

COMMONWEALTH OF MASSACHUSETTS

Suffolk, SS.

COMMISSIONER OF BANKS
MORTGAGE LENDER
MORTGAGE BROKER AND
MORTGAGE LOAN
ORIGINATOR LICENSING
Docket No. 2021-0003

In the Matter of)
CrossCountry Mortgage, LLC)
Brecksville, Ohio)
NMLS No. MC3029)
and)
Andrew L. Marquis)
Concord, Massachusetts)
NMLS No. MLO29861)
_____)

TEMPORARY ORDER TO
CEASE AND DESIST AND
NOTICE OF ADMINISTRATIVE
PENALTY

The Commissioner of Banks (Commissioner) having determined that CrossCountry Mortgage, LLC (“CrossCountry” or the “Company”) and Andrew L. Marquis, located at 6850 Miller Road, Brecksville, Ohio 44141 and 276 Independence Road, Concord, Massachusetts 01742, respectively, have engaged in, or are engaging in, or are about to engage in, acts or practices constituting violations of Massachusetts General Laws (M.G.L.) chapter 255E and applicable regulations found at 209 Code of Massachusetts Regulations (C.M.R.) 42.00 *et seq.* and M.G.L. chapter 255F and applicable regulations found at 209 C.M.R. 41.00 *et seq.*, hereby issues the following TEMPORARY ORDER TO CEASE AND DESIST AND NOTICE OF ADMINISTRATIVE PENALTY (“Order”) pursuant to M.G.L. chapter 255E, section 7(b), M.G.L. 255E, section 11, and M.G.L. 255F, section 11.

FINDINGS OF FACT

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.

6. On or about October 28, 2021 and on or about November 2, 2021, the Division was forwarded copies of a solicitation received by at least three Massachusetts consumers from CrossCountry Mortgage. A copy of the solicitation is attached as Exhibit 1.
7. 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.”
8. Regulation 940 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.”
9. Regulation 209 CMR 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.”
10. Regulation 209 C.M.R. 41.10(8) states, “It is a prohibited act or practice for a Mortgage Loan Originator to directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.”
11. Regulation 209 C.M.R. 41.10(9) states, “It is a prohibited act or practice for a Mortgage Loan Originator to engage in any unfair or deceptive practice toward any person.”
12. Regulation 209 C.M.R. 41.10(13) states, “It is a prohibited act or practice for a Mortgage Loan Originator to fail to make disclosures as required by M.G.L. chapter 255F, 209 C.M.R. 41.00 *et seq.* and any other applicable state or federal law or regulations.”

13. Regulation 209 C.M.R. 41.10(14) states, “It is a prohibited act or practice for a Mortgage Loan Originator to make, in any manner, any false or deceptive statement or representation including, with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising.”
14. Regulation 209 C.M.R. 41.10(21) states, “It is a prohibited act or practice for a Mortgage Loan Originator to fail to maintain accurate and up-to-date information in his or her NMLS license record.”
15. 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.”
16. 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.”
17. Regulation 209 C.M.R. 42.13(1) states, “a licensee who intends to carry on its business at any location in addition to the address on its original license shall file for a branch license through the NMLS, at least 30 days prior to the opening of the branch location. Such notice shall contain the address of any such place and such other information as the Commissioner may require.”
18. 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...”.

19. The solicitation is addressed as if it were from the “RATE REDUCTION DEPARTMENT” of the current lender of the consumer, one of which is a Massachusetts state chartered bank, and contained the consumer’s property information. The body of the solicitation stated that the consumer may be eligible for a lower interest rate and directed the consumer to “Call Today 617.763.0103”, the telephone number associated with the CrossCountry Mortgage Burlington, Massachusetts branch office or visit “www.andrewmarquisteam.com”, a website of Andrew L. Marquis. The bottom of the solicitation stated that interest rates were subject to change, concerned a 15-year term mortgage, the payment does not include tax and insurance premiums, that CrossCountry is not acting on behalf of their current lender, and was accompanied by a corresponding federal “Equal Housing Lender” logo.

20. The website of Andrew L. Marquis, www.andrewmarquisteam.com, states that Marquis is the branch manager of the CrossCountry Mortgage Burlington, Massachusetts branch office. According to records maintained on file with the Division, Andrew L. Marquis is not reflected as the branch manager of the CrossCountry Mortgage Burlington, Massachusetts branch office.
21. Additionally, the body of the solicitation referenced an interest rate of 1.99% on the consumer's loan amount with a specific monthly dollar amount. The same information is subsequently repeated and contained in three large boxes, which are located in the middle of the solicitation, which may lead the consumer to believe that they had automatically qualified for a lower monthly mortgage payment by their current lender.
22. The language and references in the letter collectively create the appearance that the solicitation was issued by the current lender of the consumer. Although the bottom of each solicitation states "CrossCountry Mortgage LLC is not acting for or on behalf of your current lender," such language is in a font size that is significantly smaller than that of the body of the solicitation and is located in a non-prominent location at the bottom of the solicitation. Additionally, CrossCountry's licensing information, including its NMLS number is also placed on the reverse side at the same non-prominent location at the bottom of the solicitation. The NMLS number of Andrew L. Marquis was not disclosed anywhere on the solicitation.
23. According to records maintained on file with the Division, CrossCountry is not affiliated with any of the lenders identified in the solicitations.

CONCLUSIONS OF LAW

24. Based upon the information contained in paragraphs 1 through 23 of this Directive, the Division has reason to believe that CrossCountry has failed to demonstrate and maintain the character, reputation, integrity, and general fitness that would warrant the belief that the mortgage lender and mortgage broker business will be operated honestly, fairly, and soundly in the public interest in violation of M.G.L. chapter 255E, section 4 and the Division's regulations 209 C.M.R. 42.03(2)(c) and 209 C.M.R. 42.06(2)(c).
25. Based upon the information contained in paragraphs 1 through 23 of this Directive, by mailing Massachusetts consumers a solicitation containing false or misleading language or language that had the tendency to be false or misleading, including language that could lead the reader to believe that the solicitation was issued by their current mortgage lender, CrossCountry has violated M.G.L. chapter 93A, section 2(a), and the 940 C.M.R. 8.06(1).
26. Based upon the information contained in paragraphs 1 through 23 of this Directive, Andrew L. Marquis has failed to demonstrate and maintain the character, reputation, integrity, and general fitness such as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, soundly and efficiently in the public interest, as a mortgage loan originator in violation of M.G.L. chapter 255F, section 4 and the Division's regulation 209 C.M.R. 41.04(2)(d).
27. Based upon the information contained in paragraphs 1 through 23 of this Directive, by mailing Massachusetts consumers a solicitation containing false or misleading language or language that had the tendency to be false or misleading, including language that could lead the reader to believe that the solicitation was issued by their current mortgage lender,

Andrew L. Marquis has violated M.G.L. chapter 255F, section 15 and the Division's regulation 209 C.M.R. 41.10(8) and 209 C.M.R. 41.10(9).

ORDER TO CEASE AND DESIST AND NOTICE OF ADMINISTRATIVE PENALTY

After taking into consideration the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby directed:

28. ORDERED that CrossCountry and Andrew L. Marquis shall cease mailing any solicitations to Massachusetts consumers that contain any representations or statements that could be considered false, misleading, or have the tendency or capacity to be misleading including but not limited to:
 - a. Solicitations that contain language that could lead the reader to believe that the solicitation is being issued by another business not affiliated with CrossCountry; and
 - b. Solicitations that have the tendency to make false promises to influence persuade or induce a consumer to sign a mortgage loan application.
29. IT IS FURTHER ORDERED that within five (5) days of the effective date of this Order, CrossCountry and Andrew L. Marquis shall submit to the Commissioner a detailed record, prepared as of the date of submission, of all Massachusetts consumers to whom the Solicitation was distributed and a loan list of all applications taken by Andrew L. Marquis from October 15, 2021 to the effective date of this Order. The records to be produced shall include the consumers' names and addresses.
30. IT IS FURTHER ORDERED that within twenty (20) days of the effective date of this Order, CrossCountry and Andrew L. Marquis shall submit a combined payment of twenty-five thousand dollars (\$25,000.00) in satisfaction of an administrative penalty collected in

consideration of the deceptive advertising as evidenced by the solicitation. Such administrative penalty is imposed pursuant to Massachusetts General Laws chapter 255E, section 11. The payment shall be remitted pursuant to this Paragraph of the Order for the amount due, 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.

31. IT IS FURTHER ORDERED that CrossCountry shall review and revise, as necessary, the Company's policies and procedures to ensure that individuals performing on behalf of the Company neither act, nor represent themselves, as a different company.
32. IT IS FURTHER ORDERED that a copy of each advertisement used by CrossCountry and its sponsored Mortgage Loan Originators shall be retained in the Company's books and records and shall be made available to the Division at its examinations/inspections of CrossCountry.
33. IT IS FURTHER ORDERED that CrossCountry shall revise its advertising practices and procedures to ensure that all solicitations and advertising materials used by the Company and its sponsored Mortgage Loan Originators do not contain any representations or statements that could be considered false, misleading, or have the tendency or capacity to be misleading.
34. IT IS FURTHER ORDERED that CrossCountry shall take all necessary steps to ensure that the solicitation or any similar solicitation is not published or distributed to consumers in Massachusetts.
35. IT IS FURTHER ORDERED that CrossCountry shall implement, establish, and maintain a system of internal controls to monitor the Company's compliance with the laws and

regulations applicable to advertising practices including, but not limited to, the 209 C.M.R. 42.12A and 940 C.M.R. 8.00 *et.seq.*.

36. IT IS FURTHER ORDERED that Andrew L. Marquis shall revise his advertising practices and procedures to ensure that all solicitations and advertising materials used by Andrew L. Marquis do not contain any representations or statements that could be considered false, misleading, or have the tendency or capacity to be misleading.

37. IT IS FURTHER ORDERED that Andrew L. Marquis shall take all necessary steps to ensure that the solicitation or any similar solicitation is not published or distributed to consumers in Massachusetts.

NOTICE OF RIGHT TO REQUEST A HEARING

38. CrossCountry and Andrew L. Marquis or their authorized representative(s) have the right to request a hearing to contest the allegations described herein. In order to request a hearing, CrossCountry and Andrew L. Marquis or their authorized representative are required to file a notice of claim for an Adjudicatory Proceeding within thirty (30) days of the effective date of this Cease Directive, pursuant to the Standard Adjudicatory Rules of Practices and Procedures, 801 CMR 1.01(6)(b) and (c).

39. A hearing will be scheduled on this matter only upon receipt of a written request for such a hearing from CrossCountry, Andrew L. Marquis, or their authorized representative(s) within thirty (30) days of service of this Cease Directive upon CrossCountry and Andrew L. Marquis or their authorized representative. CrossCountry and Andrew L. Marquis' failure to request a hearing within this thirty (30) day period or failure to appear at a scheduled hearing date shall be deemed consent to the issuance of the Cease Directive.

40. The hearing shall be fixed for a date not more than thirty (30) days after the date of service upon the Commissioner of the request for hearing and will be conducted according to M.G.L. chapter 30A, sections 10 and 11, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 and 1.03.

BY ORDER AND DIRECTION OF THE COMMISSIONER OF BANKS.

Dated at Boston, Massachusetts, this 30th day of November, 2021.

/s/ Cynthia A. Begin, Esq.
First Deputy Commissioner
Commissioner of Banks