or similar provisions as provided by law;

(2) To the extent any information previously submitted is not amended, such information remains accurate and complete; (emphasis added)

...

(4) To keep the information contained in this form current and to file accurate supplementary information on a timely basis;

7. WCS submitted its initial Form MU1 to the DEPARTMENT on September 12, 2008. WCS answered "No" to Question (9)(C)(4) on its Form MU1 in connection with its September 12, 2008 filing. WCS answered "No" to Question (9)(C)(4) on each of the amended Form MU1s that it filed with the DEPARTMENT prior to March 16, 2011, including on numerous amendments to its Form MU1 filed between October 14, 2008 and March 16, 2011.

8. WCS renewed its license for 2009, 2010, and 2011. As part of the 2009 renewal, WCS completed an attestation on October 31, 2008. As part of the 2010 renewal, WCS completed an attestation on November 5, 2009. As part of the 2011 renewal, WCS completed an attestation on November 15, 2010. In all three attestations, WCS attested as follows:

[T]he information contained in the Licensee/Registrant's online record, as well as any applicable jurisdiction specific requirements, is true, accurate and complete in accordance with the appropriate jurisdiction's law. Additionally, I acknowledge that I have a duty and agree expediently to update and correct the information as it changes.

I understand that submitting any false or misleading information, or omitting pertinent or material information, may be grounds for administrative action and/or criminal action. . . .

The Licensee/Registrant has updated the documents on file with the jurisdiction(s) to disclose any new event or proceeding requiring an affirmative answer to any Disclosure Questions which has occurred since the Licensee/Registrant submitted its license/registration application or renewal application to the applicable jurisdiction(s). Any documents explaining affirmative answers to any Disclosure Questions previously submitted by the Licensee/Registrant to each jurisdiction(s) remain true and accurate.

9. At the time that WCS completed the renewal attestations in Finding of Fact #8 above, WCS's Form MU1 reflected a "No" answer to Question (9)(C)(4).

10. On October 14, 2008, the U.S. Department of Housing and Urban Development issued a Notice of Administrative Action ("HUD Action") to WCS alleging that WCS violated HUD/FHA requirements prohibiting misrepresentative advertising. The HUD Action imposed six months probation upon WCS and a civil money penalty.

11. At no time prior to March 16, 2011, did WCS amend its Form MU1 to answer "Yes" to Question (9)(C)(4) on its Form MU1 or otherwise notify the DEPARTMENT as to the entry of the HUD Action.

12. On April 28, 2010, the New Jersey Department of Banking and Insurance issued a Consent Order ("New Jersey Order") to WCS alleging that WCS originated secondary mortgage loans without first obtaining the authority from the New Jersey Department of Banking.

13. At no time prior to March 16, 2011, did WCS amend its Form MU1 to answer "Yes" to Question (9)(C)(4) on its Form MU1 or otherwise notify the DEPARTMENT as to the entry of the New Jersey Order.

14. The HUD Action and New Jersey Order constitute Orders involving violations of financial services related statutes and therefore were required to be disclosed by (9)(C)(4) on the Form MU1, and supplemental documentation was required to be

provided to the DEPARTMENT. WCS provided false and misleading information to the DEPARTMENT in connection with the filing of the numerous amendments to its Form MU1 between October 14, 2008 and March 16, 2011 and in connection with its request to renew its mortgage banker license for 2009, 2010, and 2011.

15. The DEPARTMENT incurred a minimum of one thousand dollars in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-705 (Reissue 2010) provides, in part, that no person shall act as a mortgage banker or use the title mortgage banker in this state unless he, she, or it is licensed or registered with the DEPARTMENT.

2. Neb. Rev. Stat. § 45-742(1)(d) (Supp. 2011) provides that if the Director, following an administrative hearing, finds that a licensee has made or caused to be made, in any document filed with the Director or in any proceeding under the Act, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading in any material respect or suppressed or withheld from the Director any information which, if submitted by the licensee, would have resulted in denial of the license application, the Director may suspend or revoke the mortgage banker's license or impose an administrative fine.

3. Neb. Rev. Stat. § 45-743 (Reissue 2010) provides that if the Director finds, after notice and hearing in accordance with the Administrative Procedure Act, that any person has knowingly committed any act prohibited by Section 45-742 or has otherwise violated the Residential Mortgage Licensing Act, the Director may order such person to

pay an administrative fine not exceeding five thousand dollars for each separate violation plus the costs of investigation.

4. As set forth in Finding of Fact #14, the HUD Action constituted an Order by a federal regulator and the New Jersey Order constituted an Order by a state regulator, both of which were required to be timely disclosed in response to Question (9)(C)(4) on the Form MU1 and for which supplemental materials were required to be submitted to the DEPARTMENT. WCS's failure to update its Form MU1 to reflect a "Yes" answer to Question (9)(C)(4) resulted in WCS providing false and misleading information to the DEPARTMENT. Therefore, WCS violated Neb. Rev. Stat. § 45-742(1)(d) (Supp. 2011) in connection with each amended Form MU1 filing that it made with the DEPARTMENT, and in connection with the three renewal attestations which were filed with the DEPARTMENT.

5. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to determine that WCS has violated the Act and that proceedings could be commenced to revoke or suspend WCS's license and/or to impose an administrative fine in an amount of not more than five thousand dollars for each of the violations plus costs of investigation in accordance with Neb. Rev. Stat. § 45-743 (Reissue 2010).

6. Under the Act's statutory framework, the Director has the legal and equitable authority to fashion significant remedies.

7. It is in the best interest of WCS and in the best interest of the public for WCS and the DEPARTMENT to resolve the issues included herein.

CONSENT ORDER

The DEPARTMENT and WCS agree as follows:

Stipulations: In connection with this Consent Order, WCS and the DEPARTMENT stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Order shall resolve all matters between the DEPARTMENT and WCS in connection with the Findings of Fact listed above. Should future circumstances warrant, the facts from this matter may be considered in a future administrative action by the DEPARTMENT.
3. This Consent Order shall be in lieu of all other proceedings available to the DEPARTMENT, except as specifically referenced in this Consent Order.

WCS further represents as follows:

1. WCS is aware of its right to a hearing on these matters at which it may be represented by counsel, present evidence, and cross-examine witnesses. The right to such a hearing, and any related appeal, is irrevocably waived.
2. WCS is acting free from any duress or coercion of any kind or nature.
3. This Consent Order is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for the purpose of this Consent Order and for no other purpose.

IT IS THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Order, WCS shall pay a fine of two thousand dollars (\$2,000.00) for its violation of Neb. Rev. Stat. § 45-742(1)(d) (Supp. 2011) by submitting false and misleading information to the DEPARTMENT in connection with its filings of amended Form MU1s which failed to disclose the New Jersey Order and HUD Action.

2. Within ten (10) days after the effective date of this Consent Order, WCS shall pay a fine of one thousand dollars (\$1,000.00) for each of its three violations of Neb. Rev. Stat. § 45-742(1)(d) (Supp. 2011) by submitting false and misleading information to the DEPARTMENT in connection with its filings of renewal attestations which falsely claimed that the information in its Form MU1 was true and accurate.

3. Within ten (10) days after the effective date of this Consent Order, WCS shall pay the investigation costs of the DEPARTMENT in the amount of one thousand dollars (\$1,000.00).

4. The total amount of the fine and investigation costs, six thousand dollars (\$6,000.00), shall be payable in one check or money order to the DEPARTMENT.

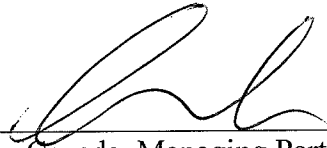
5. In the event WCS fails to comply with any of the provisions of this Consent Order, the DEPARTMENT may commence such action regarding WCS as it deems necessary and appropriate in the public interest.

6. The effective date of this Consent Order shall be the date of the Director's signature.

DATED this 22 day of March, 2012.

WCS LENDING, LLC

By: _____


Carlos Cepeda, Managing Partner

951 Yamato Road, Suite 150
Boca Raton, Florida 33431

DATED this 23rd day of March, 2012.



**STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE**

By: *John Munn*
John Munn, Director

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