

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

COMMISSIONER OF BANKS  
MORTGAGE LENDER AND  
MORTGAGE BROKER  
LICENSING  
Docket No. 2021-003

_____	)	
In the Matter of	)	
CrossCountry Mortgage, LLC	)	CONSENT ORDER
Brecksville, Ohio	)	
NMLS No. MC3029	)	
_____	)	

WHEREAS, CrossCountry Mortgage, LLC. (“CrossCountry” or the “Company”), with its main office located at 6850 Miller Road, Brecksville, Ohio 44141, has been advised of its right to Notice and Hearing pursuant to Massachusetts General Laws (M.G.L.) chapter 255E, section 7(a), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER ("Consent Agreement") with representatives of the Division of Banks ("Division") dated March 9, 2022, whereby, solely for the purpose of settling this matter, and without admitting any allegations or implications of fact or the existence of any violation of state or federal laws and regulations governing the conduct and operation of a mortgage lender and mortgage broker, CrossCountry agrees to the issuance of this CONSENT ORDER ("Consent Order") by the Commissioner of Banks ("Commissioner");

WHEREAS, the Division of Banks ("Division"), through the Commissioner, has jurisdiction over the licensing and regulation of persons and entities engaged in the business of a mortgage lender and mortgage broker in Massachusetts pursuant to M.G.L. chapter 255E, section 2;

WHEREAS, the Division, through the Commissioner, has jurisdiction over the licensing and regulation of persons engaged in the business of a mortgage loan originator in Massachusetts pursuant to M.G.L. chapter 255F, section 2;

WHEREAS, CrossCountry is, and at all relevant times, has been a foreign company conducting business in the Commonwealth of Massachusetts. The main office of CrossCountry is located at 6850 Miller Road, Brecksville, Ohio 44141;

WHEREAS, Andrew L. Marquis is, and at all relevant times, has been a mortgage loan originator conducting business on behalf of CrossCountry in the Commonwealth of Massachusetts. The main office of Andrew L. Marquis is located at 55 Cambridge Street, No. 102, Burlington, Massachusetts 01803;

WHEREAS, CrossCountry is licensed by the Commissioner as a mortgage lender and mortgage broker under M.G.L. chapter 255E, section 2. According to records maintained on file with the Division, the Commissioner initially issued mortgage lender license number ML3328 to CrossCountry to engage in the business of a mortgage lender on or about June 28, 2006. The Division's records indicate that CrossCountry was subsequently issued mortgage company license number MC3029 which became effective on or about September 1, 2016, covering both mortgage broker and mortgage lender license types;

WHEREAS, Andrew L. Marquis is licensed by the Commissioner as a mortgage loan originator under M.G.L. chapter 255F, section 2. According to records maintained on file with the Division, the Commissioner initially issued mortgage loan originator license number MLO29861 to Andrew L. Marquis to engage in the business of a mortgage loan originator on or about May 29, 2008;

WHEREAS, M.G.L. chapter 93A, section 2(a) states, “Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”;

WHEREAS, regulation 940 Code of Massachusetts Regulations (C.M.R.) 8.06(1) states, “It is an unfair or deceptive act or practice for a mortgage broker or lender to make any representation or statement of fact in an advertisement if the representation or statement is false or misleading or has the tendency or capacity to be misleading, or if the mortgage broker or lender does not have sufficient information upon which a reasonable belief in the truth of the representation or statement could be based.”;

WHEREAS, regulation 209 C.M.R. 42.12A(9) states, “It is a prohibited act or practice for a mortgage broker or mortgage lender to make false promises to influence, persuade, or induce a consumer to sign a mortgage loan application or mortgage loan documents.”;

WHEREAS, regulation 209 C.M.R. 41.12 states, “A Licensee's Mortgage Loan Originator license number shall be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including, without limitation, business cards and websites.”;

WHEREAS, regulation 209 C.M.R. 42.12A(18) states: “It is a prohibited act or practice for a mortgage broker or a mortgage lender to engage in conduct prohibited under 209 C.M.R. 41.10.”;

WHEREAS, M.G.L. chapter 167, section 37 states, “No domestic or foreign corporation or individual, partnership or association shall conduct the business of a savings bank, co-operative bank, savings and loan association, credit union, trust company or banking company unless authorized to do so under the laws of this commonwealth nor shall any such corporation, individual, partnership or association, unless so authorized under said laws, make use of any sign

at the place where its business is transacted having thereon any name or other words indicating that such place or office is the place or office of a savings bank, co-operative bank, savings and loan association, credit union, trust company or banking company or make use of or circulate any written or printed or partly written or partly printed paper whatever, having thereon any name or other words indicating that such business is that of a savings bank, co-operative bank, savings and loan association, credit union, trust company or banking company; nor shall any such corporation, individual partnership or association or any agent of any of these not having a charter to do business as a savings bank, co-operative bank, savings and loan association, credit union, trust company or banking company, unless authorized to do so under the laws of the commonwealth..."; WHEREAS, pursuant to M.G.L. chapter 255E, section 7(b), M.G.L. 255E, section 11, and M.G.L. 255F, section 11, the Commissioner issued a Temporary Order to Cease and Desist and Notice of Administrative Penalty ("Order"), Docket No. 2021-003 against CrossCountry and Andrew L. Marquis on November 30, 2022, based upon information reflected in a solicitation ("Solicitation") sent by CrossCountry and Andrew L. Marquis to Massachusetts consumers;

WHEREAS, according to CrossCountry and Andrew L. Marquis, Andrew L. Marquis was not involved in the Solicitation nor consulted regarding the substance of the Solicitation, and did not approve of or consent to the distribution of the Solicitation;

WHEREAS, according to CrossCountry and Andrew L. Marquis, the Solicitation was mistakenly mailed to Massachusetts consumers from CrossCountry's main office location in Brecksville, Ohio;

WHEREAS, according to CrossCountry and Andrew L. Marquis, CrossCountry voluntarily ceased mailing the Solicitation within approximately two weeks of when the Solicitation was first distributed and a month prior to the issuance of the Order;

WHEREAS, according to CrossCountry and Andrew L. Marquis, CrossCountry took additional corrective action, including providing additional training to marketing personnel and instituting enhancements in CrossCountry's marketing procedures to prevent solicitations from being distributed without the compliance department's approval;

WHEREAS, in an effort to resolve the Division's concerns, CrossCountry voluntarily offered to waive or reimburse its underwriting fee for any consumer that received the Solicitation and applied for a mortgage loan with the Company;

WHEREAS, in recognition of the Division and CrossCountry having reached the following mutual agreement under this Consent Order to fully resolve the matters raised by the Order, the Commissioner has terminated the Order on this 9th day of March 2022; and

WHEREAS, the parties now seek to resolve by mutual agreement, the matters identified in the Order.

#### ORDER

NOW COME the parties in the above-captioned matter, the Division and CrossCountry, and stipulate and agree as follows:

1. CrossCountry shall review, revise, and enhance its practices and procedures to ensure that all solicitations and advertising materials used by the Company do not contain any representations or statements that could be considered false, misleading, or have the tendency or capacity to be misleading to include but not limited to solicitations and advertising materials that contain language that could lead the reader to believe that the solicitation is being issued by

another business not affiliated with CrossCountry and have the tendency to make false promises to influence persuade or induce a consumer to sign a mortgage loan application.

- a. CrossCountry shall take all necessary steps to ensure that the Solicitation or any similar solicitations or advertisements are not published or distributed to consumers in Massachusetts;
  - b. CrossCountry shall review, revise, and enhance its system of internal controls to monitor the Company's compliance with the laws and regulations applicable to soliciting and advertising practices including, but not limited to M.G.L. 93A, section 2(a), M.G.L. 255E, section 4 and its implementing regulation 209 C.M.R. 42.12A(9), 209 C.M.R. 42.12A(18), 209 C.M.R. 42.13(1), M.G.L. 255F, section 18 and its implementing regulation 209 C.M.R. 41.12, M.G.L. 167, section 37, and the Office of the Attorney General's regulation 940 CMR 8.06(1);
  - c. CrossCountry shall review, revise, and enhance its policies and procedures to ensure that all solicitations and advertisements are thoroughly reviewed by senior management prior to publication or distribution to consumers. Such procedures shall include a review of the criteria utilized to generate any advertisement or mailing list to ensure that targeted advertisements or solicitations are appropriate for the consumers to whom they are distributed; and
  - d. A copy of each solicitation and/or advertisement used by CrossCountry shall be retained in the Company's books and records, and such records shall be made available to the Division during its examinations/inspections of the Company.
2. CrossCountry shall submit a payment of twenty-five thousand dollars (\$25,000.00) in satisfaction of an administrative penalty collected to resolve this matter. Such

administrative penalty is imposed pursuant to Massachusetts General Laws chapter 255E, section 11. The payment shall be payable to the "Commonwealth of Massachusetts," to the Office of the Commissioner of Banks, Attn: Enforcement and Investigation Unit, 1000 Washington Street, 10th Floor, Boston, Massachusetts 02118-6400. Nothing in this Consent Order shall be construed as permitting the Company to violate any law, rule, regulation, or regulatory bulletin to which the Company is subject.

- a. Within fifteen (15) days from the execution of this Consent order, CrossCountry shall waive or reimburse by check its underwriting fee for each affected consumer previously identified by CrossCountry to the Division through a portfolio review of all Massachusetts borrowers who: (1) were identified on the distribution list of the solicitation; (2) applied for a loan between October 14, 2021 and January 14, 2022; and (3) whose application was not discovered to have been triggered by a different mechanism. All checks sent to joint borrowers will be made payable to both borrowers. If a borrower demonstrates that a joint borrower should be removed as a payee (by, for example, providing the Company with a copy of a death certificate or other evidence that the joint borrower has died), then the Company may reissue the check in the sole borrower's name. If the Company is uncertain as to the status of a joint borrower, the Company will refer the matter to the Division for further instructions.
- b. Within thirty (30) days of the effective date of this Consent Order, CrossCountry shall submit to the Division evidence of all consumer reimbursements under this paragraph, including but not limited to: the

consumer's name, the account number, origination date, total amount refunded to each borrower, and the date of each refund, the check number for each refund.

- c. CrossCountry shall certify that it has made a reasonable good faith effort to identify the current address of all consumers who are entitled to reimbursement checks. In all cases where consumers cannot be located, the Company shall comply with M.G.L. chapter 200A regarding the disposition of unclaimed property.
3. Failure to comply with the terms of this Consent Order shall constitute grounds for formal regulatory action pursuant to applicable provisions of the General Laws of the Commonwealth of Massachusetts.
4. This Consent Order shall become effective immediately upon the date of its issuance.
5. The provisions of this Consent Order shall be binding upon the Company and their respective subsidiaries, officers and directors, successors and assigns, and those persons in active participation with them, directly or indirectly, acting individually or through any corporate or other entity.
6. In consideration of this Consent Order, the Division agrees not to pursue any other remedial measures, sanctions or penalties relative to this matter unless the Division is made aware of material information that is not addressed in this Consent Order, or if the Company fails to comply with the terms of this Consent Order.
7. The provisions of this Consent Order shall not limit, estop, or otherwise prevent any other state agency or department, from taking any other action under separate authority affecting the Company, or any of their officers and directors, or their successors or assigns.



8. The provisions of this Consent Order shall remain effective and enforceable except to the extent that, and until such time as the Commissioner or a court of competent jurisdiction modifies, terminates, suspends, or sets aside any provision of this Consent Order.
9. In accordance with the terms of the Consent Agreement entered into by the Company and the Commissioner, the Company has waived all rights of appeal that they may have relative to this Consent Order or any of its provisions.
10. This Consent Order and the Consent Agreement are the complete documents representing the resolution of this matter. There are no other agreements between the Division and CrossCountry.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS:

Dated at Boston, Massachusetts, this 9th day of March 2022.

By:

/s/ Mary L. Gallagher

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Mary L. Gallagher  
Commissioner of Banks