

IN THE MATTER OF:

SVETLANA POPOK,

Respondent

**BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION**

Case No.: CFR-FY2011-164

FINAL ORDER TO CEASE AND DESIST

WHEREAS, the Commissioner of Financial Regulation (the "Commissioner") conducted an investigation into the mortgage lending, brokering, and originating business activities of Svetlana Popok (the "Respondent"); and

WHEREAS, as a result of that investigation, the Deputy Commissioner of Financial Regulation (the "Deputy Commissioner") found evidence to support that Respondent engaged in acts or practices constituting a violation of a law, regulation, rule or order over which the Commissioner has jurisdiction, namely that Respondent violated various provisions of the Annotated Code of Maryland, including Title 11, Subtitle 6 (the "Maryland Mortgage Originators Law" or "MMOL") of the Financial Institutions Article ("FI"), and Title 7, Subtitle 4 (the "Maryland Mortgage Fraud Protection Act" or "MMFPA") of the Real Property Article ("RP"), as well as violated Maryland law prohibiting the commission of acts resulting in fraud and/or theft; and

WHEREAS, the Deputy Commissioner issued a Summary Order to Cease and Desist (the "Summary Order") against Respondent on July 12, 2011, after determining that Respondent was in violation of the aforementioned provisions of Maryland law, and that it

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

WHEREAS, the Summary Order notified Respondent of, among other things, the following: that Respondent was entitled to a hearing before the Commissioner to determine whether the Summary Order should be vacated, modified, or entered as a final order of the Commissioner; that the Summary Order would be entered as a final order if Respondent did not request a hearing within fifteen (15) days of the receipt of the Summary Order; and that as a result of a hearing, or of Respondent's failure to request a hearing, the Commissioner may, in the Commissioner's discretion and in addition to taking any other action authorized by law, enter an order making the Summary Order final, issue penalty orders against Respondent, issue orders requiring Respondent to pay restitution to consumers, as well as take other actions related to Respondent's business activities; and

WHEREAS, the Summary Order was properly served on Respondent via First Class U.S. Mail and Certified U.S. Mail; and

WHEREAS, Respondent failed to request a hearing on the Summary Order within the fifteen (15) day period set forth in the Summary Order, and as provided for and in compliance with FI § 2-115(a)(2) and RP § 7-404.1, and has not filed a request for a hearing as of the date of this Final Order to Cease and Desist (this "Final Order"); and

WHEREAS, the Commissioner has based his decision in this Final Order on the following:

1. Relevant and credible evidence regarding Respondent obtained pursuant to the Deputy Commissioner's investigation, including: communications between Respondent

and investigators acting on behalf of the Deputy Commissioner; communications between Respondent and Maryland consumers; Respondent's standard documents for providing loan origination and mortgage brokering services related to Maryland residential real property; statements by Maryland consumers who had entered into a mortgage brokering/loan origination agreement with Respondent in which Respondent engaged in a scheme involving both fraud and the dishonest and illegal conversion of property (*i.e., stealing*); statements of individuals with knowledge of the consumer's transactions with Respondent; other documents collected during the course of the Deputy Commissioner's investigation; public records; and the Commissioner's licensing records, which supports the following findings:

a. Respondent Svetlana Popok, of Eldersburg, Maryland, has engaged in mortgage-related business activities in the State of Maryland involving Maryland residential real property.

b. More specifically, Respondent engaged in mortgage origination and mortgage brokering activities in perpetration of a mortgage fraud scheme which involved the following:

i. That at all times relevant to the alleged violations described herein, Respondent was employed by Go Financial Group, Inc. ("Go Financial") as an unlicensed Maryland mortgage loan originator;

ii. That at all times relevant to the alleged violations described herein, Go Financial was duly licensed by the Commissioner as a Maryland mortgage lender (License No.: 17879). The Commissioner issued Go Financial a mortgage lender license on December 20, 2007, which was renewed on several occasions and is set to expire on December 31, 2012;

iii. That in early 2010, Respondent provided loan origination services to [REDACTED] (collectively, "the Consumers") on behalf of Go Financial. Respondent took a loan application for residential real property located in Baltimore, Maryland;

iv. That as part of the mortgage lending process, between April and May 2010, Respondent directed the Consumers to provide \$14,575.00 for the alleged purpose of a down-payment on the residential real property and for escrow fees. The Consumers provided to Respondent four separate checks totaling \$14,575.00, all made payable to Respondent. Respondent cashed each of these checks. Respondent never used those funds for the purpose represented to the Consumers. Instead, Respondent used the money for her own benefit. Further, Respondent was not authorized by Go Financial to collect such fees;

v. That Respondent ceased all communications with the Consumers when the Consumers became suspicious that Respondent was conducting a mortgage fraud scheme;

vi. That Respondent made deliberate misstatements with the intention of deceiving investigators from the Enforcement Unit of the Office of the Commissioner on multiple occasions, including several instances when she claimed to be unavailable for interviews because she was caring for her seriously ill father, when in fact her father had been deceased for approximately nine months; and

vii. That Respondent's activities discussed above constitute a theft and/or fraud upon the Consumers and that Respondent conducted such theft and/or fraud through a mortgage fraud scheme;

viii. That at all times relevant to the alleged conduct described herein, the Respondent has not been duly licensed under the MMOL; and

ix. That Go Financial and the Consumers entered into a settlement agreement in which Go Financial paid \$10,000.00 to the Consumers as partial satisfaction for the harm caused by Respondent's illicit conduct. Nothing in this settlement agreement is understood to release any liability as it applies to Respondent – Go Financial did not intend for this settlement agreement to cover Respondent.

2. The determination that Respondent acted as a mortgage loan originator without being duly licensed. Respondent's activity included contracting with a Maryland consumer to perform mortgage loan origination services and taking a Maryland consumer's loan application. The MMOL defines "mortgage loan originator" at FI § 11-601(q); this provision provides, in part, as follows:

- (1) "Mortgage loan originator" means an individual who for compensation or gain, or in the expectation of compensation or gain:
 - (i) Takes a loan application; or
 - (ii) Offers or negotiates terms of a mortgage loan.

3. According to the Commissioner's records, at no time relevant to the facts set forth in the Summary Order of July 12, 2011, or in this Final Order, has Respondent been duly licensed under the MMOL. It is a violation of the MMOL to engage in unlicensed mortgage origination activity. FI § 11-602(b) (an individual "may not engage in the business of a mortgage loan originator unless the individual holds a valid license . . .").

4. The determination that Respondent committed theft of the Consumers' property. Respondent willfully and knowingly obtained and exerted unauthorized control

over \$14,575.00 belonging to the Consumers, and through deception intended to deprive the Consumers of that property.

5. The determination that Respondent committed an act which defrauded the Consumers, based on the following specific findings: (1) Respondent, through fraud and deceit made false representations to the Consumers. (2) Those false representations were either known to Respondent or they were made with reckless indifference as to their truth. (3) The misrepresentations were made for the purpose of defrauding the Consumers. (4) The Consumers relied on those misrepresentations and had the right to rely on them. (5) The Consumers suffered compensable injury, the loss of \$14,575.00 resulting from those misrepresentations;

6. The determination that Respondent committed a dishonest and illegal activity by converting a Maryland consumer's funds for her own use by receiving and then refusing to return these funds obtained through fraudulent means. This dishonest and illegal activity in connection with mortgage transactions is a violation of both the MMOL and Respondent's duty of good faith and fair dealing in her communications and transactions with a borrower. *See* FI § 11-615(a)(3); FI § 11-615(c); and COMAR 09.03.09.04A.

7. The determination that Respondent committed mortgage fraud. Mortgage fraud is defined under Maryland law as including "[k]nowingly 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 . . . borrower," and "[r]eceiving any proceeds or any other funds in connection with a mortgage closing that the person knows resulted from a violation of [the MMFPA]." RP § 7-401(d); *see also* RP § 7-402 (prohibiting mortgage fraud).

8. By directing the Consumers to pay Respondent fees for the purported purpose of a down-payment on the residential real property and for escrow fees, when in fact such communications were for the purpose of illegally converting funds for Respondent's own use, Respondent knowingly made deliberate misstatements, misrepresentations, and omissions during the mortgage lending process with the intent that these misstatements, misrepresentations, and omissions would be relied upon by the Consumers. The Consumers suffered compensable injury as a result of these misstatements, misrepresentations, and omissions. This mortgage fraud scheme resulted in the theft and/or fraud of \$14,575.00 belonging to the Consumers. Additionally, Respondent received such funds that were intended for the mortgage closing and were obtained in violation of the MMFPA.

9. The determination that Respondent failed to comply with the Deputy Commissioner's subpoena. 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, for example, 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 or records which the Commissioner considers relevant or material to the inquiry."

Pursuant to the Commissioner's authority to conduct investigations under FI § 2-114, the Deputy Commissioner issued a subpoena to Respondent on May 23, 2011 ordering her to produce, by May 31, 2011, all documents in her control that were in any way related to the loan origination activities she provided to the Consumers. However, Respondent failed to provide the required information and documents by that date, and in fact has not provided the documents and information as of the date of this Final Order. Therefore, by failing to fully comply with the Deputy Commissioner's subpoena, Respondent is in violation of FI § 2-114.

NOW, THEREFORE, having determined that Respondent waived her right to a hearing on this matter by failing to request a hearing within the time period specified in the Summary Order, and pursuant to FI § 11-615(c), RP § 7-404.1, and FI § 2-115(b), it is by the Commissioner, hereby

ORDERED, that the Summary Order to Cease and Desist issued by the Deputy Commissioner against Respondent on July 12, 2011, is entered as a final order of the Commissioner as modified herein, and that Respondent shall permanently **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 further

ORDERED, that Respondent shall permanently **CEASE** and **DESIST** from violating the aforementioned statutory provisions of Maryland law, including, but not limited to the MMOL and the MMFPA, and from violating Maryland law which prohibits the commission of acts resulting in fraud and/or theft; and it is further

ORDERED, that pursuant to FI § 11-615(c), RP § 7-404.1, and FI § 2-115(b), and upon careful consideration of (i) the seriousness of the Respondent's violations; (ii) the lack of good faith of Respondent, and (iii) the deleterious effect of Respondent's violations on the public and the mortgage industry, Respondent shall pay to the Commissioner a total civil penalty in the amount of **NINETEEN THOUSAND DOLLARS (\$19,000.00)**, which consists of the following:

<i>Prohibited Activity and Violation</i>	Civil Penalty per Violation	x Number of Violations	= Penalty
<i>Unlicensed Activity in Violation of MMOL (FI § 11-602(b))</i>	\$5,000	1 Violation	\$5,000
<i>Committing Mortgage Fraud and Dishonest and Illegal Conversion of Funds in Violation of FI § 11-615(c) and COMAR 09.03.09.04A</i>	\$5,000	1 Violation	\$5,000
<i>Committing Mortgage Fraud as defined in RP § 7-401(d)(1), in violation of RP § 7-402</i>	\$1,000	4 Violations ¹	\$4,000

¹ Respondent collected four separate payments by check from the Consumers. Each payment represents a separate violation of the MMFPA under RP § 7-401(d)(1) and § 7-402.

<i>Committing Mortgage Fraud as defined in RP § 7-401(d)(4), in violation of RP § 7-402</i>	\$1,000	4 Violations ²	\$4,000
<i>Failure to Comply with Summary Order in Violation of FI § 2-114</i>	\$1,000	1 Violation	\$1,000
		TOTAL	\$19,000

and it is further

ORDERED, that Respondent shall pay to the Commissioner, by cashier's or certified check made payable to the "Commissioner of Financial Regulation," the amount of **NINETEEN THOUSAND DOLLARS (\$19,000.00)** within fifteen (15) days from the date of this Final Order; and it is further

ORDERED, that pursuant to FI § 11-615(c) and RP § 7-404.1, Respondent shall pay restitution to the Consumers with whom Respondent engaged in mortgage lending, brokering, and/or originating activity in perpetration of a mortgage fraud scheme; and thus Respondent shall pay restitution of **FOUR THOUSAND FIVE HUNDRED AND SEVENTY-FIVE DOLLARS (\$4,575.00)** to Loretta Leong (consisting of the \$4,575.00 still owed to Ms. Leong of the original \$14,575.00 transferred by Ms. Leong to Respondent); and it is further

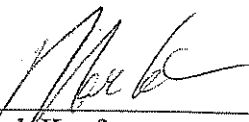
ORDERED, that Respondent shall pay the required restitution to Loretta Leong within thirty (30) days of this Final Order being signed. Respondent shall make payment by

² Respondent collected four separate payments by check from the Consumers. Each payment represents a separate violation of the MMFPA under RP § 7-401(d)(4) and § 7-402.

mailing to Loretta Leong a check in the amount specified above via U.S. First Class Mail at Ms. Leong's most recent address known to the Respondent. If the mailing of the payment is returned by the U.S. Postal Service, Respondent shall promptly notify the Commissioner in writing for further instruction as to the means of the making of said payment. Upon the making of the required payment, the Respondent shall furnish evidence of having made the payment to the Commissioner within sixty (60) days of this Final Order being signed, which evidence shall consist of a copy of the front and back of the cancelled check for each payment; and it is further

ORDERED that Respondent shall send all correspondence, notices, civil penalties and other required submissions to the Commissioner at the following address: Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore, Maryland 21202, Attn: Carmen Rivera, Paralegal.

2/1/12
Date



Mark Kaufman
Commissioner of Financial Regulation