

Suffolk, SS.

In the Matter of  
Kind Lending, LLC  
Santa Ana, California  
NMLS No. 3925

WHEREAS, Kind Lending, LLC. (“Kind Lending” or the “Company”), with its main office located at 4 Hutton Centre Drive, Suite 1000, Santa Ana, California, 92707, 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 September 6, 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, Kind Lending 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, M.G.L. chapter 255E, section 2, requires entities to be licensed by the Commissioner if they are engaged in the business of a mortgage lender or mortgage broker in Massachusetts as defined by M.G.L. chapter 255E, section 1;

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, Kind Lending has its main office located at 4 Hutton Centre Drive, Suite 1000, Santa Ana, California, 92707;

WHEREAS, Kind Lending allegedly engaged in the business of a mortgage lender and mortgage broker from at least October 25, 2019 through present in Massachusetts without the appropriate license;

WHEREAS, according to records maintained on file with the Division, and as recorded on the Nationwide Multi-State Licensing System and Registry (NMLS), on or about April 9, 2021 and on or about May 12, 2021, Kind Lending submitted an application to engage in the business of a mortgage lender and mortgage broker (the “Applications”), respectively;

WHEREAS, during a review of Kind Lending’s Applications, the Division became aware that, on or about October 25, 2019, Kind Lending entered into a “Transition Services Agreement”

with a separate entity licensed to engage in the business of a mortgage lender, mortgage broker, and debt collection in Massachusetts (the “Entity”) which contained the following provisions:

*This Transition Services Agreement (this “Agreement”) is dated as of October 25, 2019 (the “Effective Date”), by and between [the Entity] dba Kind Lending (“Provider”), and Kind Lending, LLC (the “Company”) (together, the “Parties”)*

*WHEREAS, [the Entity] is a retail mortgage business (the “Business”);*

*WHEREAS, Company has been formed with the intent of establishing and operating a wholesale mortgage business (“Wholesale Business”);*

*WHEREAS, the Company is in the process of procuring the regulatory licenses and permits required to operate the Wholesale Business;*

*WHEREAS, during the time period necessary for Company to obtain such regulatory licenses and permits and otherwise establish the infrastructure necessary to operate a Wholesale Business (the “Transition Period”), Company desires [the Entity] to establish and operate the Wholesale Business that, upon expiration of the Transition Period and mutual agreement between the Parties, will be transferred over to Company pursuant to the terms of a Purchase Agreement to be negotiated by the Parties;*

WHEREAS, during a review of Kind Lending’s Applications, the Division became aware that the Kind Lending brand was displayed with the NMLS number associated with the Entity on certain webpages and marketing materials which the Division believes was misleading or had the ability or capacity to mislead consumers into thinking that the Entity and Kind Lending were not separate and distinct companies;

WHEREAS, as a consequence of the foregoing, the Division believes that the Company had engaged in the business of a mortgage lender and mortgage broker in Massachusetts; 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 Kind Lending, agree as follows:

1. Kind Lending 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;
2. Immediately upon the effective date of this Consent Order, Kind Lending will refrain from negotiating, soliciting, arranging, providing, accepting, either directly or indirectly, any Massachusetts residential mortgage loan application, or otherwise engage in a mortgage lender or mortgage broker, as defined under M.G.L. chapter 255E, section 1;
3. Kind Lending will refrain from submitting an application for any type of license or registration issued by the Commissioner for a period of four (4) months from the effective date of this Consent Order;
4. Regarding any application(s) submitted to the Division by Kind Lending, the Division retains all of the discretion set forth within M.G.L. chapter 255E, section 4 in determining the appropriate action on the concerned application, provided, however, that the Division would not take any adverse action on said application(s) solely as a

- result of any of the issues resolved by this Consent Order or because the Company entered into the Consent Order or agreed to the issuance of this Consent Order;
5. 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;
  6. This Consent Order shall become effective immediately upon the date of its issuance;
  7. The provisions of this Consent Order shall be binding upon the Company and its 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;
  8. 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;
  9. 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;
  10. 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;

11. 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;
12. 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 Kind Lending.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS:

Dated at Boston, Massachusetts, this 6th day of September 2022.

By:

Mary L. Gallagher  
Commissioner of Banks