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Attorneys for Complainant

BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

OF THE STATE OF CALIFORNIA

In the Matter of: THE COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION, Complainant, v. KIND HOME LOANS, INC. Respondent.	CFL LICENSE NO.: 60DBO-101197 CONSENT ORDER

This Consent Order is entered into between the Commissioner of Financial Protection and Innovation (Complainant or Commissioner) and Respondent Kind Home Loans, Inc. (Respondent) and is made with respect to the following facts:

I.

RECITALS

A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities engaged in the business of finance lending or brokering under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.).

State of California - Department of Financial Protection and Innovation

B. Respondent is a corporation, with a principal place of business at 433 N Camden Dr, Ste 600, Beverly Hills, CA, 90210.

C. Respondent is licensed as a broker under the CFL with main license number 60DBO-101197.

D. Respondent operates no branch offices in California.

E. In accordance with Financial Code section 22159, CFL licensees must file an annual report with the Commissioner by March 15 of each year (Annual Report).

F. On December 21, 2020, the Commissioner notified CFL licensees of the March 15, 2021 deadline to file their annual reports by sending notice to the email address of each CFL licensee established pursuant to the Commissioner's Order on Electronic Communications, dated November 22, 2013. The notification admonished licensees that the Commissioner could assess penalties for untimely filing or failing to file pursuant to Financial Code section 22715(b).

G. On January 21, 2021, the Commissioner again notified CFL licensees of the March 15, 2021 deadline to file their annual reports by sending notice to the email address each CFL licensee established pursuant to the Commissioner's Order on Electronic Communications, dated November 22, 2013. The notification again warned that the Commissioner could assess monetary penalties for untimely filing or failing to file pursuant to Financial Code section 22715(b).

H. On February 16, 2021, the Commissioner again notified CFL licensees of the March 15, 2021 deadline to file their annual reports by sending notice to the email address each CFL licensee established pursuant to the Commissioner's Order on Electronic Communications, dated November 22, 2013. The notification warned that the Commissioner could assess penalties and summarily revoke licenses for untimely filing or failing to file pursuant to Financial Code section 22715.

I. On March 12, 2021, the Commissioner again notified CFL licensees of the March 15, 2021 deadline to file their annual reports by sending notice to the email address each CFL licensee established pursuant to the Commissioner's Order on Electronic Communications, dated November 22, 2013. The notification warned that the Commissioner could assess penalties and summarily revoke licenses for untimely filing or failing to file pursuant to Financial Code section 22715.

J. As of March 15, 2021, Respondent had not filed its Annual Report with the Commissioner. As a result, the Commissioner issued a notice on March 18, 2021 to Respondent to Respondent's email address established pursuant to the Commissioner's Order on Electronic Communications, dated November 22, 2013, advising Respondent that it should file its annual report by or before March 30, 2021 or else its license would be summarily revoked pursuant to Financial Code section 22715 (Notice email).

K. As of March 30, 2021, Respondent had not filed its Annual Report with the Commissioner as directed in the Notice Letter. As a result, on April 16, 2021, the Commissioner issued an Order Summarily Revoking California Finance Brokers License Pursuant to Financial Code Section 22715 for CFL License Number 60DBO-101197 (Summary Revocation Order).

L. Upon receiving the Summary Revocation Order(s), Respondent timely notified the Commissioner that Respondent was requesting a hearing on the Summary Revocation Order.

M. On April 26, 2021, Respondent submitted its Annual Report, which was due on March 15, 2021, 29 business days late. Pursuant to Financial Code Section 22715, the maximum penalty that may be imposed for filing 29 business days late is $12,500.00 ($100 per business day for the first five business days and $500 per business day thereafter up to a maximum of $25,000).

N. In connection with these proceedings, Respondent represented to the Commissioner that it had taken no new applications under its license.

O. The Commissioner finds that entering into this Consent Order is in the public interest and consistent with the purposes fairly intended by the policies and provisions of the CFL.

NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein, the parties agree as follows:

II.

TERMS AND CONDITIONS

1. Purpose. The parties intend to resolve this matter for the purpose of judicial economy and expediency and without the uncertainty and expense of a hearing or other litigation.

2. Order Rescinding Penalty Order. The Commissioner hereby rescinds the Order Summary Revoking California Finance Brokers License which had been issued on April 16, 2021.

3. Administrative Penalty. Respondent shall pay an administrative penalty of $1,500.00 no later than 30 days after the effective date of this Consent Order as defined in paragraph 25. The penalty must be made payable in the form of a cashier's check or Automated Clearing House deposit to the Department of Financial Protection and Innovation and transmitted to the attention of Accounting – Litigation, Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95834. Notice of the payment must be concurrently sent to Steven Vong, Counsel, Department of Financial Protection and Innovation, 2101 Arena Blvd, Sacramento, California 95834.

4. Failure to Pay Administrative Penalty. If Respondent fails to comply with paragraph 3, the Commissioner may summarily suspend Respondent from engaging in business under its license until it provides evidence of compliance to the Commissioner's satisfaction. Respondent hereby waives any notice or hearing rights afforded under the Administrative Procedure Act, including Government Code section 11415.60, subdivision (b); Code of Civil Procedure; or any other provision of law to contest the summary suspension contemplated by this paragraph.

5. Waiver of Hearing Rights. Respondent acknowledges the Commissioner is ready, willing, and able to proceed with the filing of an administrative enforcement action on the charges contained in this Consent Order. Respondent hereby waives the right to any hearings, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law. Respondent further expressly waives any requirement for the filing of an Accusation pursuant to Government section 11415.60, subdivision (b). By waiving such rights, Respondent effectively consents to this Consent Order and Order Rescinding Penalty Order becoming final.

6. Full and Final Resolution. The parties hereby acknowledge and agree that this Consent Order is intended to constitute a full and final resolution of the violations described herein, and that no further proceedings or actions will be brought by the Commissioner in connection with these matters except under the CFL or any other provision of law, or excepting therefrom any proceeding to enforce compliance with the terms of this Consent Order.

State of California - Department of Financial Protection and Innovation

7. Failure to Comply with Consent Order. Respondent agrees that if it fails to comply with the terms of this Consent Order, the Commissioner may, in addition to all other available remedies it may invoke under the CFL, summarily suspend/revoke the CFL license of Respondent until Respondent is in compliance. Respondent waives any notice and hearing rights to contest such summary suspensions/revocations which may be afforded under the CFL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law in connection therewith.

8. Information Willfully Withheld or Misrepresented. This Consent Order may be revoked, and the Commissioner may pursue any and all remedies available under law against Respondent if the Commissioner discovers that Respondent knowingly or willfully withheld or misrepresented information used for and relied upon in this Consent Order.

9. Future Actions by Commissioner. If Respondent fails to comply with the terms of the Consent Order, the Commissioner may institute proceedings for any and all violations otherwise resolved under this Consent Order. The Commissioner reserves the right to bring any future actions against Respondent, or any of its partners, owners, officers, shareholders, directors, employees or successors for any and all unknown violations of this CFL.

10. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's ability to assist any other government agency (city, county, state or federal) with any prosecution, administrative, civil or criminal action brought by that agency against Respondent or any other person based on any of the activities alleged in this matter or otherwise.

11. No Presumption Against Drafter. Each party acknowledges that it has had the opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the parties intend no presumption for or against the drafting party will apply in construing any part of this Consent Order. The parties waive the benefit of Civil Code section 1654 as amended or corresponding provisions of any successor statute, which provide that in cases of uncertainty, language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

12. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it has received independent advice from its attorney(s) and/or representatives with respect to the advisability of executing this Consent Order.

13. Headings. The headings to the paragraphs of this Consent Order are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof.

14. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in interest.

15. Reliance. Each of the parties represents, warrants, and agrees that in executing this Consent Order, it has relied solely on the statements set forth herein and the advice of its own legal counsel. Each of the parties further represents, warrants, and agrees that in executing this Consent Order it has placed no reliance on any statement, representation, or promise of any other party, or any other person or entity not expressly set forth herein, or upon the failure of any party or any other person or entity to make any statement, representation, or disclosure of anything whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

16. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of this Consent Order will be valid or binding unless it is in writing and signed by each of the parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any other provision. No waiver by either party of any breach of, or of compliance with, any condition or provision of this Consent Order by the other party will be considered a waiver of any other condition or provision or of the same condition or provision at another time.

17. Full Integration. This Consent Order is the final written expression and the complete and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions

between and among the parties, their respective representatives, and any other person or entity, with respect to the subject matter covered hereby.

18. Governing Law. This Consent Order will be governed by and construed in accordance with California law. Each of the parties hereto consents to the jurisdiction of such court and thereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in such court.

19. Counterparts. This Consent Order may be executed in one or more separate counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall together constitute a single document.

20. Effect Upon Future Proceedings. If Respondent applies for any license, permit or qualification under the Commissioner's current jurisdiction, or are the subject of any future action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be admitted for the purpose of such application(s) or enforcement proceeding(s).

21. Voluntary Agreement. Respondent hereby enters into this Consent Order voluntarily and without coercion and acknowledges that no promises, threats, or assurances have been made by the Commissioner or any officer, or agent thereof, about this Consent Order. The parties each represent and acknowledge that he, she or it is executing this Consent Order completely voluntarily and without any duress or undue influence of any kind from any source.

22. Notice. Any notice required under this Consent Order be provided to each party at the following addresses:

To Respondent:

Kind Home Loans, Inc.
Fawzia Khawaja
433 N Camden Dr Ste 600
Beverly Hills, CA 91210
fay@kindhomeloans.com

To the Commissioner:

Steven Vong, Counsel
Department of Financial Protection and Innovation
2101 Arena Blvd
San Francisco, California 95834
Steven.Vong@dfpi.ca.gov

23. Signatures. A fax or electronic mail signature shall be deemed the same as an original signature.

24. Public Record. Respondent hereby acknowledges that the Consent Order is and will be a matter of public record.

25. Effective Date. This Consent Order shall become final and effective when signed by all parties and delivered by the Commissioner's agent via e-mail to Respondent at the following email address: fay@kindhomeloans.com.

26. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Consent Order and undertake the obligations set forth herein.

Dated: May 12, 2021

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation

By_____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: May 12, 2021

KIND HOME LOANS, INC.

By_____
Fawzia Khawaja
CEO