

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

The Bureau of Consumer Financial Protection (“Bureau”) commenced this civil action on September 5, 2019 to obtain injunctive relief, restitution, and civil penalties from Certified Forensic Loan Auditors, LLC (CFLA), Andrew Lehman, and Michael Carrigan. The Complaint alleges violations of sections 1031(a) and 1036(a) of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531(a), 5536(a)(1)(A), and Regulation O, 12 C.F.R. §§ 1015.3(c) and 1015.5(a) (2011) against CFLA and Lehman in connection with their offering, advertising, marketing, and selling of purported financial-advisory and mortgage-assistance-relief services, and against

1 Defendant Michael Carrigan in connection with his substantial assistance in furtherance
2 of CFLA's and Lehman's unlawful conduct.

3 The Bureau and Defendant Carrigan, agree to entry of this Stipulated Final
4 Judgment and Order ("Order"), without adjudication of any issue of fact or law, to settle
5 and resolve all matters in dispute arising from the conduct alleged in the Complaint.
6

7 **THEREFORE, it is ORDERED:**

8 **FINDINGS**

9 1. This Court has jurisdiction over the parties and the subject matter of this
10 action and venue is proper in this jurisdiction under 28 U.S.C. § 1391(b) and (c), and 12
11 U.S.C. § 5564(f).

12 2. The Complaint alleges claims upon which relief may be granted.

13 3. The relief provided in this Order is appropriate and available pursuant to
14 sections 1054 and 1055 of the CFPA, 12 U.S.C. §§ 5564 and 5565.

15 4. Defendant Carrigan waives all rights to seek judicial review or otherwise
16 challenge or contest the validity of this Order and any claim he may have under the Equal
17 Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the
18 date of this Order. Each Party agrees to bear its own costs and expenses, including,
19 without limitation, attorneys' fees.

20 5. Defendant Carrigan neither admits nor denies any allegations in the
21 Complaint, except as specified in this Order. For purposes of this Order, Defendant
22 Carrigan admits the facts necessary to establish the Court's jurisdiction over Defendant
23 Carrigan and the subject matter of this action.

24 6. Entry of this Order is in the public interest.

25 **DEFINITIONS**

7. The following definitions apply to this Order:

 - a. “**Affected Consumers**” includes any consumer who, since July 1, 2014, purchased a Securitization Audit and/or a Quiet Title Package from CFLA.
 - b. “**Assisting Others**” means helping, aiding, training, or providing support to others, including but not limited to:
 - i. consulting in any form whatsoever;
 - ii. formulating or providing, or arranging for the formulation or provision of, any advertising or marketing material, including, but not limited to, any telephone sales script, direct mail solicitation, or the text of any Internet website, email, or other electronic communication;
 - iii. providing names of, or contributing to the generation of, potential customers; and
 - iv. participating in or providing services related to the offering, sale, or servicing of a product, or the collection of payments for a product.
 - c. “**CFLA**” means Certified Forensic Loan Auditors, LLC, and its successors and assigns.
 - d. “**Defendant Carrigan**” means Michael Carrigan, and any other names by which he might be known;
 - e. “**Defendant Lehman**” means Andrew Lehman, and any other names by which he might be known;
 - f. “**Effective Date**” means the date on which the Order is entered by the Court.

- 1 g. “**Enforcement Director**” means the Assistant Director of the Office of
2 Enforcement for the Consumer Financial Protection Bureau, or his or her
3 delegate.
- 4 h. “**Financial Product or Service**” is synonymous in meaning and equal in
5 scope to the definition of the term, as of the Effective Date, in Section
6 1002(15) of the Consumer Financial Protection Act, 12 U.S.C. §
7 5481(15), and, subject to applicable limitations on the Bureau’s
8 enforcement authority, includes, but is not limited to:
- 9 i. providing financial advisory services to consumers on individual
10 financial matters or relating to proprietary financial products or
11 services;
- 12 ii. providing credit counseling to any consumer;
- 13 iii. providing services to assist a consumer with debt management or
14 debt settlement, modifying the terms of any extension of credit, or
15 avoiding foreclosure; and
- 16 iv. auditing, reviewing, or analyzing the origination, transfer, or
17 securitization of residential mortgages.
- 18 i. “**Mortgage Assistance Relief Service**” is synonymous in meaning and
19 equal in scope to the definition of the term, as of the Effective Date, in
20 Regulation O, 12 C.F.R. 1015.2, and includes, but is not limited to:
- 21 i. Any service, plan, or program, offered or provided to the consumer
22 in exchange for consideration, that is represented, expressly or by
23 implication, to assist or attempt to assist the consumer with any of
24 the following:
- 25 1. Stopping, preventing, or postponing any mortgage or deed
26 of trust foreclosure sale for the consumer's dwelling, any

repossession of the consumer's dwelling, or otherwise saving the consumer's dwelling from foreclosure or repossession;

2. Negotiating, obtaining, or arranging a modification of any term of a dwelling loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees; and

- ii. Obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan.

- j. “**Related Consumer Action**” means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against Defendant based on substantially the same facts as described in the Complaint.

- k. “**Relevant Period**” includes the period from July 1, 2014 to the Effective Date.

1. “**Securitization Audit**” means the audits of residential mortgages that CFLA marketed and sold from July 1, 2014 to the Effective Date.

- m. “**Quiet Title Package**” means the package of Securitization Audit and supporting litigation documents that CFLA marketed and sold from July 1, 2014 to the effective date.

ORDER

CONDUCT RELIEF

I.

Permanent Ban on Offering or Providing Mortgage Assistance Relief Services and Consumer Financial Products or Services

IT IS ORDERED that:

8. Defendant Carrigan, whether acting directly or indirectly, is permanently restrained from:

- a. providing, advertising, marketing, promoting, offering for sale, selling, or producing any Mortgage Assistance Relief Service or Financial Product or Service; and
 - b. Assisting Others in, or receiving any remuneration or other consideration from, the provision, advertising, marketing, promoting, offering for sale, sale or production of any Mortgage Assistance Relief Service or Financial Product or Service.

Nothing in this Order shall be read as an exception to this Paragraph with the sole exception that Defendant Carrigan is not restrained from engaging in activities as a person that performs income tax preparation activities for consumers as defined by 12 U.S.C. § 5481(23), or from providing state or local income tax preparation services to consumers.

II.

Customer Information

IT IS FURTHER ORDERED that:

9. Defendant Carrigan whether acting directly or indirectly, may not:

- a. disclose, use, or benefit from customer information, including the name, address, telephone number, email address, Social Security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that Defendant Carrigan obtained before the Effective Date in

1 connection with providing Mortgage Assistance Relief Services and
2 Financial Products or Services;

- 3 b. attempt to collect, sell, assign, or otherwise transfer any right to collect
4 payment from any consumer who purchased or agreed to purchase
5 Mortgage Assistance Relief Services or Financial Products or Services
6 from Defendants.

7 *However*, customer information may be disclosed if requested by a government
8 agency or required by law, regulation, or court order.

9
10 **MONETARY PROVISIONS**

11 **III.**

12 **Order to Pay Civil Money Penalty**

13 **IT IS FURTHER ORDERED** that:

14 10. Under Section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the
15 violations of law alleged in the Complaint and continuing until the Effective Date, and
16 taking into account the factors in 12 U.S.C. § 5565(c)(3), Defendant Carrigan must pay a
17 civil money penalty of \$493,403.04 to the Bureau; *however*, full payment of this civil
18 money penalty will be suspended upon satisfaction of the obligations in this Section, and
19 Section V, Additional Monetary Provisions; and subject to Section IV, Effect of
20 Misrepresentation or Omission of Financial Condition, of this Order.

21 11. Within 10 days of the Effective Date, Defendant Carrigan must pay a civil
22 money penalty in the amount of \$5,000 by wire transfer to the Bureau or to the Bureau's
23 agent in compliance with the Bureau's wiring instructions, in partial satisfaction of the
24 civil money penalty referenced in Paragraph 10 of this Section.

1 12. The civil money penalty paid under this Order will be deposited in the Civil
2 Penalty Fund of the Bureau as required by Section 1017(d) of the CFPA, 12 U.S.C. §
3 5497(d).

4 13. Defendant Carrigan must treat the civil money penalty paid under this Order
5 as a penalty paid to the government for all purposes. Regardless of how the Bureau
6 ultimately uses those funds, Defendant Carrigan may not:

- 7 a. Claim, assert, or apply for a tax deduction, tax credit, or any other tax
8 benefit for any civil money penalty paid under this Order; or
9 b. Seek or accept, directly or indirectly, reimbursement or indemnification
10 from any source, including but not limited to payment made under any
11 insurance policy, with regard to any civil money penalty paid under this
12 Order.

13 Defendant Carrigan agrees that the civil penalty imposed by the Order represents a
14 civil penalty owed to the United States Government, is not compensation for actual
15 pecuniary loss, and, thus, as to Carrigan, it is not subject to discharge under the
16 Bankruptcy Code under 11 U.S.C. § 523(a)(7).

17
18 **IV.**

19 **Effect of Misrepresentation or Omission Regarding Financial Condition**

20 **IT IS FURTHER ORDERED** that:

21 14. The suspension of the civil money penalty in Section III of this Order is
22 expressly premised on the truthfulness, accuracy, and completeness of Defendant
23 Carrigan's affirmed financial statements and supporting documents submitted to the
24 Bureau on or about June 2, 2019, which Defendant Carrigan asserts are truthful, accurate,
25 and complete, and which include:

- 1 a. Financial Statements of Defendant Carrigan, including the attachments,
2 signed on June 2, 2019 and submitted to the Bureau on or about June 2,
3 2019;
- 4 b. Defendant Carrigan's oral testimony provided on January 8, 2019.

5 15. If upon motion by the Bureau, the Court determines that Defendant Carrigan
6 has failed to disclose any material asset or that any of his financial statements or oral
7 testimony contain any material misrepresentation or omission, including materially
8 misstating the value of any asset, the Court shall terminate the suspension of the civil
9 money penalty entered in Section III and, without further adjudication, shall reinstate the
10 civil money penalty entered in Section III and the full civil money penalty of \$493,403.04
11 shall be immediately due and payable, less any amounts paid to the Bureau under Section
12 III of this Order.

13 16. If the Court terminates the suspension of the civil money penalty under this
14 Section, the Bureau will be entitled to interest on the civil money penalty, computed from
15 the date of entry of this Order, at the rate prescribed by 28 U.S.C. § 1961, as amended, on
16 any outstanding amounts not paid.

17 17. Provided, however, that in all other respects this Order shall remain in full
18 force and effect unless otherwise ordered by the Court; and, provided further, that
19 proceedings instituted under this provision would be in addition to, and not in lieu of any
20 other civil or criminal remedies as may be provided by law, including any other
21 proceedings that the Bureau may initiate to enforce this Order.

22 V.

23 **Additional Monetary Provisions**

24 **IT IS FURTHER ORDERED** that:

25 18. In the event of any default on Defendant Carrigan's obligations to make
26 payment under this Order, interest, computed under 28 U.S.C. § 1961, as amended, will
27

1 accrue on any outstanding amounts not paid from the date of default to the date of
2 payment, and will immediately become due and payable.

3 19. Defendant Carrigan relinquishes all dominion, control, and title to the funds
4 paid under this Order to the fullest extent permitted by law and no part of the funds may
5 be returned to Defendant Carrigan.

6 20. The facts alleged in the Complaint will be taken as true and be given
7 collateral estoppel effect, without further proof, in any proceeding based on the entry of
8 the Order, or in any subsequent civil litigation by or on behalf of the Bureau in a
9 proceeding to enforce its rights to any payment or monetary judgment under this Order.

10 21. The facts alleged in the Complaint establish all elements necessary to sustain
11 an action by the Bureau under to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C.
12 § 523(a)(2)(A), and for such purposes this Order will have collateral estoppel effect
13 against each Defendant, even in such Defendants' capacity as debtor-in-possession.

14 22. Under 31 U.S.C. § 7701, Defendant Carrigan, unless he already has done so,
15 must furnish to the Bureau his taxpayer identifying numbers, which may be used for
16 purposes of collecting and reporting on any delinquent amount arising out of this Order.

17 23. Within 30 days of the entry of a final judgment, Order, or settlement in a
18 Related Consumer Action, Defendant Carrigan must notify the Enforcement Director of
19 the final judgment, Order, or settlement in writing. That notification must indicate the
20 amount of redress, if any, that Defendant Carrigan paid or is required to pay to consumers
21 and describe the consumers or classes of consumers to whom that redress has been or will
22 be paid.

23 24. To preserve the deterrent effect of the civil money penalty in any Related
24 Consumer Action, Defendant Carrigan may not argue that he is entitled to, nor may
25 Defendant Carrigan benefit by, any offset or reduction of any monetary remedies
26 imposed in the Related Consumer Action because of the civil money penalty paid in this
27
28

1 action or because of any payment that the Bureau makes from the Civil Penalty Fund. If
2 the court in any Related Consumer Action offsets or otherwise reduces the amount of
3 compensatory monetary remedies imposed against Defendant Carrigan based on the civil
4 money penalty paid in this action or based on any payment that the Bureau makes from
5 the Civil Penalty Fund, Defendant Carrigan must, within 30 days after entry of a final
6 order granting such offset or reduction, notify the Bureau and pay the amount of the
7 offset or reduction to the U.S. Treasury. Such a payment will not be considered an
8 additional civil money penalty and will not change the amount of the civil money penalty
9 imposed in this action.

10 25. Under Section 604(a)(I) of the Fair Credit Reporting Act, 15 U.S.C. § 1681
11 b(a)(1), any consumer reporting agency may furnish a consumer report concerning any
12 Defendant to the Bureau, which may be used for purposes of collecting and reporting on
13 any delinquent amount arising out of this Order.

14

15 **COMPLIANCE PROVISIONS**

16 **VI.**

17 **Reporting Requirements**

18 **IT IS FURTHER ORDERED** that:

19 26. Defendant Carrigan must notify the Bureau of any development that may
20 affect compliance obligations arising under this Order, including but not limited to, the
21 filing of any bankruptcy or insolvency proceeding by or against Defendant Carrigan; or a
22 change in Defendant Carrigan's name or address. Defendant Carrigan must provide this
23 notice at least 30 days before the development or as soon as practicable after the learning
24 about the development, whichever is sooner.

25 27. Within 7 days of the Effective Date, Defendant Carrigan must:

- 1 a. Designate at least one telephone number and email, physical, and postal
2 address as points of contact, which the Bureau may use to communicate
3 with Defendant Carrigan;
- 4 b. Identify all businesses for which Defendant Carrigan is the majority
5 owner, or that Defendant Carrigan directly or indirectly controls, by all of
6 their names, telephone numbers, and physical, postal, email, and Internet
7 addresses;
- 8 c. Describe the activities of each such business, including the products and
9 services offered, and the means of advertising, marketing, and sales.
- 10 d. Identify Defendant Carrigan's telephone numbers and all email, Internet,
11 physical, and postal addresses, including all residences;
- 12 e. Describe in detail Defendant Carrigan's involvement in any business for
13 which he performs services in any capacity or which he wholly or
14 partially owns, including Defendant Carrigan's title, role, responsibilities,
15 participation, authority, control, and ownership.

16 28. Defendant Carrigan must report any change in the information required to be
17 submitted under Paragraph 27 at least 30 days before the change or as soon as practicable
18 after learning about the change, whichever is sooner.

19 29. Within 90 days of the Effective Date, and again one year after the Effective
20 Date, Defendant Carrigan must submit to the Enforcement Director an accurate written
21 compliance progress report affirmed under penalty of perjury (Compliance Report),
22 which, at a minimum:

- 23 a. Lists each applicable paragraph and subparagraph of the Order and
24 describes in detail the manner and form in which Defendant Carrigan has
25 complied with each such paragraph and subparagraph of this Order;

- 1 b. Attaches a copy of each Order Acknowledgment obtained under Section
2 VII, unless previously submitted to the Bureau.

3 After the one-year period, Defendant Carrigan must submit to the Enforcement
4 Director additional Compliance Reports within 14 days of receiving a written
5 request from the Bureau.

6

7 **VII.**

8 **Order Distribution and Acknowledgment**

9 **IT IS FURTHER ORDERED** that,

10 30. Within 7 days of the Effective Date, Defendant Carrigan must submit to the
11 Enforcement Director an acknowledgment of receipt of this Order, affirmed under
12 penalty of perjury.

13 31. For 5 years from the Effective Date, Defendant Carrigan, for any business
14 for which he is the majority owner or which he directly or indirectly controls, must
15 deliver a copy of this Order to any business entity resulting from any change in structure
16 referred to in Section VI, Reporting Requirements, any future board members and
17 executive officers, as well as to any managers, employees, Service Providers, or other
18 agents and representatives who will have responsibilities related to the subject matter of
19 the Order before they assume their responsibilities.

20 32. Defendant Carrigan must secure a signed and dated statement
21 acknowledging receipt of a copy of this Order, ensuring that any electronic signatures
22 comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days
23 of delivery, from all persons receiving a copy of this Order under this Section.

24

25 **VIII.**

26 **Recordkeeping**

IT IS FURTHER ORDERED that

33. Defendant Carrigan, for any business for which Defendant Carrigan is a majority owner or which he directly or indirectly controls, must create, for at least ten (10) years from the Effective Date, the following business records: all documents and records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Bureau.

34. Defendant Carrigan must retain these documents for at least ten (10) years after creation and make them available to the Bureau upon the Bureau's request.

IX.

Notices

IT IS FURTHER ORDERED that:

35. Unless otherwise directed in writing by the Bureau, Defendant Carrigan must provide all submissions, requests, communications, or other documents relating to this Order in writing, with the subject line, “CFPB v. Certified Forensic Loan Auditors, LLC, et al., Case No. [Docket #],” and send them by overnight courier or first-class mail to the below address and contemporaneously by email to Enforcement Compliance@cfpb.gov:

Assistant Director for Enforcement
Bureau of Consumer Financial Protection
ATTENTION: Office of Enforcement
1700 G Street, N.W.
Washington D.C. 20552

X.

Cooperation with the Bureau

IT IS FURTHER ORDERED that:

36. Defendant Carrigan must cooperate fully to help the Bureau determine the identity and location of, and the amount of injury sustained by, each Affected Consumer. Defendant Carrigan must provide such information in his or his agents' possession or control within 14 days of receiving a written request from the Bureau.

37. Defendant Carrigan must cooperate fully with the Bureau in this matter and in any investigation related to or associated with the conduct described in the Complaint, including the identification of CFLA's current and former employees and contractors and current and former customers. Defendant Carrigan must provide truthful and complete information, evidence, and testimony. Defendant Carrigan must appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau may reasonably request upon 10 days written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.

XI.

Compliance Monitoring

IT IS FURTHER ORDERED that, to monitor Defendant Carrigan's compliance with this Order, including the financial representations upon which part of the civil money penalty was suspended:

38. Within 14 days of receipt of a written request from the Bureau, Defendant Carrigan must submit additional compliance reports or other requested non-privileged information, related to requirements of this Order, which must be affirmed under penalty

of perjury; provide testimony related to requirements of this Order and Defendant Carrigan's compliance with those requirements, which must be affirmed under penalty; or produce non-privileged documents related to requirements of this Order and Defendant Carrigan's compliance with those requirements.

39. For purposes of this Section, the Bureau may communicate directly with Defendant Carrigan, unless Defendant Carrigan or counsel he retains notifies the Bureau that he has retained counsel related to these communications.

40. Defendant Carrigan must permit Bureau representatives to interview about the requirements of this Order and Defendant Carrigan's compliance with those requirements any employee or other person affiliated with Defendant Carrigan who has agreed to such an interview. The person interviewed may have counsel present.

41. Nothing in this Order will limit the Bureau's lawful use of compulsory process, under 12 C.F.R. § 1080.6.

XII.

Retention of Jurisdiction

IT IS FURTHER ORDERED that:

42. The Court will retain jurisdiction of this matter for the purpose of enforcing this Order.

XIII.

Service

IT IS FURTHER ORDERED that:

43. This Order may be served upon Defendant Carrigan by electronic mail, certified mail, or United Parcel Service, either by the United States Marshal, the Clerk of the Court, or any representative or agent of the Bureau.

IT IS SO ORDERED.

October 29, 2019

Ohi & Wright

Otis D. Wright, II
United States District Judge