

BEFORE THE MONTANA DEPARTMENT OF ADMINISTRATION,  
DIVISION OF BANKING AND FINANCIAL INSTITUTIONS

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BELINDA OSBORNE, a licensed mortgage loan  
originator, NMLS # 470803,

Respondent.

Case No. M2018-22

**FINAL ORDER**

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The Montana Department of Administration, Division of Banking and Financial Institutions (Division), pursuant to the authority granted by the Montana Mortgage Act (Act), Mont. Code Ann. § 32-9-101 et seq., issued a Notice of Proposed Agency Action and Opportunity for Administrative Hearing (Notice) on February 7, 2019. The Department and Respondent executed a Consent Agreement providing for a mutually agreeable disposition of the enforcement action and entry of this Final Order.

**FINDINGS OF FACT**

1. The Division has subject matter and personal jurisdiction over Respondent based on the following facts:

a. The Division is the agency charged with licensing, examining, and regulating mortgage brokers, mortgage lenders, mortgage servicers, and mortgage loan originators.

b. Respondent is licensed as a mortgage loan originator. Her Nationwide Multistate Licensing System (NMLS) number is 470803.

2. Beginning on May 14, 2018, mortgage examiner Yolanda Andrews (Examiner Andrews) conducted an on-site examination of Keystone Mortgage Company (Keystone), which was Respondent's employer at all times relevant to this matter.

3. Examiner Andrews prepared a Mortgage Broker/Lender Licensee Report of

Examination (Report) to summarize the findings from the examination.

4. In the Report, Examiner Andrews determined Keystone violated state laws and regulations when:
  - a. an employee failed to maintain required records, specifically, borrower signed and dated Loan Estimates and Closing Disclosures;
  - b. an employee failed to maintain required records, specifically, an accurate spreadsheet of all residential mortgage applications taken;
  - c. an employee made a misrepresentation or deceptive statement in connection with a residential mortgage loan, when a purchase loan and refinance loan were simultaneously presented to separate lenders by the same mortgage loan originator as primary residences for the same borrowers;
  - d. an employee engaged in prohibited practices, specifically, signing documents on behalf of others; and
  - e. it engaged in prohibited practices, specifically, altering documents.
5. To the extent Respondent acted as mortgage loan originator for a specific loan as indicated in the Report, Respondent shares responsibility with Keystone for the violations and deficiencies described in paragraph 4 above.

#### **CONCLUSIONS OF LAW**

1. The Division has jurisdiction over this matter and over the Respondent.
  - a. Pursuant to Mont. Code Ann. §§ 32-9-102, 32-9-130, and 32-9-133, this administrative tribunal has personal jurisdiction over Respondent because Respondent is licensed as a mortgage loan originator in this state.
  - b. Pursuant to Mont. Code Ann. §§ 32-9-102, 32-9-130, and 32-9-133, the Division has jurisdiction over the subject matter of this action and is authorized to bring this action against Respondent for violations of the Act.
2. Respondent is licensed as a mortgage loan originator pursuant to Mont. Code

Ann. §§ 32-9-102, 32-9-105 and 32-9-112.

3. Under Mont. Code Ann. § 32-9-124(1)(i), a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator may not: "fail to comply with this part or rules promulgated under this part or fail to comply with any other state or federal laws, including the rules and regulations adopted pursuant to those laws, applicable to any business authorized by or conducted under [the Act]." Respondent's actions described in the Fact Assertions violated Mont. Code Ann. § 32-9-124(1)(i) because Respondent was not in compliance with state and federal law.

4. "Licensees shall maintain books, accounts, records, and copies of residential mortgage loan files and escrow account records that are necessary to enable the [Division] to determine whether a licensee is in compliance with the applicable laws and rules. The materials must be maintained in accordance with generally accepted accounting principles and good business practices." Mont. Code Ann. § 32-9-121(1).

5. "A mortgage broker shall create and retain a residential mortgage file. The residential mortgage file shall contain: . . . copies of the loan estimate and closing disclosures required by the Truth in Lending Act – Real Estate Settlement Practices Act (TILA-RESPA) Integrated Disclosure (TRID) rule, which must be signed and dated by the borrowers." Admin. R. Mont. 2.59.1710(1)(c).

6. Respondent violated Mont. Code Ann. § 32-9-121(1) and Admin. R. Mont. 2.59.1710(1)(c) by failing to maintain required records, specifically, Loan Estimates signed and dated by the borrower(s).

7. "A mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator may not . . . directly or indirectly employ any scheme to defraud or mislead a borrower, a mortgage broker, a mortgage lender, a mortgage servicer, or any other person." Mont. Code Ann. § 32-9-124(1)(b).

8. A "scheme to defraud or mislead a borrower, a lender, or any other person"

includes but is not limited to:

a. "misstating a borrower's income, assets, obligations, employment status, credit history, or financial resources, or the borrower's equity in the dwelling which secures repayment of the loan to a lender," Admin. R. Mont. 2.59.1717(1)(a); and

b. "stating to a lender, or more than one lender, that a borrower intends to use more than one property as a primary residence," Admin. R. Mont. 2.59.1717(1)(b).

9. Respondent violated Mont. Code Ann. § 32-9-124(1)(b) and Admin. R. Mont. 2.59.1717(1) when a purchase loan and refinance loan were simultaneously presented to separate lenders as primary residences for the same borrowers as described in the Notice.

10. "A mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator may not . . . knowingly withhold, abstract, remove, mutilate, destroy, alter, or keep secret any books, records, computer records, or other information from the [Division]." Mont. Code Ann. § 32-9-124(1)(l).

11. "The word 'alter' as used in 32-9-124(1)(l), MCA, means that loan documents may not be revised by: (a) using correction fluid, correction tape, or any other means of changing or covering over a date or signature not on the original; (b) inserting a signature or date not on the original; or (c) making any other change to a document." Admin. R. Mont. 2.59.1755(1).

12. Respondent is responsible for violating Mont. Code Ann. § 32-9-124(1)(l) to the extent documents were altered as described in the Notice.

13. "The [Division], upon giving a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator licensee 14 days' written notice, which includes a statement of the grounds for the proposed suspension, conditioning, or revocation, and informing the licensee that the licensee has the right to be heard at an administrative hearing if requested by the licensee, may suspend, condition, or revoke a license if it finds that the licensee has violated any provision of this part [(Montana Code Annotated Title 32, chapter 9, part 1)] or any rule adopted under this part." Mont. Code Ann. § 32-9-126(1).

14. The Division may issue an order "revoking, conditioning, or suspending the right of the person or licensee, directly or through an officer, agent, employee, or representative, to do business in this state as a licensee or to engage in the mortgage broker, mortgage lender, mortgage servicer, or mortgage loan origination business." Mont. Code Ann. § 32-9-133(2)(c).

### **ORDER**

Based on the Consent Agreement and the foregoing Findings of Fact and Conclusions of Law:

1. Respondent shall comply with the terms of the Consent Agreement and this Final Order.

2. Respondent shall surrender her mortgage loan originator license on or before December 31, 2019.

3. Respondent shall cease all marketing and advertising activity related to the business of a mortgage loan originator on or before November 30, 2019.

4. Respondent shall provide the Division a list of all loan applications in process as of December 10, 2019. The list shall include the applicant's name, contact information, and the date of application. Respondent agrees to provide the Division regular updates regarding the status of each loan application, and Respondent shall report to the Division the final disposition of each loan application or loan within ten days.

5. Respondent shall notify each mortgage loan applicant identified on the list described in paragraph 4 of this Final Order that Respondent will no longer engage in the business of a mortgage loan originator as of December 31, 2019. Respondent shall provide such notice to applicants by December 10, 2019, and Respondent shall provide the Division copies of the notices by December 20, 2019.

6. Respondent shall not accept any new mortgage loan applications or otherwise initiate loan origination on any application received after November 30, 2019.

7. Except as otherwise provided in paragraph 8 of this Final Order, Respondent shall

not engage in the business of a mortgage broker, mortgage lender, mortgage servicer, or mortgage loan originator.

8. Upon entry of this Final Order, the terms and conditions described in paragraphs 3-7 shall apply and shall restrict Respondent's license. Respondent shall complete processing and origination of all loan applications that were received prior to entry of this Final Order by December 31, 2019.

9. Respondent shall surrender her license upon completion of application processing and loan origination activity for all applications received on or before November 30, 2019.

10. Respondent shall not apply to reinstate her license and shall not apply for any new license to be issued by the Division within three years of the date of surrender of her license.

11. Respondent shall complete an approved mortgage loan originator prelicensing course prior to applying to reinstate her surrendered license or applying for any new license to be issued by the Division. If the prelicensing course required by the Division at the time of application is shorter than 20 hours, the Division may require Respondent to complete additional hours of education to satisfy the terms of the Consent Agreement and this Final Order. Respondent shall provide certificates of completion to the Division at the time of application.

SO ORDERED this 12<sup>th</sup> day of September, 2019.



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MELANIE G. HALL, Commissioner  
Division of Banking and Financial Institutions

**CERTIFICATE OF SERVICE**

I hereby certify that on September 12, 2019, the undersigned caused a true and accurate copy of the foregoing Final Order with Exhibit A by U.S. Mail, first class, postage prepaid and addressed to:

Belinda Osborne  
[REDACTED]

Eric Nord  
CRIST, KROGH & NORD, PLLC  
2708 First Avenue North, Suite 300  
Billings, MT 59101  
*Counsel for Keystone Mortgage Company, Angel Davis-Viren, and Holly Dickey*  
[REDACTED]

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Heather K. Hardman, Paralegal

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2 Legal Counsel  
3 301 South Park, Room 316  
4 P.O. Box 200546  
5 Helena, MT 59620-0546  
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8 COUNSEL FOR STATE OF MONTANA

9 BEFORE THE MONTANA DEPARTMENT OF ADMINISTRATION,  
10 DIVISION OF BANKING AND FINANCIAL INSTITUTIONS

11  
12 BELINDA OSBORNE, a licensed mortgage  
13 loan originator, NMLS # 470803,

14 Respondent.

15 Case No. M2018-22

16 **CONSENT AGREEMENT**

17  
18 The Montana Division of Banking and Financial Institutions (Division) pursuant to  
19 the authority granted by the Montana Mortgage Act (Act), Mont. Code Ann. § 32-9-101 et  
20 seq., issued a Notice of Violation, Proposed Agency Action, and Opportunity for  
21 Administrative Hearing (Notice) on February 7, 2019, which was duly served upon the  
22 Respondent pursuant to Mont. Code Ann. § 32-9-128. Respondent acknowledges having  
23 read and understood the Notice and deems settlement of this matter on the terms and  
24 conditions set forth herein to be in Respondent's best interests.

25 1. Respondent admits the Findings of Fact set forth in the Final Order,  
26 acknowledges her acts/omissions violated the statutes and rules set forth in the  
27 Conclusions of Law, and agrees to entry of the Final Order.

28 2. Respondent agrees to surrender her Montana mortgage loan originator  
license for a period not less than three years from the date of surrender of her license.  
Respondent will not apply for any new license to be issued by the Division within a period  
of three years from the date of surrender of her license.

3. Respondent agrees to complete an approved mortgage loan originator  
prelicensing course prior to applying to reinstate her surrendered license or applying for  
any new license to be issued by the Division. If the prelicensing course required by the



1 Division at the time of application is shorter than 20 hours, the Division may require  
2 Respondent to complete additional hours of education to satisfy the terms of the Consent  
3 Agreement and this Final Order. Respondent shall provide certificates of completion to  
4 the Division at the time of application.

5 4. The Findings of Fact, Conclusions of Law, and Order set forth in the Final  
6 Order are correct, not in violation of constitutional or statutory provisions, not in excess of  
7 the Division's authority, not made upon unlawful procedure, not affected by other error of  
8 law, not clearly erroneous in view of the evidence, and not arbitrary and capricious or  
9 characterized by abuse of discretion or clearly unwarranted exercise of discretion.

10 5. Respondent agrees to comply with the terms of this Consent Agreement and  
11 the Final Order.

12 6. Respondent agrees to dismiss the contested case proceedings regarding  
13 Respondent's license.

14 7. Respondent expressly waives her right to an administrative hearing, judicial  
15 review, and appeal, and agrees to settlement of this enforcement action on the terms and  
16 conditions set out herein.

17 8. Respondent acknowledges that no inducement has been offered by the  
18 Division or any employee, agent or representative thereof to cause Respondent to enter into  
19 this Consent Agreement and Respondent does so voluntarily and without reservation.

20 9. Respondent acknowledges this Consent Agreement is subject to the  
21 approval of the Commissioner of Banking and Financial Institutions or other authorized  
22 designee in a Final Order.

23 10. The parties agree to bear their own costs and attorneys' fees associated with  
24 this enforcement action.

25 11. The terms of the Consent Agreement and Final Order shall be legally  
26 binding upon Respondent.

27 12. Respondent acknowledges this action is a public document which will be  
28 posted on the NMLS under Regulatory Actions.

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BELINDA OSBORNE

By:



Belinda Osborné

Belinda Osborné  
Printed Name

9/11/2019  
Date

DIVISION OF BANKING AND FINANCIAL INSTITUTIONS

By:



Don E. Harris, Legal Counsel

09/11/19  
Date