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8 COUNSEL FOR STATE OF MONTANA

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

KEYSTONE MORTGAGE COMPANY, a
Montana licensed mortgage broker and lender,
NMLS #966553 and ANGEL DAVIS-VIREN,
a licensed mortgage loan originator, NMLS #
271479 and BELINDA OSBORNE, a licensed
mortgage loan originator, NMLS # 470803 and
HOLLY DICKEY, a licensed mortgage loan
originator, NMLS # 1255862,

Respondents.

Case No. M2018-22

**NOTICE OF VIOLATION,
PROPOSED AGENCY ACTION,
AND OPPORTUNITY FOR
ADMINISTRATIVE HEARING**

The 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., hereby issues this Notice of Violation, Proposed Agency Action, and Opportunity for
Administrative Hearing.

PARTIES, JURISDICTION, AND VENUE

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

2. Keystone Mortgage Company (Respondent Keystone) is licensed as a
mortgage broker and mortgage lender in Montana. Its Nationwide Multistate Licensing
System (NMLS) number is 966553.

3. Angel Davis-Viren (Respondent Davis-Viren) is licensed as a mortgage
loan originator. Her NMLS number is 271479. At all times relevant to this action,

1 Respondent Davis-Viren was sponsored by, the owner of, and designated manager of
2 Respondent Keystone.

3 4. Holly Dickey (Respondent Dickey) is licensed as a mortgage loan
4 originator. Her NMLS number is 1255862. At all times relevant to this action,
5 Respondent Dickey was sponsored by Respondent Keystone.

6 5. Belinda Osborne (Respondent Osborne) is licensed as a mortgage loan
7 originator. Her NMLS number is 470803. At all times relevant to this action, Respondent
8 Osborne was sponsored by Respondent Keystone.

9 6. Pursuant to Mont. Code Ann. §§ 32-9-102, 32-9-130, and 32-9-133, this
10 administrative tribunal has personal jurisdiction over Respondent Keystone because the
11 Respondent is licensed as a mortgage broker and mortgage lender in this state.

12 7. Pursuant to Mont. Code Ann. §§ 32-9-102, 32-9-130, and 32-9-133, this
13 administrative tribunal has personal jurisdiction over Respondent Davis-Viren, Respondent
14 Dickey, and Respondent Osborne because the Respondents are licensed as mortgage loan
15 originators in this state.

16 8. Pursuant to Mont. Code Ann. §§ 32-9-102, 32-9-130, and 32-9-133, the
17 Division has jurisdiction over the subject matter of this action and is authorized to bring
18 this action against the Respondents for violations of the Act.

19 9. Venue is appropriate at the location set by the Division pursuant to Mont.
20 Code Ann. § 2-4-611. If a hearing is requested, the Division will hold the hearing in
21 Helena, Lewis and Clark County, Montana, where the Division's main office is located.

22 **FACT ASSERTIONS**

23 1. The facts asserted herein describe acts or practices engaged in by
24 Respondents in Montana that constitute violations of the Act.

25 2. Beginning on May 14, 2018, mortgage examiner Yolanda Andrews
26 (Examiner Andrews) conducted an on-site examination of Respondent Keystone.

27 3. Examiner Andrews prepared a Mortgage Broker/Lender Licensee Report of
28 Examination (Report) to summarize the findings from the examination.

1 4. In the Report, Examiner Andrews determined Respondent Keystone
2 violated federal law when it:

3 a. charged an amount in excess of the loan estimate of the closing cost for
4 charges paid to third-party service providers when borrower C.D. paid \$875 at closing for
5 an appraisal that was listed on the loan estimate as \$800, when the file did not reflect a
6 qualifying change of circumstance (see Exhibit A);

7 b. issued the initial loan estimate for borrower J.C. on October 20, 2016, 37
8 days after receiving the borrower's application on September 13, 2016 (see Exhibit B);

9 c. issued the closing disclosure to borrowers S.K. and L.K. on June 27, 2016,
10 the same day as the loan closing although this disclosure is required to be made at least
11 three business days prior to closing (see Exhibit C);

12 d. failed to include creditor information on 12 loan estimates where the
13 identity of the creditor was known (see Exhibit D); and

14 e. used an adverse action form (Notice of Action Taken) on 4 occasions that
15 did not include the Federal Trade Commission as primary regulator (see Exhibit E).

16 5. In the Report, Examiner Andrews determined Respondent Keystone
17 violated state laws and regulations when it:

18 a. failed to maintain required records, specifically, borrower signed and dated
19 Loan Estimates and Closing Disclosures (see Exhibit F);

20 b. failed to maintain required records, specifically, an accurate spreadsheet of
21 all residential mortgage applications taken (see Exhibit G);

22 c. made a misrepresentation or deceptive statement in connection with a
23 residential mortgage loan, when a purchase loan and refinance loan were simultaneously
24 presented to separate lenders by the same mortgage loan originator as primary residences
25 for the same borrowers (see Exhibit H);

26 d. engaged in prohibited practices, specifically, signing documents on behalf
27 of others (see Exhibit I);

28 e. engaged in prohibited practices, specifically, withholding requested

1 information from the Division (see Exhibit J);

2 f. engaged in prohibited practices, specifically, altering documents (see
3 Exhibit K);

4 g. engaged in prohibited practices, specifically, reporting false and incomplete
5 financial statements to the NMLS (see Exhibit L);

6 h. provided inaccurate financial statements to Examiner Andrews (see Exhibit
7 M);

8 i. did not include company NMLS number on advertisements (see Exhibit N);
9 and

10 j. did not maintain or provide advertising records for review (see Exhibit O).

11 6. Respondent Davis-Viren acted as the mortgage loan originator for the loans
12 and deficiencies as set forth in the Report. To the extent she acted as mortgage loan
13 originator for each of the loans indicated in the Report, Respondent Davis-Viren shares
14 responsibility with Respondent Keystone for the violations and deficiencies described in
15 paragraphs 4 and 5 above.

16 7. As designated manager for Respondent Keystone, Respondent Davis-Viren
17 is responsible for the actions, deficiencies, and violations of Respondent Dickey,
18 Respondent Osborne, and all other mortgage loan originators and employees employed by
19 Respondent Keystone.

20 8. Respondent Dickey acted as the mortgage loan originator for the loans and
21 deficiencies as set forth in the Report. To the extent she acted as mortgage loan originator
22 for each of the loans indicated in the Report, Respondent Dickey shares responsibility with
23 Respondent Keystone for the violations and deficiencies described in paragraphs 4 and 5
24 above.

25 9. Respondent Osborne acted as the mortgage loan originator for the loans and
26 deficiencies as set forth in the Report. To the extent she acted as mortgage loan originator
27 for each of the loans indicated in the Report, Respondent Osborne shares responsibility
28 with Respondent Keystone for the violations and deficiencies described in paragraphs 4

1 and 5 above.

2 10. Respondents' failure to maintain forms and records described in paragraphs
3 4 and 5 above violates state and federal law and deprived the borrowers of information
4 critical in the home buying process.

5 11. Federal and state laws set forth various timing requirements that are part of
6 the home buying process. The date that documents were received by a buyer is necessary
7 to establish that a borrower was provided with the document within the timeline set forth in
8 state and federal law. Respondents' alteration of these documents obscured the actual date
9 of the document and allowed them to be replaced with a different date.

10 CONCLUSIONS OF LAW

11 1. The Division has jurisdiction over this matter and over the Respondents
12 pursuant to Mont. Code Ann. §§ 32-9-102, 32-9-130, and 32-9-133.

13 2. Respondent Keystone is licensed as a mortgage broker and mortgage lender
14 in Montana pursuant to Mont. Code Ann. §§ 32-9-102, 32-9-105, 32-9-106, and 32-9-112.

15 3. Respondent Davis-Viren is licensed as a mortgage loan originator pursuant
16 to Mont. Code Ann. §§ 32-9-102, 32-9-105 and 32-9-112. Respondent Davis-Viren is the
17 owner of Respondent Keystone and is appointed the designated manager of Respondent
18 Keystone as provided in Mont. Code Ann. § 32-9-122.

19 4. Respondent Dickey is licensed as a mortgage loan originator pursuant to
20 Mont. Code Ann. §§ 32-9-102, 32-9-105 and 32-9-112.

21 5. Respondent Osborne is licensed as a mortgage loan originator pursuant to
22 Mont. Code Ann. §§ 32-9-102, 32-9-105 and 32-9-112.

23 6. Under Mont. Code Ann. § 32-9-124(1)(i), a mortgage broker, mortgage
24 lender, mortgage servicer, or mortgage loan originator may not: "fail to comply with this
25 part or rules promulgated under this part or fail to comply with any other state or federal
26 laws, including the rules and regulations adopted pursuant to those laws, applicable to any
27 business authorized by or conducted under [the Act]." Respondents actions described in
28 the Fact Assertions violated Mont. Code Ann. § 32-9-124(1)(i) because Respondents were

1 not in compliance with state and federal law.

2 7. Respondents Keystone and Davis-Viren violated 12 C.F.R.
3 § 1026.19(e)(3)(i) by charging an amount in excess of the loan estimate of closing costs for
4 charges paid to third-party service providers when borrower C.D. paid \$875 at closing for
5 an appraisal that was listed on the loan estimate as \$800 and the file did not reflect a
6 qualifying change of circumstance.

7 8. Under 12 C.F.R. § 1026.19(e)(1)(iii), the initial loan estimate disclosures
8 must be delivered or placed in the mail not later than the third business day after the
9 creditor receives the consumer's application, as defined in 12 C.F.R. §1026.2(a)(3).

10 Respondents Keystone and Osborne violated 12 C.F.R. § 1026.19(e)(1)(iii) when the initial
11 loan estimate for borrower J.C. was issued on October 20, 2016, 37 days after the
12 application was received on September 13, 2016.

13 9. Pursuant to 12 C.F.R. § 1026.19(f)(1)(ii), the closing disclosure must be
14 received by the consumer no later than three business days before loan consummation.
15 Respondents Keystone and Osborne violated 12 C.F.R. § 1026.19(f)(1)(ii) when the
16 closing disclosure was issued to borrowers S.K. and L.K. on the day of the loan closing.

17 10. The name and address of the creditor must be provided to borrowers
18 pursuant to 12 C.F.R. § 1026.37(a)(3). Respondents Keystone, Davis-Viren, and Osborne
19 violated this section when they failed to include creditor information on 12 loan estimates
20 where the identity of the creditor was known as indicated in Exhibit D.

21 11. Under 12 C.F.R. § 1002.9(b)(1) and Appendix A to 12 C.F.R. Part 1002, the
22 Federal Trade Commission must be listed as primary regulator in a notice of adverse action
23 along with the Consumer Financial Protection Bureau. Respondents Keystone and
24 Osborne did not identify the Federal Trade Commission as a primary regulator on adverse
25 action notices provided to the borrowers specified in Exhibit E.

26 12. "Licensees shall maintain books, accounts, records, and copies of residential
27 mortgage loan files and escrow account records that are necessary to enable the [Division]
28 to determine whether a licensee is in compliance with the applicable laws and rules. The

1 materials must be maintained in accordance with generally accepted accounting principles
2 and good business practices." Mont. Code Ann. § 32-9-121(1).

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

8 14. As described in Exhibit F, Respondent Keystone and the Respondent
9 mortgage loan originators indicated in Exhibit F violated Mont. Code Ann. § 32-9-121(1)
10 and Admin. R. Mont. 2.59.1710(1)(c) by failing to maintain required records, specifically,
11 Loan Estimates and Closing Disclosures signed and dated by the borrower(s).

12 15. "A mortgage broker shall maintain a spreadsheet of all residential mortgage
13 applications taken, including all applications that are pending, closed, withdrawn, denied,
14 or cancelled." Admin. R. Mont. 2.59.1710(2).

15 16. As documented in Exhibit G, by omitting material and including erroneous
16 information in the spreadsheet of residential mortgage applications taken, Respondent
17 Keystone violated Admin. R. Mont. 2.59.1710(2).

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

22 18. A "scheme to defraud or mislead a borrower, a lender, or any other person"
23 includes but is not limited to:

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

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

1 19. Respondent Keystone and Respondent Osborne violated Mont. Code Ann.
2 § 32-9-124(1)(b) and Admin. R. Mont. 2.59.1717(1) when a purchase loan and refinance
3 loan were simultaneously presented to separate lenders as primary residences for the same
4 borrowers as described in Exhibit H.

5 20. "A mortgage broker, mortgage lender, mortgage servicer, or mortgage loan
6 originator may not . . . sign a borrower's application or related documents on behalf of or in
7 lieu of another mortgage broker, mortgage lender, or mortgage loan originator." Mont.
8 Code Ann. § 32-9-124(1)(f).

9 21. As indicated in Exhibit I, a loan processor employed by Respondent
10 Keystone acknowledged using mortgage loan originators' signature stamps on documents
11 the mortgage loan originators did not sign. Respondent Keystone violated Mont. Code
12 Ann. § 32-9-124(1)(f) by allowing this to occur.

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

17 23. Respondent Keystone violated Mont. Code Ann. § 32-9-124(1)(I) when did
18 not provide documents in response to specific requests by the Division as described in
19 Exhibit J.

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

25 25. Respondent Keystone and the Respondent mortgage loan originators
26 indicated in Exhibit K violated Mont. Code Ann. § 32-9-124(1)(I) when they altered
27 documents as described in Exhibit K.

28 26. "A mortgage broker, mortgage lender, mortgage servicer, or mortgage loan

1 originator may not . . . negligently make any false statement or knowingly and willfully
2 make any omission of material fact in connection with any information or reports filed
3 with a government agency or the NMLS or in connection with any investigation conducted
4 by the [Division] or another governmental agency." Mont. Code Ann. § 32-9-124(1)(m).

5 27. Respondent Keystone provided false and incomplete financial statements in
6 reports to the NMLS in violation of Mont. Code Ann. § 32-9-124(1)(m) as detailed in
7 Exhibit L.

8 28. "All licensees shall maintain and preserve financial records concerning
9 business operations, transactions with customers, and escrow account transactions."
10 Admin. R. Mont. 2.59.1724(1).

11 29. Under Admin. R. Mont. 2.59.1724(3)(c), a mortgage lender is required to
12 create and maintain "a general ledger and subsidiary records sufficient to produce, when
13 requested by the [Division], an accurate monthly statement of assets and liabilities, and a
14 cumulative profit and loss statement for the current operating year."

15 30. Because the balance sheet and profit and loss statements Respondent
16 Keystone provided to Examiner Andrews contained inaccuracies and omissions as
17 specified in Exhibit M, Respondent Keystone is in violation of Admin. R. Mont.
18 2.59.1724(1) and 2.59.1724(3).

19 31. "[T]he name and unique identifier only of the licensed entity when the
20 licensed entity is advertising on its own behalf or as an entity with one or more mortgage
21 loan originators" must be included "[i]n any printed, published, e-mail, or internet
22 advertisement for the provision of services." Mont. Code Ann. § 32-9-149(3)(b).

23 32. At the time of the examination, as described in Exhibit N, Respondent
24 Keystone did not provide its unique identifier/ NMLS number on a three-fold
25 advertisement or on the page of a website bearing the company name and rates, in violation
26 of Mont. Code Ann. § 32-9-149(3)(b).

27 33. Admin. R. Mont. 2.59.1724(8) provides:

28 Advertising records must be maintained for five years following the last

1 date of publication of the advertisement. All licensees shall maintain copies of:

2 (a) all printed advertising published in newspapers, magazines, newsletters,
3 or other media designed for mass distribution; and

4 (b) scripts or audio- and videotapes, for advertising broadcast on radio or
5 television.

6 34. As indicated in Exhibit O, Respondent Keystone failed to provide a copy of
7 radio scripts used in its advertising, in violation of Admin. R. Mont. 2.59.1724(8)(b).

8 35. "A mortgage broker or mortgage lender is responsible for the conduct of its
9 employees, including for violations of federal or state laws, rules, or regulations." Mont.
10 Code Ann. § 32-9-122(5). Respondent Keystone is responsible for the conduct of its
11 employees, including the mortgage loan originators, as identified in the Examination
12 Report.

13 36. As the designated manager for Respondent Keystone, Respondent Davis-
14 Viren is responsible for the actions, deficiencies, and violations of Respondent Dickey,
15 Respondent Osborne, and all other mortgage loan originators and employees employed by
16 Respondent Keystone. Mont. Code Ann. § 32-9-122(4), (6).

17 37. "Any person who directly or indirectly controls an entity liable under
18 [Mont. Code Ann. § 32-9-133(1)], any partner, officer, director, or person occupying a
19 similar status or performing similar functions of the entity, and any person who
20 participates or materially aids in the violation is liable jointly and severally with and to the
21 same extent as the person committing the violation. In addition, each person committing
22 the violation or aiding in the violation is jointly and severally liable if the person
23 committing the violation or aiding in the violation knew or in the exercise of reasonable
24 care should have known of the existence of the facts by reason of which the liability is
25 alleged to exist. There must be contribution between or among the severally liable
26 persons." Mont. Code Ann. § 32-9-133(3).

27 38. "The [Division], upon giving a mortgage broker, mortgage lender, mortgage
28 servicer, or mortgage loan originator licensee 14 days' written notice, which includes a

1 statement of the grounds for the proposed suspension, conditioning, or revocation, and
2 informing the licensee that the licensee has the right to be heard at an administrative
3 hearing if requested by the licensee, may suspend, condition, or revoke a license if it finds
4 that the licensee has violated any provision of this part [(Montana Code Annotated Title
5 32, chapter 9, part 1)] or any rule adopted under this part." Mont. Code Ann. § 32-9-
6 126(1).

7 39. Pursuant to Mont. Code Ann. § 32-9-133(1), the Division may impose a
8 civil penalty not to exceed \$5,000 for the first violation or \$10,000 for subsequent
9 violations.

10 40. The Division may issue an order requiring restitution. Mont. Code Ann.
11 § 32-9-133(2)(a).

12 41. The Division may require reimbursement of the cost of bringing this action.
13 Mont. Code Ann. § 32-9-133(2)(b).

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

19 **PROPOSED AGENCY ACTION**

20 Based on the foregoing Fact Assertions and Conclusions of Law, the Division
21 proposes:

22 1. The mortgage broker and mortgage lender licenses of Respondent Keystone
23 shall be revoked.

24 2. The mortgage loan originator license of Respondent Davis-Viren shall be
25 revoked.

26 3. The mortgage loan originator license of Respondent Osborne shall be
27 revoked.

28 4. Respondent Keystone shall pay a civil penalty not to exceed the maximum

1 amount as provided in Mont. Code Ann. § 32-9-133(1).

2 5. Respondent Davis-Viren shall pay a civil penalty, pertaining to violations as
3 a mortgage loan originator, not to exceed the maximum amount as provided in Mont. Code
4 Ann. § 32-9-133(1).

5 6. Respondent Davis-Viren shall pay a civil penalty, pertaining to violations as
6 designated manager, not to exceed the maximum amount as provided in Mont. Code Ann.
7 § 32-9-133(1).

8 7. Respondent Osborne shall pay a civil penalty not to exceed the maximum
9 amount as provided in Mont. Code Ann. § 32-9-133(1).

10 8. Respondent Dickey shall pay a civil penalty not to exceed the maximum
11 amount as provided in Mont. Code Ann. § 32-9-133(1).

12 9. Respondents shall reimburse the Division for the cost of this administrative
13 action.

14 If Respondent requests a hearing as provided in the Montana Administrative
15 Procedures Act (Title 2, Chapter 4, Part 6 of the Montana Code Annotated), the final order
16 will be determined by the facts and conclusions established during the contested case
17 proceeding, and the fines, penalties, restitution, costs, and other provisions of the final
18 order may not be identical to the Division's proposal above.

19 **NOTICE OF OPPORTUNITY FOR HEARING**

20 Notice is hereby given that pursuant to Mont. Code Ann. § 32-9-133, the
21 Respondent has a right to an administrative hearing as provided in the Montana
22 Administrative Procedures Act to contest the Division's proposed agency action.
23 Respondent has the right to be represented by counsel at the hearing and related
24 proceedings. To exercise the right to a hearing, Respondent must make a timely written
25 request for hearing within 14 days of receipt of this Notice and mail or deliver the request
26 to:

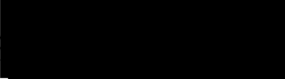
27 Division of Banking & Financial Institutions
28 301 South Park, Room 316
PO Box 200546
Helena, MT 59620-0546

1 POSSIBILITY OF DEFAULT

2 Failure to make a written request for hearing within 14 days of receipt of this
3 Notice or to otherwise timely defend as provided by law may result in entry of
4 Respondent's default without further prior notice and a Final Order shall thereafter be
5 issued providing such relief and imposing such penalties as are appropriate and authorized
6 by Mont. Code Ann. §§ 32-9-130 and 32-9-133.

7 The Division will post a copy of any final order or decision in this matter to the
8 NMLS under regulatory actions which will be viewable by regulators and the public.

9 DATED 7th day of February, 2019.

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11 By _____
12 Don E. Harris, Legal Counsel
13 Montana Division of Banking and Financial
14 Institutions
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CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2019, the undersigned caused a true and accurate copy of the foregoing Notice of Violation, Proposed Agency Action, and Opportunity for Administrative Hearing to be mailed by U.S. certified mail number [REDACTED]

[REDACTED] to:
Keystone Mortgage Company
Angel Davis-Viren, Registered Agent
1414 Main Street, Suite A
Billings, MT 59105

and by U.S. certified mail number [REDACTED] to:

Angel Davis-Viren
[REDACTED]

[REDACTED]
Heather K. Hardman, Paralegal

2/7/19
Date

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CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2019, the undersigned caused a true and accurate copy of the foregoing Notice of Violation, Proposed Agency Action, and Opportunity for Administrative Hearing to be mailed by U.S. certified mail number [REDACTED]

[REDACTED] to:

Belinda Osborne
[REDACTED]
[REDACTED]

[REDACTED]

Heather K. Hardman, Paralegal

2/7/19

Date

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CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2019, the undersigned caused a true and accurate copy of the foregoing Notice of Violation, Proposed Agency Action, and Opportunity for Administrative Hearing to be mailed By U.S. certified mail number [REDACTED]

[REDACTED] to:

Holly Dickey

[REDACTED]

[REDACTED]
Heather K. Hardman, Paralegal

2/7/19
Date

CHARGES SUBJECT TO ZERO TOLERANCE

12 CFR Section §1026.19(e)(3)(i) Provides the general rule that an estimated closing cost is not in good faith if the charge paid by or imposed on the consumer exceeds the amount originally disclosed. Although there are exception provisions to the general rule, the charges that remain include the following: fees paid to an unaffiliated third-party if the creditor did not permit the consumer to shop for a third-party service provider for a settlement service.

The appraisal fee for loan 504679995 to borrower C.D. increased from \$800 on the initial Loan Estimate (LE) to \$875 on the final Closing Disclosure (CD). The file did not contain a qualifying change of circumstance, and a lender credit was not apparent on the CD to cure the \$75 overcharge.

EARLY DISCLOSURES NOT ISSUED TIMELY

12 CFR Section §1026.19 (e)(1)(iii) Required disclosures must be given no later than the third business day after creditor receives the consumer's application, as defined in § 1026.2(a)(3) on mortgage loans secured by real property.

The initial LE for loan 1216115484 to borrower J.C. was issued on October 20, 2016, this was 37 days after the application was received on September 13, 2016.

CLOSING DISCLOSURE (CD) NOT ISSUED TIMELY

12 CFR Section §1026.19(f)(1)(ii) ...the creditor shall ensure that the consumer receives the disclosures required under paragraph (f)(1)(i) of this section no later than three business days before consummation.

The CD for loan 11253671 to borrowers S.K. & L.K. was issued on June 27, 2016, the same day as closing. This did not allow for a three-day review period by the borrower prior to consummation.

LOAN ESTIMATES MISSING CREDITOR INFORMATION

12 CFR Section §1026.37(a)(3) In transactions involving a mortgage broker, the name and address of the creditor must be disclosed, if known, even if the mortgage broker provides the disclosures to the consumer under § 1026.19(e)(1)(ii). As required by § 1026.19(e)(1)(i), the mortgage broker must make a good faith effort to disclose the name and address of the creditor, but if the name of the creditor is not yet known, the disclosure required by § 1026.37(a)(3) may be left blank. See comment 37-1.

The creditor's information was missing on 12 LEs where the identity of the creditor was known. Additionally, two LEs inaccurately included the licensee's information.

LEs missing creditor information

Loan Number	Borrower(s)	App Date	MLO	Document missing required information
504889556	N.A. & M.A.	3/23/2018	Angel Davis-Viren	LE issued 3/23/18, did not include the creditor's information.
1216115484	J.C.	9/13/2016	Belinda Osborne	Two LEs issued 12/5/16, indicated the loan was locked, but did not include the creditor's information. The Broker's information was included as creditor.
20170403004	T.C.	3/8/2017	Belinda Osborne	The broker's information was included as the creditor.
504515473	C.C.	5/13/2016	Angel Davis-Viren	LEs issued 5/13/16 and 6/10/16, did not include the creditor's information. This information was listed on two prior LEs.
504533241	C.D.	5/13/2016	Angel Davis-Viren	LEs issued 5/13/16, 7/27/16, and 7/28/16, did not include the creditor's information.
11253671	S.K. & L.K.	4/21/2016	Belinda Osborne	LE issued 4/21/16, did not include the creditor's information.
116068042700	A.M.	3/7/2016	Angel Davis-Viren	LEs issued 3/7/16 and 3/31/16, did not include the creditor's information. The HUD form dated 3/7/16, included Sun West Mortgage Company as the Lender.
504886417	D.M.	3/21/2018	Belinda Osborne	LE issued 4/6/18, did not include the creditor's information, the loan was locked with Flagstar.

NOTICE OF ACTION TAKEN FORM MISSING REQUIRED INFORMATION

12 CFR Part 1002 (Regulation B – Appendix A) Notice must include the primary regulator of the Licensee.

The Notice of Action Taken form did not include the Federal Trade Commission as primary regulator pursuant to § 1002.9(b)(1). The form included either the Bureau of Consumer Financial Protection information or was blank.

Loan files missing primary regulator on Notice of Action Taken form

Loan Number	Borrower	Notice Date	MLO
306762	M.B.	6/16/17	Kirsti Bianco
20170403004	T.C.	4/3/17	Belinda Osborne
20160301001	C.H.	4/15/16	Belinda Osborne
504873623	D.M.	3/9/18	Belinda Osborne

FAILURE TO MAINTAIN REQUIRED RECORDS; SPECIFICALLY, BORROWER SIGNED AND DATED LES AND CDS

32-9-121, MCA Records maintenance. (1) Licensees shall maintain books, accounts, records, and copies of residential mortgage loan files and escrow account records that are necessary to enable the department to determine whether a licensee is in compliance with the applicable laws and rules.

ARM 2.59.1710(1)(c) Records to be maintained by mortgage brokers. (1) A mortgage broker shall create and retain a residential mortgage file. The residential mortgage file shall contain: (c) 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;

Repeat Finding - Loan Estimates and Closing Disclosures in the loan files were not signed and/or dated by the borrower. Some disclosures contained the borrower's initials; however, initials do not satisfy the requirement. Examiners recorded 38 documents in 14 files not signed and/or dated by the borrower.

Loan files with unsigned LE or CD – Repeat Findings

Loan Number	Borrower(s)	App Date	MLO	Missing information
504889556	N.A. & M.A.	3/23/2018	Angel Davis-Viren	LE issued 3/23/18, contained initials, but was not signed or dated by the borrower.
116123029300	T.A.	4/26/2016	Angel Davis-Viren	LE issued 4/26/16, was not signed or dated by the borrower.
504870650	R.B.	2/21/2018	Angel Davis-Viren	LEs issued 2/21/18 and 2/22/18, were not signed and dated by the borrower.
2600033012	L.B.	9/20/2016	Holly Dickey	LEs issued 10/6/16, 10/7/16, 11/4/16, and three issued 11/16/16, contained initials, but were not signed and dated by the borrower.
1216115484	J.C.	9/13/2016	Belinda Osborne	LE issued 10/20/16 and two LEs issued 12/5/16, were not dated by the borrower.
20170403004	T.C.	3/8/2017	Belinda Osborne	LE issued 3/31/17, was not dated by the borrower.
504515473	C.C.	5/13/2016	Angel Davis-Viren	LEs issued 4/21/16, 4/22/16, 6/23/16, 8/10/16, 10/5/16, and 1/19/17, were not signed and dated by the borrower. LE issued 6/10/16, was not dated by the borrower.

EXHIBIT F

Loan Number	Borrower(s)	App Date	MLO	Missing information
504679995	C.D.	3/2/2017	Angel Davis-Viren	LE issued 3/23/17 and CD issued 4/14/17, were not signed or dated by the borrower.
504691608	C.D.	3/3/2017	Angel Davis-Viren	LEs issued 3/31/17 and 4/28/17, were not signed or dated by the borrower.
504533241	C.D.	5/13/2016	Angel Davis-Viren	LEs issued 5/13/16, 7/27/16, and 7/28/16, were not signed and dated by the borrower.
260092689	K.E.	1/19/2016	Belinda Osborne	Two LEs issued 1/19/16, were not dated by the borrower.
11253671	S.K. & L.K.	4/21/2016	Belinda Osborne	LE issued 4/21/16, was not signed or dated by the borrower.
504528266	S.K. & L.K.	5/17/2016	Belinda Osborne	CD issued 6/27/16, was not signed or dated by the borrower.
504886417	D.M.	3/21/2018	Belinda Osborne	CDs issued 4/27/18, 5/9/18, two issued 5/14/18, and LE issued 4/26/18, were not signed or dated by the borrower. LE issued 4/6/18 was not dated by the borrower.

FAILURE TO MAINTAIN REQUIRED RECORDS; SPECIFICALLY, AN ACCURATE SPREADSHEET OF ALL RESIDENTIAL MORTGAGE APPLICATIONS TAKEN

ARM 2.59.1710(2) Records to be maintained by mortgage brokers. A mortgage broker shall maintain a spreadsheet of all residential mortgage applications taken, including all applications that are pending, closed, withdrawn, denied, or cancelled.

The spreadsheet of Montana residential real estate secured applications (Loan List Request item 1) provided by the Licensee was incomplete and contained inaccurate information. While reviewing a withdrawn loan application file Examiner Szczepaniak found documents for a closed loan file to the same borrower. However, the closed loan was not on the pre-exam list. Nichole Currey, Closer/Quality Control, indicated the loan may have been overlooked when she created the list from source documents. She provided examiners with three spreadsheets used to gather information for the pre-exam list. The closed loan did not appear on any of the spreadsheets.

Information inaccurate on spreadsheet.

Loan Number	Borrower(s)	App Date	MLO	Inaccurate or missing information
20170320000	M.B.	3/21/2017	Kirsti Bianco	Listed as withdrawn, but the Notice of Action Taken indicated denied.
20170116000	R.C.	1/16/2017	Holly Dickey	Listed as denied, but the Notice of Action Taken indicated withdrawn.
1216093857	S.C.	8/31/2016	Angel Davis-Viren	This closed loan was in the file with a withdrawn application, but not listed on any of the spreadsheets.
504556618	S.C.	6/28/2016	Angel Davis-Viren	This withdrawn loan was in the file, but not listed on any of the spreadsheets.
Not provided	C.D.	3/2/2017	Angel Davis-Viren	Listed as withdrawn, but a file was not provided for review.
504533241	C.D.	5/13/2016	Angel Davis-Viren	The loan amount was listed as \$216,000, the actual loan amount was \$195,600.
260092689	K.E.	1/19/2016	Belinda Osborne	The loan application date was listed as 3/14/16, the actual application date was 1/19/16.
Not reviewed	R.E.	5/16/2017	Belinda Osborne	The compensation was listed as \$562,103, exceeding the loan amount of \$224,852.
504873623	D.M.	2/13/2018	Belinda Osborne	Listed as withdrawn, but the Notice of Action Taken indicated denied.

ENGAGING IN PROHIBITED PRACTICES; SPECIFICALLY, FRAUD FOR PROPERTY

32-9-124(1)(b), MCA Prohibitions -- required disclosure. (1) A mortgage broker may not do any of the following: (b) 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

ARM 2.59.1717(1)(a)(b) Scheme to Defraud or Mislead (1) For purposes of 32-9-124, MCA, a scheme to defraud or mislead a borrower, a lender, or any other person shall include 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; (b) stating to a lender, or more than one lender, that a borrower intends to use more than one property as a primary residence;

A purchase loan and a refinance loan were simultaneously presented to separate lenders by the same Mortgage Loan Originator, Belinda Osborne, as primary residences for the same borrowers, S.K. & L.K. The rental status of the property refinanced, and the borrower's Financial Statement information conspicuously varied between the two applications.

Loan files simultaneously closed as primary residences

Loan Number	Borrower(s)	App Date	MLO	Loan Purpose
11253671	S.K. & L.K.	4/21/2016	Belinda Osborne	Loan to refinance primary residence at 9** Caroline St, Billings, MT
504528266	S.K. & L.K.	5/17/2016	Belinda Osborne	Loan to purchase primary residence at 3*** Butte View Ln, Billings, MT

ENGAGING IN PROHIBITED PRACTICES; SPECIFICALLY, SIGNING DOCUMENTS ON BEHALF OF OTHERS

32-9-124(1)(f), MCA Prohibitions. (1) A mortgage broker may not do any of the following: (f) sign a borrower's application or related documents on behalf of or in lieu of another mortgage broker, mortgage lender, or mortgage loan originator;

Examiners identified and inquired of the use of mortgage loan originator's signatory stamps. Angel Davis-Viren explained the stamps were secured with the loan processor who was the only person authorized to use them. Loan processor Clay Taylor acknowledged he uses the signatory stamps on documents missing a signature.

ENGAGING IN PROHIBITED PRACTICES; SPECIFICALLY, WITHHOLDING REQUESTED INFORMATION FROM THE DIVISION

32-9-124(1)(l), MCA Prohibitions - (1) A mortgage broker may not do any of the following: (l) knowingly withhold, abstract, remove, mutilate, destroy, alter, or keep secret any books, records, computer records, or other information from the department;

Examiners compared the Loan List Request item 1, with the source documents used to prepare it. There were 38 loan applications not included on the Loan List Request provided to examiners. A sample of eight final loan applications were reviewed from the missing applications. All eight were for a primary residence and should have been included on the pre-exam list provided to examiners.

“A list of all Montana residential real estate secured loans for the same borrower ...” (Loan List Request item 2) was requested, but not provided to examiners. Angel Davis-Viren indicated there were no loans fitting this description. However, examiners found nine borrowers and 18 loans that should have been listed.

ENGAGING IN PROHIBITED PRACTICES; SPECIFICALLY, ALTERING DOCUMENTS

32-9-124(1)(l), MCA Prohibitions - (l) A mortgage broker may not do any of the following: (l) knowingly withhold, abstract, remove, mutilate, destroy, alter, or keep secret any books, records, computer records, or other information from the department;

Altered documents were noted in files spanning the scope period and is considered a systemic problem. Altered documents were noted in 11 loan files and consisted of: 31 borrower signatures consistent with cut and paste or copied; four incomplete documents signed by the borrower and subsequently completed; and correction fluid used to change the borrower's signature date on an application.

Loan files containing altered documents

Loan Number	Borrower(s)	App Date	MLO	Altered documents
116123029300	T.A.	4/26/2016	Angel Davis-Viren	The signature on the LE issued 4/26/16, was identical to the signature on the CD issued 7/12/16, consistent with copy and pasting.
116123029300	T.A.	4/26/2016	Angel Davis-Viren	Use of correction fluid on page 5 of the application to change the signature date of the borrower.
116123029300	T.A.	4/26/2016	Angel Davis-Viren	The Intent to Proceed with Application form was signed prior to the "on or before" and "issued on" dates were provided/completed. A completed form was also in the file with the identical signature appearing to be photocopied from the first form.
UL000286609	P.B.	4/28/2017	Belinda Osborne	The Mortgagor's Affidavit and Certification Single Family Bond Program form was signed by the borrower prior to completion.
504870650	R.B.	2/21/2018	Angel Davis-Viren	The Undisclosed Debt Acknowledgement document appears to have been signed blank and photocopied with the credit inquires completed subsequently.
504870650	R.B.	2/21/2018	Angel Davis-Viren	The LEs dated 2/21/18 and 2/22/18, contained identical borrower signatures consistent with copy and pasting.
306762	M.B.	3/21/2017	Kirsti Bianco	The Undisclosed Debt Acknowledgement document appears to have been signed blank and photocopied

EXHIBIT K

Loan Number	Borrower(s)	App Date	MLO	Altered documents
				with the credit inquires completed subsequently.
20170403004	T.C.	3/8/2017	Belinda Osborne	The Intent to Proceed and LE both issued on 3/9/17, contained identical borrower signatures consistent with copy and pasting.
8010060098	T.C.	3/8/2017	Belinda Osborne	Signatures on the LE dated 3/9/17, and Interest Rate Lock Agreement dated 3/31/17, are identical to the signature on LE dated 3/31/17; and is consistent with copy and pasting.
504515473	C.C.	5/13/2016	Angel Davis-Viren	CD issued 1/30/17 and LEs issued 4/21/16, 4/22/16, 6/23/16, 8/10/16, 10/5/16, and 1/19/17, contained identical borrower signatures consistent with copy and pasting.
504515473	C.C.	5/13/2016	Angel Davis-Viren	The Intent to Proceed and LE both issued on 5/13/16, contained identical borrower signatures consistent with copy and pasting.
504691608	C.D.	3/3/2017	Angel Davis-Viren	Two letters of explanation (LOE) dated 4/27/17, LOE dated 5/2/17, and LE issued 3/31/17, all contained identical borrower signatures consistent with copy and pasting.
504691608	C.D.	3/3/2017	Angel Davis-Viren	The Notice of Right to Receive a Copy of Appraisal - Waiver contained a signature consistent with copy and pasting.
504533241	C.D.	5/13/2016	Angel Davis-Viren	LEs issued 5/13/16, 7/27/16, and 7/28/16, contain identical borrower signatures consistent with copy and pasting.
11253671	S.K. & L.K.	4/21/2016	Belinda Osborne	Home Tool Kit Packet acknowledgment and LE both issued 4/21/16, contained identical borrower signatures consistent with copy and pasting.
116068042700	A.M.	3/7/2016	Angel Davis-Viren	The borrower signatures on two LOEs dated 4/20/16 appear photocopied from the Montana Broker Disclosure dated 3/7/16.

ENGAGING IN PROHIBITED PRACTICES; SPECIFICALLY, FALSE FINANCIAL STATEMENTS REPORTED IN THE NMLS

32-9-124(1)(m), MCA Prohibitions (m) negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a government agency or the NMLS or in connection with any investigation conducted by the department or another governmental agency.

Examiners have concern regarding the accuracy and reasonableness of the financial statements. The Key Financial Data reported in the NMLS could not be verified with the Annual/Initial statements for 2015, 2016, and 2017. The Financial Statement Details reported for Period End Date March 15, 2016, are from the Balance Sheet (BS) as of April 5, 2017. The Assets on the BS as of April 5, 2017, included a checking account with a negative \$17,008.90 balance. Angel Davis-Viren assured there had not been an overdraft in the account and was unsure why it was reported as negative. The Profit and Loss statement for January through December 2017 included Other Expense labeled Ask My Accountant for \$61,194. Angel Davis-Viren explained the entry as an IRA contribution for her and Vice President Matthew Viren. The financial statements classification of Unaudited (reviewed) in the NMLS is misleading since the information does not appear to be in accordance to Generally Accepted Accounting Principles (GAAP).

INACCURATE FINANCIAL STATEMENTS

ARM 2.59.1724(1)(3) Records to be maintained by mortgage lenders. (1) All licensees shall maintain and preserve financial records concerning business operations... (3)A mortgage lender shall create and maintain the following records: (c) a general ledger and subsidiary records sufficient to produce, when requested by the department, an accurate monthly statement of assets and liabilities, and a cumulative profit and loss statement for the current operating year;

The Balance Sheet and Profit and Loss Statements provided for the examination as of May 22, 2018 contained inaccuracies. The credibility of the Statements was discussed with management and specifically the following accounts:

- Fixed Assets – Building (owned by MAV Properties, LLC)
- Fixed Assets - Vehicle;
- Long-term Liability - Commercial Loan (company vehicle)
- Long-term Liability - Shareholder Loan
- Expense – Advertising
- Expense – Automobile Expense
- Expense – Credit Cards
- Expense – Credit Reports
- Expense – Employee Collection
- Expense – Rent & Building Expense – Other

MISSING COMPANY NMLS NUMBER ON ADVERTISEMENTS

32-9-149(3)(b), MCA Use of Name – Advertising. In any printed, published, e-mail, or internet advertisement for the provision of services, the following information must be included: (b) the name and unique identifier only of the licensed entity when the licensed entity is advertising on its own behalf or as an entity with one or more mortgage loan originators listed.

The company unique identifier/NMLS number was not printed on a three-fold advertisement, nor on a web page bearing the company name and rates.

ADVERTISING RECORDS NOT MAINTAINED OR PROVIDED TO REGULATORS FOR REVIEW

ARM 2.59.1724(8) Advertising records must be maintained for five years following the last date of publication of the advertisement. All licensees shall maintain copies of: (a) all printed advertising published in newspapers, magazines, newsletters, or other media designed for mass distribution; and (b) scripts, or audio- and videotapes, for advertising broadcast on radio or television.

Examiners requested a copy of all advertising purchased during the examination scope period. The radio scripts were not provided to examiners for review.