

JS-6

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 Bureau of Consumer Financial
11 Protection,

12 Plaintiff,

13 v.
14

15 Certified Forensic Loan Auditors,
16 LLC, (CA); Certified Forensic Loan
17 Auditors, LLC (TX); Andrew P.
18 Lehman; and Michael Carrigan,

19 Defendants.

Case No. CV 19-07722-ODW (JEMx)

**STIPULATED FINAL JUDGMENT
AND ORDER AS TO CERTIFIED
FORENSIC LOAN AUDITORS, LLC
(CA), CERTIFIED FORENSIC
LOAN AUDITORS (TX) AND
ANDREW P. LEHMAN**

20
21 The Bureau of Consumer Financial Protection (“Bureau”) commenced this civil
22 action on September 6, 2019 and filed an Amended Complaint on November 13, 2019 to
23 obtain injunctive relief, restitution, and civil penalties from Certified Forensic Loan
24 Auditors, LLC (CA), Certified Forensic Loan Auditors, LLC (TX) (collectively
25 “CFLA”), Andrew P. Lehman, and Michael Carrigan. The Amended Complaint alleges
26 violations of sections 1031(a) and 1036(a) of the Consumer Financial Protection Act of
27 2010 (“CFPA”), 12 U.S.C. §§ 5531(a) and 5536(a)(1)(A), and Regulation O, 12 C.F.R.

1 §§ 1015.3(c) and 1015.5(a) (2011), against CFLA and Lehman in connection with their
2 offering, advertising, marketing, and selling of purported financial-advisory and
3 mortgage-assistance-relief services, and against Defendant Michael Carrigan in
4 connection with his substantial assistance in furtherance of CFLA's and Lehman's
5 unlawful conduct.

6 The Bureau and Defendants CFLA and Lehman, agree to entry of this Stipulated
7 Final Judgment and Order ("Order"), without adjudication of any issue of fact or law, to
8 settle and resolve all matters in dispute arising from the conduct alleged in the Amended
9 Complaint.

10 **THEREFORE, it is ORDERED:**

11 **FINDINGS**

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

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

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

18 4. Defendants CFLA and Lehman waive all rights to seek judicial review or
19 otherwise challenge or contest the validity of this Order and any claim they may have
20 under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of
21 this action to the date of this Order. Each Party agrees to bear its own costs and expenses,
22 including, without limitation, attorneys' fees.

23 5. Defendants CFLA and Lehman neither admit nor deny any allegations in the
24 Amended Complaint, except as specified in this Order. For purposes of this Order,
25 Defendants CFLA and Lehman admit the facts necessary to establish the Court's
26 jurisdiction over Defendant CFLA and Lehman and the subject matter of this action.

- 1 f. **“Effective Date”** means the date on which the Order is entered by the
2 Court.
- 3 g. **“Enforcement Director”** means the Assistant Director of the Office of
4 Enforcement for the Consumer Financial Protection Bureau, or his or her
5 delegate.
- 6 h. **“Financial Advisory Service”** includes the meaning of the term
7 “financial advisory services,” as of the Effective Date, in Section
8 1002(15)(viii) of the Consumer Financial Protection Act, 12 U.S.C. §
9 5481(15)(viii), and, subject to applicable limitations on the Bureau’s
10 enforcement authority, includes, but is not limited to:
- 11 i. providing financial advisory services to consumers on individual
12 financial matters or relating to proprietary financial products or
13 services;
 - 14 ii. providing credit counseling to any consumer;
 - 15 iii. providing services to assist a consumer with debt management or
16 debt settlement, modifying the terms of any extension of credit, or
17 avoiding foreclosure; and
 - 18 iv. auditing, reviewing, or analyzing the origination, transfer, or
19 securitization of residential mortgages.
- 20 i. **“Mortgage Assistance Relief Services”** is synonymous in meaning and
21 equal in scope to the definition of the term, as of the Effective Date, in
22 Regulation O, 12 C.F.R. 1015.2, and, subject to applicable limitations on
23 the Bureau’s enforcement authority, includes, but is not limited to:
- 24 i. Any service, plan, or program, offered or provided to the consumer
25 in exchange for consideration, that is represented, expressly or by
26
27
28

1 implication, to assist or attempt to assist the consumer with any of
2 the following:

- 3 1. Stopping, preventing, or postponing any mortgage or deed
4 of trust foreclosure sale for the consumer's dwelling, any
5 repossession of the consumer's dwelling, or otherwise saving
6 the consumer's dwelling from foreclosure or repossession;
7 2. Negotiating, obtaining, or arranging a modification of any
8 term of a dwelling loan, including a reduction in the amount
9 of interest, principal balance, monthly payments, or fees;
10 and

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

- 14 j. **“Related Consumer Action”** means a private action by or on behalf of
15 one or more consumers or an enforcement action by another
16 governmental agency brought against Defendants based on substantially
17 the same facts as described in the Complaint.
18 k. **“Relevant Period”** includes the period from July 1, 2014 to the Effective
19 Date.
20 l. **“Securitization Audit”** means the audits of residential mortgages that
21 CFLA marketed and sold from July 1, 2014 to the Effective Date. For
22 purposes of this Order a “Securitization Audit” is a “Financial Advisory
23 Service” as that term is defined in subparagraph (h), and a “Mortgage
24 Assistance Relief Service” as that term is defined in subparagraph (i).
25 m. **“Quiet Title Package”** means the package of Securitization Audit and
26 supporting litigation documents that CFLA marketed and sold from July
27
28

1, 2014 to the effective date. For purposes of this Order a “Quiet Title Package” is a “Financial Advisory Service” as that term is defined in subparagraph (h), and a “Mortgage Assistance Relief Service” as that term is defined in subparagraph (i).

ORDER

CONDUCT RELIEF

I.

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

IT IS ORDERED that:

8. Defendants CFLA and Lehman, whether acting directly or indirectly, are permanently restrained from:

- a. providing, advertising, marketing, promoting, offering for sale, selling, or producing any Mortgage Assistance Relief Services or Financial Advisory Services; 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 Services or Financial Advisory Services.

Nothing in this Order shall be read as an exception to this Paragraph.

II.

Customer Information

IT IS FURTHER ORDERED that:

9. Defendants CFLA and Lehman whether acting directly or indirectly, may not:

- 1 a. disclose, use, or benefit from customer information, including the name,
2 address, telephone number, email address, Social Security number, other
3 identifying information, or any data that enables access to a customer's
4 account (including a credit card, bank account, or other financial
5 account), that Defendant CFLA or Lehman obtained before the Effective
6 Date in connection with providing Mortgage Assistance Relief Services
7 and Financial Advisory Services;
- 8 b. attempt to collect, sell, assign, or otherwise transfer any right to collect
9 payment from any consumer who purchased or agreed to purchase
10 Mortgage Assistance Relief Services or Financial Advisory Services
11 from CFLA or Lehman.

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

14 **MONETARY PROVISIONS**

15 **III.**

16 **Order to Pay Redress**

17 10. A judgment for monetary relief is entered in favor of the Bureau and against
18 Defendants CFLA and Lehman, jointly and severally, in the amount of \$3 million for the
19 purpose of providing redress to Affected Consumers; *however*, full payment of this
20 judgment will be suspended upon satisfaction of the obligations in Section VI, Additional
21 Monetary Provisions; and subject to Section V, Effect of Misrepresentation or Omission
22 of Financial Condition, of this Order.

23 11. With regard to any redress that Defendant CFLA or Lehman pays under this
24 Section, if Defendant CFLA or Lehman receives, directly or indirectly, any
25 reimbursement or indemnification from any source, including but not limited to payment
26 made under any insurance policy, or if Defendant CFLA or Lehman secures a tax
27

1 deduction or tax credit with regard to any federal, state, or local tax, the relevant
2 defendant must: (a) immediately notify the Enforcement Director in writing, and (b)
3 within ten (10) days of receiving the funds or monetary benefit, the relevant defendant
4 must transfer to the Bureau the full amount of such funds or monetary benefit (Additional
5 Payment) to the Bureau or to the Bureau's agent according to the Bureau's wiring
6 instructions.

7 12. Any funds received by the Bureau in satisfaction of this judgment will be
8 deposited into a fund or funds administered by the Bureau or the Bureau's agent
9 according to applicable statutes and regulations to be used for redress for injured
10 consumers, including, but not limited to, refund of moneys, restitution, damages or other
11 monetary relief, and for any attendant expenses for the administration of any such
12 redress.

13 13. If the Bureau determines, in its sole discretion, that providing redress to
14 consumers is wholly or partially impracticable or if funds remain after the administration
15 of redress is completed, the Bureau will deposit any remaining funds in the U.S. Treasury
16 as disgorgement. Defendants CFLA and Lehman will have no right to challenge the
17 Bureau's choice of remedies under this Section and will have no right to contest the
18 manner of distribution chosen by the Bureau.

19 14. Payment of redress to any Affected Consumer under this Order may not be
20 conditioned on that Affected Consumer waiving any right.

21 **IV.**

22 **Order to Pay Civil Money Penalty**

23 **IT IS FURTHER ORDERED** that:

24 15. Under Section 1055(c) of the CFPB, 12 U.S.C. § 5565(c), by reason of the
25 violations of law alleged in the Amended Complaint and continuing until the Effective
26 Date, and taking into account the factors in 12 U.S.C. § 5565(c)(3), Defendants CFLA
27

1 and Lehman, jointly and severally, must pay a civil money penalty of \$40,000 to the
2 Bureau. The Bureau may exercise immediately any post-judgment remedies available to
3 it to collect this civil money penalty from Defendants CFLA and Lehman.

4 16. The civil money penalty paid under this Order will be deposited in the Civil
5 Penalty Fund of the Bureau as required by Section 1017(d) of the CFPA, 12 U.S.C. §
6 5497(d).

7 17. Defendants CFLA and Lehman must treat the civil money penalty paid
8 under this Order as a penalty paid to the government for all purposes. Regardless of how
9 the Bureau ultimately uses those funds, Defendants CFLA and Lehman may not:

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

16 18. Defendants CFLA and Lehman agree that the civil penalty imposed by the
17 Order represents a civil penalty owed to the United States Government, is not
18 compensation for actual pecuniary loss, and, thus, as to CFLA and Lehman, it is not
19 subject to discharge under the Bankruptcy Code under 11 U.S.C. § 523(a)(7).

20 V.

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

22 **IT IS FURTHER ORDERED** that:

23 19. The suspensions of the order to pay redress in Section III is expressly
24 premised on the truthfulness, accuracy, and completeness of Defendants CFLA's and
25 Lehman's sworn financial statements and supporting documents submitted to the Bureau
26 on or about June 30, 2019 and supplemented on August 12 and 19, 2019, and on June 4,
27

1 2020 and supplement on June 8, 2020 and June 19, 2020, which Defendants CFLA and
2 Lehman assert are truthful, accurate, and complete, and which include:

3 a. Financial Statements of Defendants CFLA and Lehman, including the
4 attachments, signed on June 30, 2019 and submitted to the Bureau on or about June 30,
5 2019;

6 b. Defendant Lehman's oral testimony provided on or about November 13 and
7 14, 2018.

8 c. CFLA's payroll records provided on or about August 12, 2019.

9 d. Bank statements provided on or about August 19, 2019.

10 e. Financial Statements of Defendants CFLA and Lehman, including the
11 attachments, signed on June 2, 2020 and submitted to the Bureau on or about June 4,
12 2020, and which were then supplemented with tax re3turns for 2017, 2018 and 2019 on
13 June 8, 2020 and supplemented with additional account statements on June 19, 2020.

14 20. If upon motion by the Bureau, the Court determines that Defendant CFLA or
15 Lehman has failed to disclose any material asset or that any of their financial statements
16 or oral testimony contain any material misrepresentation or omission, including
17 materially misstating the value of any asset, the Court shall terminate the suspension of
18 the order to pay redress entered in Section III and, without further adjudication, shall
19 reinstate the order to pay redress entered in Section III and the full order to pay redress of
20 \$3,000,000 shall be immediately due and payable, less any amounts paid to the Bureau
21 under Section III of this Order.

22 21. If the Court terminates the suspension of the order to pay redress under this
23 Section, the Bureau will be entitled to interest on the order to pay redress computed from
24 the date of entry of this Order, at the rate prescribed by 28 U.S.C. § 1961, as amended, on
25 any outstanding amounts not paid.

1 27. Under 31 U.S.C. § 7701, Defendants CFLA and Lehman, unless they
2 already have done so, must furnish to the Bureau their taxpayer identifying numbers,
3 which may be used for purposes of collecting and reporting on any delinquent amount
4 arising out of this Order.

5 28. Within 30 days of the entry of a final judgment, Order, or settlement in a
6 Related Consumer Action, the affected defendant must notify the Enforcement Director
7 of the final judgment, Order, or settlement in writing. That notification must indicate the
8 amount of redress, if any, that Defendants CFLA or Lehman paid or is required to pay to
9 consumers and describe the consumers or classes of consumers to whom that redress has
10 been or will be paid.

11 29. To preserve the deterrent effect of the civil money penalty in any Related
12 Consumer Action, neither Defendant CFLA nor Lehman may argue that they are entitled
13 to, nor may either Defendant CLFA or Lehman benefit by, any offset or reduction of any
14 monetary remedies imposed in the Related Consumer Action because of the redress or
15 civil money penalty paid in this action or because of any payment that the Bureau makes
16 from the Civil Penalty Fund. If the court in any Related Consumer Action offsets or
17 otherwise reduces the amount of compensatory monetary remedies imposed against either
18 Defendants CLFA or Lehman based on the civil money penalty paid in this action or
19 based on any payment that the Bureau makes from the Civil Penalty Fund, either
20 Defendant CFLA or Lehman, as applicable, must, within 30 days after entry of a final
21 order granting such offset or reduction, notify the Bureau and pay the amount of the
22 offset or reduction to the U.S. Treasury. Such a payment will not be considered an
23 additional civil money penalty and will not change the amount of the civil money penalty
24 imposed in this action.

25 30. Under Section 604(a)(I) of the Fair Credit Reporting Act, 15 U.S.C. § 1681
26 b(a)(1), any consumer reporting agency may furnish a consumer report concerning any
27

1 Defendant to the Bureau, which may be used for purposes of collecting and reporting on
2 any delinquent amount arising out of this Order.

3 **COMPLIANCE PROVISIONS**

4 **VII.**

5 **Reporting Requirements**

6 **IT IS FURTHER ORDERED** that:

7 31. Defendant CFLA or Lehman or both, as applicable, must notify the Bureau
8 of any development that may affect compliance obligations arising under this Order,
9 including but not limited to, the filing of any bankruptcy or insolvency proceeding by or
10 against Defendant CFLA or Lehman; or a change in Defendant CFLA or Lehman's name
11 or address. Defendant CFLA or Lehman or both, as applicable, must provide this notice
12 at least 30 days before the development or as soon as practicable after the learning about
13 the development, whichever is sooner.

14 32. Within 7 days of the Effective Date, both Defendants CFLA and Lehman
15 must each:

- 16 a. Designate at least one telephone number and email, physical, and postal
17 address as points of contact, which the Bureau may use to communicate
18 with Defendants CFLA and Lehman;
- 19 b. Identify all businesses for which Defendant CFLA or Lehman is the
20 majority owner, or that Defendant CFLA or Lehman directly or indirectly
21 controls, by all of their names, telephone numbers, and physical, postal,
22 email, and Internet addresses;
- 23 c. Describe the activities of each such business, including the products and
24 services offered, and the means of advertising, marketing, and sales.
- 25 d. Identify Defendants CFLA and Lehman's telephone numbers and all
26 email, Internet, physical, and postal addresses, including all residences;

1 e. Describe in detail Defendant CFLA's or Lehman's involvement in any
2 business for which either performs services in any capacity or which
3 either wholly or partially owns, including Defendant CFLA's or
4 Lehman's title, role, responsibilities, participation, authority, control, and
5 ownership.

6 33. Defendants CFLA and Lehman must report any change in the information
7 required to be submitted under Paragraph 31 at least 30 days before the change or as soon
8 as practicable after learning about the change, whichever is sooner.

9 34. Within 90 days of the Effective Date, and again one year after the Effective
10 Date, both Defendant CFLA and Lehman must each submit to the Enforcement Director
11 an accurate written compliance progress report sworn to under penalty of perjury
12 (Compliance Report), which, at a minimum:

- 13 a. Lists each applicable paragraph and subparagraph of the Order and
14 describes in detail the manner and form in which each Defendant has
15 complied with each such paragraph and subparagraph of this Order;
- 16 b. Attaches a copy of each Order Acknowledgment obtained under Section
17 VIII, unless previously submitted to the Bureau.

18 After the one-year period, both Defendant CFLA and Lehman must each submit to the
19 Enforcement Director additional Compliance Reports within 14 days of receiving a
20 written request from the Bureau.

21 **VIII.**

22 **Order Distribution and Acknowledgment**

23 **IT IS FURTHER ORDERED** that,

24 35. Within 7 days of the Effective Date, Defendants CFLA and Lehman must
25 submit to the Enforcement Director an acknowledgment of receipt of this Order, sworn
26 under penalty of perjury.

1 36. For 5 years from the Effective Date, both Defendant CFLA and Lehman, for
2 any business for which either is the majority owner or which either directly or indirectly
3 controls, must each deliver a copy of this Order to any business entity resulting from any
4 change in structure referred to in Section VII, Reporting Requirements, any future board
5 members and executive officers, as well as to any managers, employees, Service
6 Providers, or other agents and representatives who will have responsibilities related to the
7 subject matter of the Order before they assume their responsibilities.

8 37. Both Defendant CFLA and Lehman must each secure a signed and dated
9 statement acknowledging receipt of a copy of this Order, ensuring that any electronic
10 signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*,
11 within 30 days of delivery, from all persons receiving a copy of this Order under this
12 Section.

13 **IX.**

14 **Recordkeeping**

15 **IT IS FURTHER ORDERED** that

16 38. Both Defendant CFLA and Lehman, for any business for which either is a
17 majority owner or which either directly or indirectly controls, must each create, for at
18 least 5 years from the Effective Date, the following business records: All documents and
19 records necessary to demonstrate full compliance with each provision of this Order,
20 including all submissions to the Bureau.

21 39. Both Defendant CFLA and Lehman must each retain these documents for at
22 least 5 years after creation and make them available to the Bureau upon the Bureau's
23 request.
24
25
26
27
28

1 **X.**

2 **Notices**

3 **IT IS FURTHER ORDERED** that:

4 40. Unless otherwise directed in writing by the Bureau, Defendants CFLA and
5 Lehman must provide all submissions, requests, communications, or other documents
6 relating to this Order in writing, with the subject line, “CFPB v. Certified Forensic Loan
7 Auditors, et al., Case No. CV 19-07722,” and send them by overnight courier or first-
8 class mail to the below address and contemporaneously by email to
9 Enforcement_Compliance@cfpb.gov:

10 Assistant Director for Enforcement
11 Bureau of Consumer Financial Protection
12 ATTENTION: Office of Enforcement
13 1700 G Street, N.W.
14 Washington D.C. 20552

15 **XI.**

16 **Cooperation with the Bureau**

17 **IT IS FURTHER ORDERED** that:

18 41. Defendants CFLA and Lehman must cooperate fully to help the Bureau
19 determine the identity and location of, and the amount of injury sustained by, each
20 Affected Consumer. Defendants CFLA and Lehman must provide such information in its
21 or its agents’ possession or control within 14 days of receiving a written request from the
22 Bureau.

23 42. Defendants CFLA and Lehman must cooperate fully with the Bureau in this
24 matter and in any investigation related to or associated with the conduct described in the
25 Amended Complaint, including the identification of CFLA’s current and former
26 employees and contractors and current and former customers. Defendants CFLA and
27

1 Lehman must provide truthful and complete information, evidence, and testimony.
2 Defendants CFLA and Lehman must appear for interviews, discovery, hearings, trials,
3 and any other proceedings that the Bureau may reasonably request upon 10 days written
4 notice, or other reasonable notice, at such places and times as the Bureau may designate,
5 without the service of compulsory process.

6 **XII.**

7 **Compliance Monitoring**

8 **IT IS FURTHER ORDERED** that, to monitor Defendants CFLA's and Lehman's
9 compliance with this Order, including the financial representations upon which the order
10 to pay redress and part of the civil money penalty was suspended:

11 43. Within 14 days of receipt of a written request from the Bureau, either
12 Defendant CFLA, Lehman or both, as applicable, must submit additional compliance
13 reports or other requested non-privileged information, related to requirements of this
14 Order, which must be sworn under penalty of perjury; provide sworn testimony related to
15 requirements of this Order and Defendants CFLA's and Lehman's compliance with those
16 requirements; or produce non-privileged documents related to requirements of this Order
17 and Defendants CFLA's and Lehman's compliance with those requirements.

18 44. For purposes of this Section, the Bureau may communicate directly with
19 Defendants CFLA and Lehman, unless Defendants CFLA or Lehman or counsel they
20 retain notifies the Bureau that they have retained counsel related to these
21 communications.

22 45. Defendants CFLA and Lehman must permit Bureau representatives to
23 interview about the requirements of this Order and Defendants CFLA's and Lehman's
24 compliance with those requirements any employee or other person affiliated with
25 Defendants CFLA or Lehman who has agreed to such an interview. The person
26 interviewed may have counsel present.

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

3 **XIII.**

4 **Retention of Jurisdiction**

5 **IT IS FURTHER ORDERED** that:

6 47. The Court will retain jurisdiction of this matter for the purpose of enforcing
7 this Order.

8 **XIV.**

9 **Pending Motions**

10 48. All pending motions are hereby denied as moot.

11 **XV.**

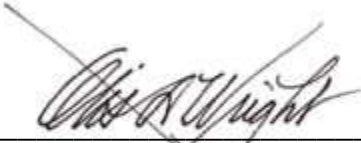
12 **Service**

13 **IT IS FURTHER ORDERED** that:

14 49. This Order may be served upon Defendants CFLA and Lehman by
15 electronic mail, certified mail, or United Parcel Service, either by the United States
16 Marshal, the Clerk of the Court, or any representative or agent of the Bureau.

17
18 **IT IS SO ORDERED.**

19
20 DATED this 20th day of July, 2020.

21
22
23 

24 _____
25 Otis D. Wright, II
26 United States District Judge
27
28