

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

RT Solo 401K Trust and
Richard Titlebaum a/k/a Rick Titlebaum.

)
)
)

ORDER TO SHOW CAUSE

TO: RT Solo 401K Trust
In care of: Richard Titlebaum
355 Valley Rd.
Merion Station, PA 19066

Richard Titlebaum
355 Valley Rd.
Merion Station, PA 19066

THIS MATTER having been opened by the Commissioner of the New Jersey Department of Banking and Insurance (“Commissioner”), upon information that RT Solo 401K Trust and Richard Titlebaum a/k/a Rick Titlebaum (collectively, “Respondents”), may have violated various provisions of the Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 to -89 (“RMLA”), and New Jersey Home Ownership Security Act N.J.S.A. 46:10B-22 to -35 (“HOSA”); and

WHEREAS, Respondents were never licensed as a residential mortgage lender pursuant to N.J.S.A. 17:11C-54(a)(1); and

WHEREAS, Respondents are subject to the provisions of the RMLA and HOSA; and

WHEREAS, pursuant to N.J.S.A. 17:11C-54(a)(1), no person shall act as a residential mortgage lender, broker, or loan originator without first obtaining a license under the RMLA; and

WHEREAS, pursuant to N.J.S.A. 17:11C-75(e), no residential mortgage lender shall engage in any unfair or deceptive practice toward any person, or directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers, lenders, or any other person, including any action to misrepresent, circumvent, or conceal the nature of any information or material

particular of any transaction, or to obtain the real property that is, or intended to be, the security for the loan; and

WHEREAS, pursuant to N.J.S.A. 17:11C-70(b)(4), the Commissioner may impose a civil penalty not exceeding \$25,000.00 on any person for a violation of the RMLA. Each violation of the RMLA, including any order, rule or regulation made or issued pursuant to the RMLA, shall constitute a separate offense; and

WHEREAS, pursuant to N.J.S.A. 17:11C-70(b)(6), the Commissioner may order a person found to be in violation of the RMLA to make restitution to any person aggrieved by the violation; and

WHEREAS, pursuant to N.J.S.A. 17:11C-70(b)(7), the Commissioner may order any other remedial action with respect to a violation of the RMLA as the Commissioner deems necessary; and

WHEREAS, pursuant to N.J.S.A. 31:1-1(b) and N.J.A.C. 3:1-1.1(b), the maximum rate of interest to be charged on loans secured by a first lien on real property on which there is erected or to be erected a structure containing one, two, three, four, five or six dwelling units, a portion of which structure may be used for nonresidential purposes, shall be at least six percent per annum but not more than the Monthly Index of Long Term United States Government Bond Yields, compiled by the Board of Governors of the Federal Reserve System and as published by said Board of Governors in the monthly Federal Reserve Bulletin, for the second preceding calendar month plus an additional 3.5 percent per annum rounded off to the nearest quarter of one percent per annum; and

WHEREAS, pursuant to N.J.S.A. 46:10B-23, the Legislature found and declared that abusive mortgage lending has become an increasing problem in this State, exacerbating the loss of equity in homes and causing an increase in the number of foreclosures in recent years; and

WHEREAS, pursuant to N.J.S.A. 46:10B-24, “High-cost home loan” means a home loan for which the principal amount of the loan does not exceed \$350,000, which amount shall be adjusted annually to include the last published increase of the housing component of the national Consumer Price Index, New York-Northeastern New Jersey Region, in which the terms of the loan meet or exceed either the “Rate threshold,” or “Total points and fees threshold,” or both; and

WHEREAS, pursuant to N.J.S.A. 46:10B-24, “Rate threshold” means the annual percentage rate of the loan at the time the loan is consummated such that the loan is considered a “mortgage” under 15 U.S.C. § 1602(aa)), and the regulations promulgated by the Federal Reserve Board, including 12 C. F.R. § 226.32, without regard to whether the loan transaction is or may be a “residential mortgage transaction,” as defined in 12 C.F.R. § 226.2(a)(24); and

WHEREAS, pursuant to N.J.S.A. 46:10B-24, “Total points and fees threshold” means that the total points and fees payable by the borrower at or before the loan closing, excluding either a conventional prepayment penalty or up to two bona fide discount points, exceed:

(a) 4.5% of the total loan amount if the total loan amount is \$40,000 or more; or

(b) the lesser of 6% of the total loan amount or \$1,000, if the total loan amount is less than \$20,000, and 6% if the total loan amount is \$20,000 or more but less than \$40,000; and

WHEREAS, pursuant to N.J.S.A. 46:10B-26(b), no high-cost home loan shall include payment terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due (also known as “negative amortization”); and

WHEREAS, pursuant to N.J.S.A. 46:10B-26(f), a creditor shall not make a high-cost home loan unless the creditor has given a notice to the borrower a notice referenced in N.J.S.A. 46:10B-26(f), in writing, to the borrower, acknowledged in writing and signed by the borrower; and

WHEREAS, pursuant to N.J.S.A. 46:10B-28(d), if the Department determines that a person has violated the provisions of the HOSA, the Department may do any combination of the following that it deems appropriate:

- (1) Impose a civil penalty of up to \$10,000 for each offense;
- (2) Suspend, revoke, or refuse to renew any license issued by the Department;
- (3) Prohibit or permanently remove an individual responsible for a violation of the HOSA from working in his present capacity or in any other capacity related to activities regulated by the Department;
- (4) Order a person to cease and desist any violation of this act and to make restitution for actual damages to borrowers;
- (5) Enter an appropriate temporary order to be effective immediately and until entry of a final order; and
- (6) Impose such other conditions as the Department deems appropriate; and

FACTUAL ALLEGATIONS

IT APPEARING that Respondent RT Solo 401K Trust is a private investment vehicle created for the benefit of, and controlled by, Respondent Richard Titlebaum; and

IT FURTHER APPEARING that Respondent Richard Titlebaum engaged in unlicensed mortgage lending activity in New Jersey through Respondent RT Solo 401K; and

IT FURTHER APPEARING that, despite not being licensed as a residential mortgage lender, Respondents issued two residential mortgages in New Jersey, on November 23, 2015, and on December 8, 2015, and both mortgages contained unconscionable terms; and

Mortgage 1 to Baljinder Singh.

IT FURTHER APPEARING that on or about November 23, 2015, Respondents issued a residential mortgage loan of \$102,000.00 to a New Jersey consumer Baljinder Singh for a real estate located in Morganville, New Jersey; and

IT FURTHER APPEARING that the above-referenced mortgage contained the following material terms: three-year term, interest rate of 12% APR, interest-only payments, negative amortization, and a balloon payment at the conclusion of the mortgage term; and

IT FURTHER APPEARING that on December 1, 2018, Respondents extended the term of the mortgage for an additional year until December 1, 2019; and

IT FURTHER APPEARING that after December 1, 2019, the consumer continued to make the regular monthly mortgage payments to Respondents; and

IT FURTHER APPEARING that from December 1, 2015 to November 1, 2020, the consumer made a total of \$62,220.00 in mortgage payments to Respondents, but despite these payments, because the mortgage was negatively amortized, by November 1, 2020, the total outstanding principal balance of the mortgage loan grew from the original \$102,000.00 to \$124,351.35; and

Mortgage 2 to Frederick Schroeder Jr.

IT FURTHER APPEARING that on or about December 5, 2015, Respondents issued a residential mortgage loan of \$365,650.00 to a New Jersey consumer Frederick Schroeder Jr. for a real estate located in Hillsdale, New Jersey; and

IT FURTHER APPEARING that the above-referenced mortgage contained the following material terms: three-year term, interest rate of 17% APR, interest-only payments, negative amortization, and a balloon payment at the conclusion of the mortgage term; and

IT FURTHER APPEARING that on December 1, 2018, Respondents extended the term of the mortgage for an additional year until December 1, 2019; and

IT FURTHER APPEARING that after December 1, 2019, the consumer continued to make the regular monthly mortgage payments to Respondents; and

IT FURTHER APPEARING that from December 1, 2015 to November 1, 2020, the consumer made a total of \$140,327.00 in mortgage payments to Respondents, but despite these payments, because the mortgage was negatively amortized, by November 1, 2020, the total outstanding principal balance of the mortgage loan grew from the original \$365,650.00 to \$622,122.64; and

IT FURTHER APPEARING that on January 14, 2022, Respondent initiated a foreclosure action against the consumer, which is currently pending; and

COUNT 1

(Issuing two mortgages without a license, in violation of the RMLA)

IT FURTHER APPEARING that Respondents issued two residential mortgage loans without a license, in violation of the RMLA, N.J.S.A. 17:11C-54(a)(1); and

IT FURTHER APPEARING that each residential mortgage loan issued without a license constitutes a separate violation of the RMLA; and

COUNT 2

(Engaging in unfair or deceptive practices, in violation of the RMLA)

IT FURTHER APPEARING that the two mortgages issued by Respondents charged an interest rate in excess of the civil usury rate in N.J.S.A. 31:1-1(b) and N.J.A.C. 3:1-1.1(b); and

IT FURTHER APPEARING that, additionally, the two mortgages issued by Respondents contained payment terms under which the outstanding principal balance increased over time because the regular monthly payments did not fully cover the amount of accrued interest resulting in negative amortization; and

IT FURTHER APPEARING that by issuing mortgages with the usurious interest rates and negative amortization terms, Respondents engaged in an unfair or deceptive practice toward the borrowers, in violation of the RMLA, N.J.S.A. 17:11C-75(e); and

IT FURTHER APPEARING that each act of engaging in an unfair or deceptive practice constitutes a separate violation of the RMLA; and

COUNT 3

(Issuing two mortgages with negative amortization, in violation of the HOSA)

IT FURTHER APPEARING that because the interest rate on the two mortgages issued by Respondents exceeded the “rate threshold” under N.J.S.A. 46:10B-24, the mortgages are high-cost home loans pursuant to the HOSA; and

IT FURTHER APPEARING that the two high-cost home loans contained payment terms under which the outstanding principal balance increased over time because the regular monthly payments did not fully cover the amount of accrued interest, in violation of N.J.S.A. 46:10B-26(b); and

IT FURTHER APPEARING that each high-cost home loan with negative amortization terms constitutes a separate violation of the HOSA; and

COUNT 4

(Failing to provide the required disclosures, in violation of the HOSA)

IT FURTHER APPEARING that when issuing the two high-cost home loans, Respondents failed to provide the required written notice contained in N.J.S.A. 46:10B-26(f) and failed to obtain

a written and signed acknowledgment from the borrowers, in violation of N.J.S.A. 46:10B-26(f); and

IT FURTHER APPEARING that each failure to provide a written notice and obtain a written and signed acknowledgment from a borrower constitutes a separate violation of the HOSA; and

NOW, THEREFORE, IT IS on this 8 day of May 2023,

ORDERED that Respondents appear and show cause why they should not be barred from acting as a residential mortgage lender, residential mortgage broker, or mortgage loan originator, or a stockholder, an officer, director, partner or other owner, or any employee of a licensee, or acting in any other capacity pursuant to the RMLA, pursuant to N.J.S.A. 17:11C-70(b)(5); and

IT IS FURTHER ORDERED that Respondents appear and show cause why they should not be prohibited or permanently removed from any capacity related to activities regulated by the Department, pursuant to N.J.S.A. 46:10B-28(d)(6); and

IT IS FURTHER ORDERED that Respondents appear and show cause why the Commissioner should not assess a civil penalty of not more than \$25,000.00 for each violation of the RMLA, pursuant to N.J.S.A. 17:11C-70(b)(4); and

IT IS FURTHER ORDERED that Respondents appear and show cause why the Commissioner should not assess a civil penalty of not more than \$10,000.00 for each violation of the HOSA, pursuant to N.J.S.A. 46:10B-28(d)(1); and

IT IS FURTHER ORDERED that Respondents appear and show cause why the Commissioner should not order restitution to any person aggrieved by Respondents' violations, pursuant to N.J.S.A. 17:11C-70(b)(6) and N.J.S.A. 46:10B-28(d)(4); and

IT IS FURTHER ORDERED that Respondents have the right to request an administrative hearing, to be represented by counsel or other qualified representative, at its own expense, to take testimony, to call or cross-examine witnesses, to have subpoenas issued, and to present evidence or argument if a hearing is requested; and

IT IS FURTHER ORDERED that unless a request for a hearing is received within twenty (20) days of the service of this Order to Show Cause, the right to a hearing in this matter shall be deemed to have been waived by Respondents and the Commissioner shall dispose of this matter in accordance with law. A hearing may be requested by emailing the request to Paulette Sibblies-Flagg at paulette.sibblies-flagg@dobi.nj.gov and mailing a copy to Paulette Sibblies-Flagg, OCF Investigations Unit, Department of Banking and Insurance, P.O. Box 040, Trenton, New Jersey 08625. A copy of the request for a hearing shall also be emailed to Deputy Attorney General Garen Gazaryan at garen.gazaryan@law.njoag.gov and a copy mailed to P.O. Box 117, Trenton, New Jersey 08625. The request shall contain the following:

- A. Respondents' full name, address, and daytime telephone number;
- B. A statement referring to each charge alleged in this Order to Show Cause and identifying any defense intended to be asserted in response to each charge. Where the defense relies on facts not contained in the Order to Show Cause, those specific facts must be stated;
- C. A specific admission or denial of each fact alleged in this Order to Show Cause. Where Respondents have no specific knowledge regarding a fact alleged in the Order to Show Cause, a statement to that effect must be contained in the hearing request. Allegations of this Order to Show Cause not answered in the manner set forth above shall be deemed to have been admitted; and
- D. A statement requesting a hearing.



Marlene Caride
Commissioner