

**BEFORE THE GEORGIA DEPARTMENT OF BANKING AND FINANCE
STATE OF GEORGIA**

MORTGAGE EXPERTS, INC.
NMLS: 1223023 DBF: 43420

and

TYESA SMITH,
NMLS: 1165502 DBF: 45134

Petitioners,

v.

GEORGIA DEPARTMENT OF
BANKING AND FINANCE,

Respondent.

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GEORGIA DEPARTMENT OF
BANKING AND FINANCE

Docket No. DBF-MBL-20-011-353

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FINAL ORDER

A. BACKGROUND

On January 7, 2021, a hearing was held before the undersigned Commissioner of the Georgia Department of Banking and Finance ("Department") to contest the following administrative actions ("Actions") issued by the Department against Mortgage Experts, Inc. ("Mortgage Experts")¹ and Tyesa Smith ("Ms. Smith") (collectively referred to as "Petitioners"). The Actions at issue at the hearing included:

1. Notice of Intent to Revoke Annual License issued against Mortgage Experts on

¹ Mortgage Experts was formerly known as Expert Financial Enterprise, Inc. Ms. Smith testified about and the Department witnesses confirmed the name change. Some of the exhibits reference Expert Financial Enterprise and some reference Mortgage Experts. Any reference to Expert Financial Enterprises is applicable to Mortgage Experts.

- October 15, 2020 and reissued on November 30, 2020 (collectively “Mortgage Experts’ Notice of Intent to Revoke”);
2. Notice of Intent to Revoke Mortgage Loan Originator License issued against Ms. Smith on November 30, 2020; and
 3. Order to Cease and Desist issued against Ms. Smith on October 15, 2020.

The Actions provided that the Department had determined the Petitioners’ licenses were subject to revocation and Ms. Smith was ordered to cease and desist because:

1. Petitioners cut and pasted the signature of a borrower onto a letter of explanation of credit inquiries in violation of O.C.G.A. §§ 7-1-1013(1), (2), and (6);
2. Petitioners cut and pasted a signature of a borrower onto a HUD appraised value disclosure in violation of O.C.G.A. § 7-1-1013(1), (2), and (6);
3. Petitioners made false statements or material misrepresentations to the Department by providing conflicting written explanations regarding the alteration of loan documents in violation of O.C.G.A. § 7-1-1013(11);
4. Petitioners filed inaccurate Mortgage Call Reports for eight consecutive quarters between 2016 and 2018 in violation of O.C.G.A. §§ 7-1-1013(11) and 7-1-1004.1 and Department Rule 80-11-3-.01(28), including two inaccurate Mortgage Call Reports that were submitted on or about September 21, 2017 in order to resolve an earlier administrative action issued by the Department;
5. Petitioners failed to file Mortgage Call Reports for the first, second, and third calendar quarters of 2020 in violation of O.C.G.A. §§ 7-1-1004.1 and 7-1-1013(11) and Department Rule 80-11-3-.01(28); and
6. Petitioners failed to obtain required Georgia Crime Information Center background checks on two covered employees in violation of O.C.G.A. § 7-1-1004(k) and Department Rule 80-11-1-.05.

The Notice of Intent to Revoke issued to Mortgage Experts contained these additional grounds for revocation of Mortgage Experts’ broker license:

1. Mortgage Experts failed to meet the minimum qualifications for licensure in O.C.G.A. §§ 7-1-1004(a) which requires that licensee and the individuals who direct the affairs or establish policy for the licensee are of good character and ethical reputation; and 7-1-1004(b), which requires that the Department be satisfied that the licensee may be expected to operate its mortgage brokerage activities in compliance with the laws of this state;
2. Mortgage Experts failed to remit fees associated with filing Mortgage Call Reports after the due date in violation of Department Rule 80-11-3-.01(28);
3. Mortgage Experts failed to pay fines assessed by the Department on January 16, 2020 in violation of Department Rule 80-11-3-.01(2); and
4. Mortgage Experts failed to pay an examination fee assessed by the Department on January 16, 2020 in violation of Department Rule 80-5-1-.03(b).

The Order to Cease and Desist and Notice of Intent to Revoke issued to Ms. Smith contained this additional ground:

1. Ms. Smith failed to demonstrate financial responsibility, character, and general fitness such as to command the confidence of the community and warrant a determination that she will operate honestly, fairly, and efficiently within the purposes of the Georgia Residential Mortgage Act ("GRMA") as required by O.C.G.A. § 7-1-1004(d)(3).

In response to the Notices and the Order to Cease and Desist, Petitioners requested a hearing pursuant to O.C.G.A. §§ 7-1-1017(b) and 7-1-1018. Pursuant to notice, a hearing was scheduled for January 7, 2021 at 9:00 a.m.² At the hearing, Petitioners were represented by Dorey N. Cole, Attorney. The Department was represented by Elizabeth Harris, Attorney.

Andrew Gahwiler provided testimony on behalf of the Department. Mr. Gahwiler was employed by the Department as a financial examiner from November 2015 through May 2019. During the time period at issue in the hearing, Mr. Gahwiler was a Senior Assistant Financial Examiner. Mr. Gahwiler testified that the Department conducted an examination of Mortgage Experts in June 2018, for which he was the examiner-in-charge. Mr. Gahwiler testified that the Department notified Petitioners of the examination via letter on May 9, 2018. Respondent's Exhibit 1 ("R1"). The letter indicated that the examination would focus on activity from 2016 to 2018. R1. Further, the letter explains the examination process, the fees associated with the examination, and the documents the Department required from Mortgage Experts. R1. Mr. Gahwiler further testified that the Department routinely requests additional documentation from licensees during the examination.

Mr. Gahwiler testified that the on-site examination began on or about June 18, 2018. The on-site examination was conducted by Mr. Gahwiler and another financial examiner employed by the Department, Justin Mattice. Mr. Gahwiler testified that Ms. Smith completed the Officer's Questionnaire as required by the Department. Respondent's Exhibit ("R2"). The Officer's Questionnaire indicated that the time period for the data provided is April 30, 2016 to April 30, 2018. R2, p. 4-1. The Officer's Questionnaire also shows that Ms. Smith is the 100% owner of Expert Financial Enterprises. R2, p. 4-3. Mr. Gahwiler further testified that Ms. Smith was the only mortgage loan originator for Expert Financial Enterprises.

One of the loan files reviewed by the Department during the examination of Mortgage Experts was the loan file of Leatrice Carter. Mr. Gahwiler testified that the loan file for Leatrice Carter included the Uniform Residential Loan Application, which indicated that Ms. Smith was the loan originator for the file and that the mortgage broker was Expert Financial Enterprises. Respondent's Exhibit 3 ("R3"), p. 4. Mr. Gahwiler testified that during the course of his review of the Leatrice Carter loan file, he discovered documents that had been altered. Specifically, he found two documents where the signature of the borrower, Leatrice Carter, had been cut out and two documents where the borrower's excised signature had been pasted. Respondent's Exhibit 4 ("R4"). Mr. Gahwiler testified that the signature of Leatrice Carter was cut from a letter to Plaza Home Mortgage with the subject line "Explanation monthly bank statement" and pasted onto a

² Prior to the hearing, Petitioners and the Department were able to resolve some of the counts enumerated in the Actions. Specifically, Petitioners: (1) submitted Mortgage Call Reports for the first, second, and third calendar quarters of 2020; (2) paid the late fees associated with such Mortgage Call Reports; (3) paid the fines assessed by the Department; and (4) paid the examination fee assessed by the Department. The Department did not proceed with these issues at the hearing.

document with the subject line "Inquiries," which contains an explanation of credit inquiries. R4. Additionally, Mr. Gahwiler testified that a signature of Leatrice Carter was cut from a different letter to Plaza Home Mortgage with the subject line "Explanation of property located at 326 W. 16th St., Jacksonville, FL, 32206" and pasted onto a HUD Appraised Value Disclosure. R4. The loan for Leatrice Carter closed on May 14, 2018. R8.

Mr. Gahwiler testified that he had a conversation with Ms. Smith about the alterations in the Leatrice Carter file. He testified that Ms. Smith stated that she had cut and pasted the signatures in both documents, but that she was attempting help the borrower and that she had not made the alterations with a fraudulent motive. Mr. Gahwiler testified that he explained the severity of altering documents and the consequences, including a fine and a potential revocation. In response to a request from Mr. Gahwiler, Ms. Smith provided a written explanation on June 20, 2018, in which she admitted to altering the document and reiterated that she was trying to help the borrower. Respondent's Exhibit 5 ("R5"), p.2.

Mr. Gahwiler further testified that, as part of the Officer's Questionnaire, licensees are required to provide a list of employees, including the date on which a background check was run for each employee. Ms. Smith indicated on the Officer's Questionnaire that Expert Financial Enterprises had two employees during the time period under review in the examination but did not provide an "Initial Background Check Date" for either. R2, p. 4-14. Mr. Gahwiler testified that he asked Ms. Smith for an explanation regarding the blanks on the Officer's Questionnaire and she provided a written explanation, which stated that she "previously did background checks on [her] employees with an online company" but that she did not have a record of the background checks. Respondent's Exhibit 6 ("R6"). Mr. Gahwiler testified that, in his experience, GCIC background checks cannot be obtained through online companies. Mr. Gahwiler further testified that Ms. Smith did not provide the Department with background checks, either GCIC compliant or otherwise, for any employee during or after the examination.

Mr. Gahwiler testified that the Department became aware that Expert Financial Enterprises employed an individual who was not listed on the Officer's Questionnaire after the on-site examination. Mr. Gahwiler indicated to Ms. Smith in an email that the Department discovered a processor named Shameeka Babbs in some of the loan files reviewed by the Department. Respondent's Exhibit 7 ("R7"), p. 1. Ms. Smith indicated that Ms. Babbs had previously been an employee but that she had been terminated on May 11, 2018. R7, p.1. Ms. Smith further indicated that she did not have a record of the background check for Ms. Babbs. R7, p.1.

Mr. Gahwiler testified that Ms. Smith provided the Mortgage Loan Transaction Journal from January 2016 to April 2018 for Expert Financial Enterprises as a part of the examination. Respondent's Exhibit 8 ("R8"). The Mortgage Loan Transaction Journal shows that Expert Financial Enterprises was consistently receiving applications and closing loans throughout the time period at issue in the examination. R8.

Mr. Gahwiler testified that Mortgage Call Reports are filed through NMLS by licensees on a quarterly basis and contain information about applications received and loans closed by the licensee. Mr. Gahwiler reviewed the Mortgage Call Reports filed by Ms. Smith for Expert Financial Enterprises prior to the examination. Respondent's Exhibit 9 ("R9"). Specifically, he

reviewed the Mortgage Call Reports for the second calendar quarter of 2016 through the first calendar quarter of 2018. R9. Mr. Gahwiler testified that each of the eight Mortgage Call Reports he reviewed indicated that no applications were received and no loans were closed by Expert Financial Enterprises during the time period covered by the report. R9.

Mr. Gahwiler testified that he had a conversation with Ms. Smith about the discrepancies between the Mortgage Loan Transaction Journal and the Mortgage Call Reports. During this conversation, Mr. Gahwiler advised Ms. Smith that she should file amendments to the Mortgage Call Reports on NMLS reflecting the accurate data. Ms. Smith filed amendments to several of the inaccurate Mortgage Call Reports on June 28, 2018. Respondent's Exhibit 10 ("R10"). Specifically, she filed amendments to the Mortgage Call Reports for Q4 2016, Q1 2017, Q2 2017, and Q3 2017.³ R10. Additionally, Mr. Gahwiler testified that the amendment to the Q3 2017 Mortgage Call Report did not match the data from the Mortgage Loan Transaction Journal. R8; R10. The Mortgage Loan Transaction Journal reflects that three loans were closed during the third quarter of 2017; the amendment to the Mortgage Call Report reflects that two loans were closed during the same quarter. R8; R10.

Justin McElheney provided testimony on behalf of the Department. Mr. McElheney testified that he is the Director of Non-Depository Financial Institutions at the Department. He has served in that role since August 2018. In his role as Director, Mr. McElheney testified that he reviews and issues Reports of Examination for licensees.

Mr. McElheney testified that he was involved with the preparation of the Report of Examination for Mortgage Experts. Respondent's Exhibit 11 ("R11"). The transmittal letter accompanying the Report of Examination indicated that Mortgage Experts' operations were "critically deficient" and requested that Mortgage Experts "submit a written response to the Department ... within 30 days of the date of this letter." R11, p. 1. The Report of Examination states that "[c]ertain violations of laws and regulations cited in this Report are considered to be serious in nature and subject the licensee to administrative action, including revocation of the mortgage broker license." R11, p. 1 of 7. The Report of Examination issued to Mortgage Experts lists numerous violations, including, but not limited to, the violations of O.C.G.A. §§ 7-1-1004(k) and 7-1-1013(1), (2), (6), and (11) at issue here. R11, pp. 3-6.

Mr. McElheney testified that the Department emailed the Report of Examination to Ms. Smith through a secure email. After Ms. Smith accessed the Report of Examination, she emailed Mr. McElheney regarding the findings. R12. Specifically, Ms. Smith indicated in her email that: (1) background checks were done and provided to the examiners; and (2) Shameeka Babbs had done the cutting and pasting of the signature in the Leatrice Carter file, Ms. Babbs had been fired for this offense, and Ms. Smith had told the examiners this. R12. Mr. McElheney testified that the claims made by Ms. Smith in her January 17, 2020 email were not consistent with her previous written statements to the Department. *Compare* R5 and R6 with R12. Specifically, Ms. Smith previously told the Department that she had altered the loan documents at the request of the borrower. R5. She also told the Department that she did not have access to the employee background checks that she had run prior to hiring them but that she would run GCIC compliant

³ Throughout this Order, "Q1" references the first calendar quarter; "Q2" references the second calendar quarter; "Q3" references the third calendar quarter; and "Q4" references the fourth calendar quarter.

checks in the future. R6. Mr. McElheney testified that providing conflicting explanations in response to violations is very concerning and a misrepresentation as at least one of the statements must be false. Mr. McElheney testified that licensees are required to notify the Department if an employee is terminated for fraud but that Ms. Smith did not notify the Department that Ms. Babbs was terminated for this reason.

In his reply email to Ms. Smith, Mr. McElheney reiterated his request that Petitioners provide a written response, preferably on company letterhead, to the findings in the Report of Examination. R12. Mr. McElheney testified that the Department did not receive any written explanation or any further communication from Ms. Smith in response to the Report of Examination or the January 17, 2020 emails. Mr. McElheney further testified that no amended call reports were filed for Q2 2016; Q3 2016; Q4 2017; or Q1 2018, nor was a second amendment filed for Q3 2017. Respondent's Exhibit 13 ("R13").

Mr. McElheney testified that the Department issued a Notice of Intent to Revoke Annual Mortgage License to Expert Financial Enterprises on September 20, 2017 ("2017 Notice"). Respondent's Exhibit 14 ("R14"). The 2017 Notice was issued in part because Expert Financial Enterprises failed to file Mortgage Call Reports for the first and second calendar quarters of 2017. R14. Mr. McElheney testified that Expert Financial Enterprises filed Mortgage Call Reports for Q1 2017 and Q2 2017 on September 21, 2017 – the day after the 2017 Notice was issued. R9; R14. However, Mr. McElheney testified that, as Mr. Gahwiler previously noted, the Department discovered during the examination that the Mortgage Call Reports for Q1 2017 and Q2 2017 were not accurate. R8; R9; R10; R14.

Mr. McElheney testified that the 2017 Notice was rescinded after the Mortgage Call Reports were filed on September 21, 2017 and other issues were apparently resolved. He further testified that it is standard practice of the Department to rescind administrative actions if the issues identified in the action appear to have been resolved. Mr. McElheney testified that it is problematic that inaccurate Mortgage Call Reports were filed in an apparent attempt to resolve an administrative action. Mr. McElheney testified that the rescission of the 2017 Notice permitted Expert Financial Enterprises to continue to operate.

Mr. Cole cross examined Mr. McElheney. Mr. McElheney testified that Department Rule 80-11-3-.01 allows the Department to both assess a fine and subject the licensee to suspension or revocation for any violations. Mr. McElheney testified that the Report of Examination states that "[c]orrective action is necessary to address weaknesses in the licensee's policies and procedures to prevent repeat violations and promote ongoing compliance with all applicable laws and regulations." R11, p. 1 of 7. Further, Mr. McElheney testified that the preceding sentence in the Report of Examination specifically provides that certain violations cited in the Report of Examination may subject the licensee to administrative action. R11, p. 1 of 7. Mr. Cole asked if the Report of Examination was a determination to allow Mortgage Experts and Ms. Smith to continue to operate. Mr. McElheney testified that the Report of Examination was not a determination by the Department and that the referenced language in the Report is uniformly provided to licensees by the Department.

Andy Reid provided testimony on behalf of the Department. Mr. Reid testified that he is a Supervisory Examiner for the Department and that he has been with the Department for

fifteen years. Mr. Reid testified that he has participated in or supervised close to one thousand examinations in his time with the Department. Mr. Reid testified that he is familiar with the Department's file on Petitioners.

Mr. Reid testified that alteration of loan documents, such as the cutting and pasting of signatures, is a very serious violation in the eyes of the Department. Mr. Reid testified that the Department views such alterations as misrepresentations of the truth. Mr. Reid further testified that the typical consequences for altering documents is a fine of one thousand dollars per violation and possible revocation for the company and for the individual mortgage loan originator.

Mr. Reid testified that various entities or individuals may rely on documents in the loan file to make decisions regarding a loan, including the borrower, the lender, the underwriter, or regulators. Specifically, Mr. Reid testified that explanation of credit inquiries is relied on by the lender to understand the potential borrower's debts and credit inquiries. R4. Mr. Reid testified that, in his experience, a document like this is required by the lender and is used for underwriting purposes. Mr. Reid testified the fact that the document was not signed by the borrower and instead had a cut and paste signature is very serious and could have affected the lender's underwriting decision. Additionally, Mr. Reid testified that the HUD Appraised Value Disclosure notifies borrowers that the amount the subject property is appraised for is very important for the borrower. R4. Mr. Reid testified that this Disclosure explains that the borrower may be responsible for certain repairs or conditions if the appraisal is different from the contract price. R4. Mr. Reid testified that the fact that the document was not signed by the borrower and instead had a cut and paste signature could have caused harm to the borrower if the borrower was unaware of the conditions of the disclosure. Mr. Reid testified that it is never appropriate for a mortgage loan originator, broker, or lender to cut and paste signatures on any document in the loan file. Mr. Reid testified that the Department has a zero-tolerance policy on alterations on any documents in the loan file.

Mr. Reid testified that the regulations of the Department require that licensed mortgage brokers and lenders file Mortgage Call Reports each quarter. He further testified that the Department utilizes the Mortgage Call Reports to determine the scope and frequency of examinations depending on the volume of business and the type of business the licensee is doing. Mr. Reid testified that inaccurate Mortgage Call Reports hinder the Department's ability to regulate licensees. From his experience, Mr. Reid testified that Mortgage Call Reports that report zero activity are often inaccurate because a licensee generally would not apply for and renew a license if the licensee was not conducting any business.

Mr. Reid testified that the examination of Mortgage Experts was prompted by the zero activity Mortgage Call Reports and the fact that Mortgage Experts had not been previously examined. Mr. Reid testified that a licensee can correct mistakes made on Mortgage Call Reports by filing an amendment. To his knowledge, there is no limitation on the number of amendments a licensee can file for a Mortgage Call Report.

Mr. Reid testified that, based on the findings of the examination, the Department could not determine that Mortgage Experts would "operate its mortgage ... brokerage activities in compliance with the laws of this state and in a manner which protects the contractual and

property rights of the citizens of this state.” O.C.G.A. § 7-1-1004(b). Mr. Reid additionally testified that the Department could not determine that Ms. Smith is “of good character and ethical reputation” as required by O.C.G.A. § 7-1-1004(a). Further, Mr. Reid testified that the Department could not determine that Ms. Smith “demonstrate[d] ... character and general fitness such as to command the confidence of the community and to warrant a determination that [she] will operate honestly, fairly, and efficiently within the purposes of this article.” O.C.G.A. § 7-1-1004(d)(3).

Mr. Cole cross examined Mr. Reid. Mr. Reid testified that he was not certain whether suspension was an available remedy for licensees who have engaged in a prohibited act. Ms. Harris re-examined Mr. Reid. Mr. Reid testified that he was not certain whether the Department has ever utilized suspension for a mortgage broker or lender licensee who has engaged in a prohibited act, but that it was possible that licensees had previously been suspended.

To support the Department’s decision to revoke Petitioners’ mortgage broker and mortgage loan originator licenses and issue a cease and desist order to Ms. Smith, the Department tendered into evidence the following exhibits during the January 7, 2021 hearing:

- R1** – Examination Letter sent to Ms. Smith and Mortgage Experts, dated May 9, 2018;
- R2** –Officer’s Questionnaire completed by Ms. Smith, dated June 18, 2018;
- R3** – Uniform Residential Loan Application for Leatrice Carter;
- R4** – Altered documents found in the Leatrice Carter loan file;
- R5** – Explanation letter and cover email sent to Mr. Gahwiler from Ms. Smith regarding the Leatrice Carter loan file, dated June 20, 2018;
- R6** – Explanation letter sent to Mr. Gahwiler from Ms. Smith regarding the background checks on Mortgage Expert employees, dated June 20, 2018;
- R7** – Email correspondence between Ms. Smith and Mr. Gahwiler regarding Shameeka Babbs on June 20, 2018;
- R8** – Mortgage Loan Transaction Journal for Mortgage Experts from January 2016 to April 2018;
- R9** – Mortgage Call Reports filed by Ms. Smith on behalf of Mortgage Experts for Q2 2016, Q3 2016, Q4 2016, Q1 2017, Q2 2017, Q3 2017, Q4 2017, and Q1 2018;
- R10** – Mortgage Call Report Amendments filed by Ms. Smith on behalf of Mortgage Experts for Q4 2016, Q1 2017, Q2 2017, and Q3 2017;
- R11** – Transmittal Letter and Report of Examination issued to Mortgage Experts on January 16, 2020;
- R12** – Email correspondence between Ms. Smith and Mr. McElheney on January 17, 2020;
- R13** – Record of filings of Mortgage Call Reports and amendments for Mortgage Experts for Q2 2016, Q3 2016, Q4 2016, Q1 2017, Q2 2017, Q3 2017, Q4 2017, and Q1 2018; and
- R14** – Notice of Intent to Revoke Annual Mortgage License issued to Mortgage Experts on September 20, 2017.

Petitioners did not object to the introduction of any of the Department's exhibits. The Department rested its case following Mr. Reid's testimony.

After the Department rested its case, Petitioners presented their case. Ms. Smith testified on behalf of Petitioners. Ms. Smith testified that she is the sole owner and president of Mortgage Experts and that she was the sole owner and president of Expert Financial Enterprises prior to the company name change. She further testified that she has been licensed for about seven years and that she works out of an office in Stockbridge.

Ms. Smith testified that she first became aware of the alteration in the Leatrice Carter loan file when Mr. Gahwiler discovered it during the Department's examination. She testified that she did not alter the document but that she realized that Shameeka Babbs, her former employee, must have altered it. Ms. Smith acknowledged that she told the Department that she had altered the documents but that was not true. R5. She testified that she was scared of losing her license and income and that she was worried she would go to jail. She also testified that her father was in hospice at the time which contributed to her worries. Ms. Smith testified that she wrote the letter of explanation to Mr. Gahwiler in order to solve a problem. R5.

Ms. Smith further testified that she terminated Ms. Babbs' employment with Mortgage Experts immediately after learning of the alteration. Ms. Smith testified that she corrected her previous statements when she emailed Mr. McElheney after receiving the Report of Examination. R12. She testified that her statement in the January 17, 2020 email was true and accurate. R12.

Ms. Smith testified that Mortgage Experts is currently closed due to COVID-19. Further, Ms. Smith testified that she is legally blind. Petitioners' Exhibit A ("PA"). Ms. Smith further testified that she has trouble viewing and working on computer screens, so Ms. Babbs handled the Mortgage Call Reports and other administrative tasks. Ms. Smith testified that she was not aware that Ms. Babbs had submitted reports that did not accurately reflect the loans that Mortgage Experts had brokered. Ms. Smith testified that she has since implemented systems to prevent that from happening again.

Ms. Smith further testified that she had done background checks for her employees when she hired them. She testified that she obtained these checks through an online company and is not sure whether the background checks were GCIC compliant or not. Ms. Smith testified that there are now controls and procedures in place to get GCIC background checks before hiring any future employees.

Ms. Harris cross examined Ms. Smith. Ms. Harris requested that Ms. Smith provide an explanation regarding the date of Ms. Babbs' firing – in Ms. Smith's June 20, 2018 email to Mr. Gahwiler, Ms. Smith indicated that Ms. Babbs left employment in May 2018, but that her January 17, 2020 email indicated that Ms. Babbs was fired after the alteration to the Leatrice Carter loan file was discovered. Ms. Smith testified that the dates of Ms. Babbs' termination were incorrect in her June 20, 2018 email to Mr. Gahwiler and that she was fired at a different time. Ms. Smith testified that she did not report Ms. Babbs' termination to the Department. Ms. Smith testified that she did not provide a letter of explanation to the Department after receiving the Report of Examination. Ms. Smith testified that she thought that she should just pay the fine

because she was wrong and it was her fault. She further testified that she was not going to contest the fines so she believed that she could just pay them and not submit an explanation.

Ms. Smith testified that Ms. Babbs submitted the Mortgage Call Reports on behalf of Mortgage Experts using Ms. Smith's NMLS login. Ms. Smith testified that she is the owner and president of Mortgage Experts and that she is responsible for what the company does and responsible for her employees. She testified that she has technology to review some documentation on her computer, but that it does not work with all websites or documents. Ms. Smith testified that she has not used a company to assist with Mortgage Call Report filings, background checks, and other compliance issues but that she intends to do so. She further testified that another assistant at Mortgage Experts has been filing Mortgage Call Reports for the company since Ms. Babbs left.

Ms. Smith admitted to all the allegations brought by the Department in the administrative actions. She acknowledged that she made mistakes but stated that she has plans to implement procedures to prevent anything similar from happening again.

In support of their case, the Petitioners admitted the following exhibit into evidence at the January 7, 2021 hearing. The Department did not object.

PA – Eye Examination Documentation for Tyesa Smith, dated December 29, 2020.

The Petitioners rested their case after Ms. Smith's testimony. After the close of the case, Ms. Smith requested permission to submit a letter of recommendation from her pastor at Destiny World Church. The Commissioner permitted Ms. Smith to submit the letter, which was received on January 8, 2021. The Tribunal has marked the letter from Pastor Wilbur T. Purvis III as Petitioners' Exhibit B ("PB"). Ms. Smith additionally submitted a joint letter of recommendation from Myron Allen and Nicole Chapman, the principal and parent liaison at J.W. Arnold Elementary School in Jonesboro, Georgia. The Tribunal has marked the letter as Petitioners' Exhibit C ("PC"). The Commissioner indicated to the parties that he would review all evidence and testimony submitted as a part of the hearing, including the letters of recommendation.

B. FINDINGS OF FACT

1.

Mortgage Experts, Inc was formerly known as Expert Financial Enterprises, Inc. and is licensed as a mortgage broker with the Department. Tyesa Smith is the president and sole owner of Mortgage Experts. Ms. Smith is the sole licensed mortgage loan originator for Mortgage Experts.

2.

The Department initiated an examination of Mortgage Experts by sending a letter on or about May 11, 2018. The Department initiated the examination because: (1) Mortgage Experts had not previously been examined by the Department; and (2) Mortgage Experts had consistently

reported zero mortgage activity on the quarterly Mortgage Call Reports filed with NMLS. The onsite portion of the examination was conducted on or about June 18, 2018.

3.

The scope of the examination was from April 30, 2016 to April 30, 2018. R1; R2.

4.

As part of the examination, the Department requested that Petitioners provide loans files for certain borrowers, including Leatrice Carter. R3; R4. The Uniform Residential Loan Application on file for Leatrice Carter indicated that Ms. Smith was the mortgage loan originator for the transaction. During the review of the file, the Department discovered that two documents had signatures that had been cut out and pasted onto other documents. R4. Specifically, the borrower's signature on a letter titled "Explanation monthly bank statement" was cut out. R4. That signature was then pasted onto a letter of explanation for credit inquiries, which lenders generally require to fund a loan. R4. Additionally, the borrower's signature on a letter titled "Explanation of property located at 326 W. 16th St. Jacksonville, FL 32206" was cut out and pasted onto a HUD Appraised Value Disclosure. R4. HUD Appraised Value Disclosures are required in all residential mortgage transactions.

5.

During the onsite portion of the examination, Ms. Smith admitted to having performed the cut and paste and indicated that she was attempting to help the borrower. On June 20, 2018, Ms. Smith provided an email with an attached letter of explanation regarding the alteration. R5. In the letter, she did not deny having cut and pasted the signatures. R5. She reiterated that she was attempting to help the borrower and that the borrower specifically asked her to cut and paste the signature from one document to another. R5.

6.

The Department considers alterations to loan documents, such as the cutting and pasting of signatures that was found in the Leatrice Carter file, very serious violations. The Department generally assesses a fine and pursues revocation against licensees who alter documents in connection with the making of a mortgage loan.

7.

As part of the examination, the Department requested a list of employees and the dates on which GCIC background checks were run on the employees. R2. On the Officer's Questionnaire, Petitioners listed two employees for Mortgage Experts. R2, p. 4-14. Petitioners did not list an initial background check date for either employee. R2, p. 4-14.

8.

During the onsite portion of the examination, the lack of background check information was discussed with Ms. Smith. On June 20, 2018, Petitioners provided a letter of explanation

regarding the background checks. R6. In the letter, Ms. Smith stated that she had done background checks with an online company but no longer had a record of the background checks. R6. Ms. Smith additionally stated that she would obtain GCIC background checks on her employees moving forward. R6. Petitioners did not provide background checks on the employees at any point during the examination.

9.

During the examination, the Department discovered records of an employee, Shameeka Babbs, who was not listed on the Officer's Questionnaire. R7; R2, p. 4-14. During the onsite portion of the examination, the Department requested more information regarding Ms. Babbs' employment. R7. In an email dated June 20, 2018, Petitioners indicated that Ms. Babbs was a previous employee of Mortgage Experts but that she had left employment with Mortgage Experts on May 11, 2018. R7. Petitioners further stated that Mortgage Experts did not have a background check on file for Ms. Babbs. R7.

10.

As part of the examination, the Department requested the Mortgage Loan Transaction Journal from Petitioners. R8. The Mortgage Loan Transaction Journal shows that Mortgage Experts received thirty-three loan applications from April 30, 2016 through April 30, 2018. R8, p.2. Additionally, the Mortgage Loan Transaction Journal shows that twenty-four of those loans closed between April 30, 2016 and April 30, 2018. R8, p.2.

11.

The eight Mortgage Call Reports filed by Petitioners between the second calendar quarter of 2016 and the first calendar quarter of 2018 indicated that no applications were received and no loans were closed during the time covered by the report. R9.

12.

The information provided by Petitioners on the Mortgage Call Reports is inaccurate. Specifically, the data inputted on the Mortgage Call Reports did not reflect the loan activity contained on the Mortgage Loan Transaction Journal. R8. The Mortgage Loan Transaction Journal shows the following data for each quarter identified by the Department:

- Q2 2016: 7 loan applications received; 2 loans closed;
- Q3 2016: 5 loan applications received; 2 loans closed;
- Q4 2016: 2 loan applications received; 2 loans closed;
- Q1 2017: 3 loan applications received; 3 loans closed;
- Q2 2017: 6 loan applications received; 6 loans closed;
- Q3 2017: 3 loan applications received; 3 loans closed;
- Q4 2017: 2 loan applications received; 2 loans closed; and
- Q1 2018: 5 loan applications received; 2 loans closed.

R8.

13.

During the onsite portion of the examination, the Department discussed the inaccurate Mortgage Call Reports with Ms. Smith. The Department recommended that Petitioners file amendments to all of the inaccurate Mortgage Call Reports that had been filed.

14.

Petitioners filed amendments to Mortgage Call Reports for Q4 2016, Q1 2017, Q2 2017, and Q3 2017. The amendments show the following information:

- Q4 2016 Amendment: 2 applications received; 2 loans closed;
- Q1 2017 Amendment: 3 applications received; 3 loans closed;
- Q2 2017 Amendment: 6 applications received; 6 loans closed; and
- Q3 2017 Amendment: 2 applications received; 2 loans closed.

R10. The amendment to the Q3 2017 Mortgage Call Report is inconsistent with the data contained on the Mortgage Loan Transaction Journal. R8; R10. The Mortgage Loan Transaction Journal reflects that three loans were closed during the third quarter of 2017; the amendment to the Mortgage Call Report reflects that two loans were closed during the same quarter. R8; R10. A second amendment to the Q3 2017 Mortgage Call Report was not filed. R13. Additionally, no amendments to the Mortgage Call reports for Q2 2016, Q3 2016, Q4 2017, and Q1 2018 were filed by Petitioners. R13.

15.

The Department utilizes Mortgage Call Reports in the regulation of mortgage brokers and lenders. Specifically, the Department relies on Mortgage Call Reports to ensure that licensed mortgage brokers and lenders are only doing work that they are authorized to do, to determine which brokers and lenders to examine, and to determine the scope of such examinations. Inaccurate information on Mortgage Call Reports prevents the Department from being able to properly regulate the mortgage broker or lender.

16.

On January 16, 2020, the Department issued a Report of Examination and transmittal letter to Petitioners. R11. The transmittal letter specifically requested that “the licensee submit a written response to the Department ... within 30 days of the date of this letter.” R11.

17.

The Report of Examination cited Mortgage Experts for the following relevant violations:

- Violation of O.C.G.A. § 7-1-1013 for cutting and pasting a borrower’s signature on documents related to the purchase of a loan; R11, p. 3 of 7;
- Violation of O.C.G.A. § 7-1-1004(k) for failure to timely obtain GCIC background checks on covered employees; R11, p. 5 of 7; and

- Violation of O.C.G.A. § 7-1-1004.1 for failure to file timely or accurate Mortgage Call Reports; R11, p. 6 of 7.

18.

On January 17, 2020, Ms. Smith emailed Mr. McElheney on behalf of Mortgage Experts regarding the findings in the Report of Examination. R12. Ms. Smith stated that: (1) background checks were done prior to the examination and that she had emailed the background checks to the examiner; (2) Ms. Smith did not cut and paste the signatures in the Leatrice Carter loan file and that Shameeka Babbs had cut and pasted the signatures and had been fired for altering the documents. R12.

19.

Petitioners statement in the January 17, 2020 email conflicts with the written explanations previously provided to the Department on June 20, 2018. *Compare* R4 and R5 with R12. Specifically, Petitioners previously stated that Ms. Smith had altered the documents in question and conducted online background checks – instead of GCIC background checks – but no longer had access to the results. The Department takes conflicting statements on material issues very seriously and views such conflicting statements as misrepresentations to the Department because one of the statements must be false.

20.

Mr. McElheney responded to the email and reiterated the importance of providing a formal written response via hard copy letter or PDF document within 30 days. R12. Petitioners did not provide any further response or have further correspondence with the Department after the January 17, 2020 email.

21.

The Department previously issued a Notice of Intent to Revoke Annual Mortgage License to Mortgage Experts on September 20, 2017. R14. The 2017 Notice was issued in part due to Mortgage Experts' failure to timely submit Mortgage Call Reports for Q1 2017 and Q2 2017. R14. Petitioners submitted Mortgage Call Reports for Q1 2017 and Q2 2017 on September 21, 2017. R9. Based on the Mortgage Call Reports filed on September 21, 2017, the Department believed that the issue of the Mortgage Call Reports was resolved and chose to rescind the 2017 Notice. However, both Mortgage Call Reports filed on September 21, 2017 were inaccurate. Specifically, each Mortgage Call Report showed that no applications were received and no loans were closed during the relevant quarter. R9. The Mortgage Loan Transaction Journal shows that applications were received and loans were closed that were not correctly reported on the Mortgage Call Report. R8; R9. Further, on or about June 28, 2018, Petitioners filed amended call reports for Q1 2017 and Q2 2017 which also indicated that loan applications were taken and closed during the relevant quarters. R10.

22.

The filing of the inaccurate zero Mortgage Call Reports for Q1 2017 and Q2 2017, the

day after the issuance of the 2017 Notice on September 20, 2017, was done for the sole purpose of deceiving the Department into withdrawing the pending administrative action.

23.

At the January 7, 2021 hearing, Ms. Smith testified that she had not done the cutting and pasting of the signatures in the Leatrice Carter file. Ms. Smith stated that she was unaware of the signature alteration until Mr. Gahwiler brought it up during the examination and reiterated her statement from the January 17, 2020 email that Ms. Babbs had cut and pasted the signature. Ms. Smith further testified that she had fired Ms. Babbs after discovering the alteration during the examination. Ms. Smith testified that she did not report Ms. Babbs' firing to the Department.

24.

The testimony given under oath by Ms. Smith at the January 7, 2021 hearing is consistent with the statements made in her January 17, 2020 email, other than the fact she asserted in her email that she had told the Department's examiner that Ms. Babbs had altered the document – a position she abandoned at the hearing. However, both versions are inconsistent with her written and verbal statements made on or about June 20, 2018 to the Department. R4; R5; R7; R12. Originally, Ms. Smith stated that she cut and pasted the signatures at the request of the borrower. R5. Additionally, Ms. Smith indicated that Ms. Babbs was fired in May 2018. R7. At the hearing, Ms. Smith claimed that Ms. Babbs had cut and pasted the signatures, that Ms. Smith was unaware of the alterations until the examination, and that Ms. Babbs was fired after the alteration was discovered. This Tribunal finds Ms. Smith's testimony not credible on this point as statements made close to the date of the event are more likely to make a true account of events. This finding is underscored by the inconsistency in her email on January 17, 2020 and her testimony at the hearing regarding whether she informed the Department during the course of the examination that the alteration was carried out by Ms. Babbs. However, if Ms. Smith's testimony at the hearing is correct, it establishes that Ms. Smith made multiple misrepresentations on behalf of Mortgage Experts to the Department during the examination and after related to the alteration of documents and Ms. Babbs' employment.

25.

Ms. Smith admitted that all the allegations by the Department in the Administrative Actions were true.⁴

26.

Ms. Smith testified that she is legally blind and provided documentation from her eye doctor. PA. Ms. Smith testified that, because of her vision, she did not submit the Mortgage Call Reports for Mortgage Experts. Ms. Smith testified that Ms. Babbs submitted the Mortgage Call Reports using Ms. Smith's NMLS login. Ms. Smith testified that she was unaware that Ms. Babbs was submitting incorrect reports. Ms. Smith further testified that another assistant has been submitting the Mortgage Call Reports since Ms. Babbs was fired from Mortgage Experts.

⁴ The only allegation that Ms. Smith appeared to dispute was the allegation that she had personally cut and pasted the borrower's signature in the Leatrice Carter file as opposed to Ms. Babbs.

This Tribunal finds Ms. Smith's testimony to not be credible. Even if it is credible, Ms. Smith is responsible for information filed on NMLS under her username and on behalf of Mortgage Experts as she is the sole owner and CEO.

C. CONCLUSIONS OF LAW

1.

The Department may revoke a mortgage lender, mortgage broker, or mortgage loan originator license "on any ground on which it might refuse to issue" such license or for "violation of any provision of this article ... or any rule or regulation issued under this article..." O.C.G.A. § 7-1-1017(a).

2.

The Department may issue an order to cease and desist to any person required to be licensed or employed by a licensee who has violated any law of this state or any order or regulations of the Department. O.C.G.A. § 7-1-1018(a).

3.

Pursuant to O.C.G.A. § 7-1-1013, it is prohibited for any person licensed by the Department to conduct a mortgage business in this state to:

(1) Misrepresent the material facts, make false statements or promises, or submit false documents likely to influence, persuade, or induce an applicant for a mortgage loan, a mortgagee, or a mortgagor to take a mortgage loan, or, through agents or otherwise, pursue a course of misrepresentation by use of fraudulent or unauthorized documents or other means to the department or anyone;

(2) Misrepresent or conceal or cause another to misrepresent or conceal material factors, terms, or conditions of a transaction to which a mortgage lender or broker is a party, pertinent to an applicant or application for a mortgage loan or a mortgagor;

...

(6) Engage in any transaction, practice, or course of business which is not in good faith or fair dealing, or which operates a fraud upon any person, in connection with the attempted or actual making of, purchase of, transfer of, or sale of any mortgage loan;

...

(11) Purposely withhold, delete, destroy, or alter information requested by an examiner of the department or make false statements or material misrepresentations to the department or the Nationwide Multistate Licensing System and Registry or in connection with any investigation conducted by the

department or another governmental agency.

4.

Ms. Smith was the mortgage loan originator for the Leatrice Carter loan. R3. Two documents in the Leatrice Carter loan file had the borrower's signature cut out. R4. The signatures from those documents were pasted onto two other documents which were then placed in the loan file and relied upon to close the mortgage loan for the borrower. R4. On or about June 20, 2018, Ms. Smith admitted to the Department that she had cut and pasted the signatures in the Leatrice Carter loan file at the request of the borrower. R5. By altering documents in the loan file, Petitioners "submit[ted] false documents likely to influence, persuade, or induce an applicant for a mortgage loan, a mortgagee, or a mortgagor to take a mortgage loan..." in violation of O.C.G.A. § 7-1-1013(1).

5.

One of the documents that had a cut and paste signature was a letter of explanation for credit inquiries. R4. This document is relied upon by lenders and utilized in the underwriting process. The second document with a cut and paste signature was a HUD Appraised Value Disclosure, which notifies the borrower of certain conditions related to the appraisal and the rights the borrower may have depending on the appraisal. R4. The borrower did not sign either of these documents. By submitting these documents with a signature that had been cut and pasted from another document, Petitioners "[m]isrepresent[ed] or conceal[ed] ... material factors, terms, or conditions of a transaction to which a mortgage lender or broker is a party, pertinent to an applicant or application for a mortgage loan or a mortgagor" in violation of O.C.G.A. § 7-1-1013(2). Further, by submitting altered documents, Petitioners engaged in a practice which is not in good faith and fair dealing and which operated a fraud against a person in connection with brokering the loan in violation of O.C.G.A. § 7-1-1013(6).

6.

On or about January 17, 2020, Ms. Smith told the Department that she did not make the alterations to the documents in the Leatrice Carter file. R12. Instead, Ms. Smith told the Department that her employee, Shameeka Babbs, cut and pasted the signatures on the documents. R12. On the same date, Ms. Smith informed the Department that Ms. Babbs had been fired for this alteration. R12. Ms. Smith reiterated these assertions in her testimony at the hearing. Although the Tribunal finds Ms. Smith's earlier representations that she altered the documents more credible, it is ultimately irrelevant to the issue of whether the Petitioners violated O.C.G.A. § 7-1-1013(11). By giving conflicting explanations to the Department, it is evident that Petitioners made "false statements or material misrepresentations to the Department" in violation of O.C.G.A. § 7-1-1013(11).

7.

On or about June 20, 2018, Ms. Smith told the Department that Ms. Babbs had been previously employed with Mortgage Experts but that Ms. Babbs had left the company on May 11, 2018. At the hearing, Ms. Smith testified that she was unaware of the altered documents until they were brought to her attention during the examination, which occurred on or about June

18, 2020. Ms. Smith also testified that she had fired Ms. Babbs after learning of the alteration but failed to provide the Department with the statutorily required notice documenting the termination. Ms. Smith further testified that she had given the Department incorrect information about Ms. Babbs' dates of employment in her June 20, 2018 email. R7. Ms. Smith gave the Department incorrect information regarding Ms. Babbs employment and her role in the alteration of the documents either during the examination or a year and a half later after the Report of Examination was issued. Although the Tribunal finds Ms. Smith's earlier representations more credible, it is ultimately irrelevant to the issue of whether Petitioners violated O.C.G.A. § 7-1-1013(11). Regardless of which statement is true, Petitioners made "false statements [and] material misrepresentations to the Department" in violation of O.C.G.A. § 7-1-1013(11).

8.

Pursuant to O.C.G.A. § 7-1-1004.1, licensees are required to submit reports of condition as required by the Department. One of the required reports is a Mortgage Call Report that must be filed quarterly. Department Rule 80-11-3-.01(28). The call reports filed by Petitioners via NMLS for Q2 2016, Q3 2016, Q4 2016, Q1 2017, Q2 2017, Q3 2017, Q4 2017, and Q1 2018 all reflected that Mortgage Experts had received zero mortgage loan applications and closed zero mortgage loans. R9. However, the Mortgage Loan Transaction Journal for Mortgage Experts showed that mortgage loan applications were received and mortgage loans were closed for each relevant quarter. R8. By filing inaccurate Mortgage Call Reports, Petitioners violated O.C.G.A. § 7-1-1004.1 and Department Rule 80-11-3-.01(28). Additionally, by filing the inaccurate Mortgage Call Reports, Petitioners made "false statements [and] material misrepresentations to the Department and [NMLS]" in violation of O.C.G.A. § 7-1-1013(11).

9.

In addition to Petitioners general failure to file accurate Mortgage Call Reports, Petitioners filed two inaccurate Mortgage Call Reports the day after the failure to file Mortgage Call Reports was identified in an administrative action issued by the Department. As a result of these inaccurate filings, the Department withdrew those administrative actions. By filing these two inaccurate Mortgage Call Reports to resolve the pending administrative action, Petitioners made "false statements [and] material misrepresentations to the Department and [NMLS]" in violation of O.C.G.A. § 7-1-1013(11).

10.

Pursuant to O.C.G.A. § 7-1-1004(k), each mortgage broker licensee "shall be authorized and required to obtain background checks on covered employees. Such background checks shall be handled by the Georgia Crime Information Center pursuant to Code Section 35-3-34 and the rules and regulations of the Georgia Crime Information Center... A background check shall be initiated for a person in the employ of a licensee... within ten days of the date of initial hire..." *See also* Department Rule 80-11-1-.05. Petitioners failed to provide GCIC background checks, or the dates background checks were run, for two employees of Mortgage Experts. On or about June 20, 2018, Ms. Smith stated that she did not have a record of background checks but that Petitioners had previously run background checks through an online company. R6. Background checks obtained from an online company are not run through the

GCIC and thus, Petitioners violated O.C.G.A. § 7-1-1004(k) and Department Rule 80-11-1-.05 by failing to obtain GCIC background checks on covered employees of Mortgage Experts.

11.

When initially asked about the backgrounds checks, Ms. Smith originally told the Department that she had run background checks through an online company but did not have access to the results. R6. However, a year and a half later, Ms. Smith claimed that she had run the correct background checks and provided them to the Department shortly after the onsite examination. The Department did not receive any background checks from Petitioners at any time. By giving conflicting explanations to the Department, it is evident that Petitioners made “false statements or material misrepresentations to the Department” in violation of O.C.G.A. § 7-1-1013(11).

12.

Pursuant to O.C.G.A. § 7-1-1004(a), a broker licensee and its officers and directors must be of good character and ethical reputation. Based on the violations enumerated in paragraphs 4-11, specifically violations of O.C.G.A. §§ 7-1-1013(1), (2), (6), (11), 7-1-1004.1, 7-1-1004(k) and Rule 80-11-1-.05, Petitioners have not demonstrated the good character and ethical reputation required in O.C.G.A. §§ 7-1-1004(a).

13.

Pursuant to O.C.G.A. § 7-1-1017(a), revocation of either an annual broker license or a mortgage loan originator license is supported if the licensee has violated the Act. As set forth in paragraphs 4-11, Petitioners violated O.C.G.A. §§ 7-1-1013(1), (2), (6), (11), 7-1-1004.1, 7-1-1004(k) and Rule 80-11-1-.05, and as such revocation is warranted.

14.

Pursuant to O.C.G.A. § 7-1-1018, an order to cease and desist is supported if a licensee or an employee of a licensee has violated the Act. As set forth in paragraphs 4-11, Ms. Smith violated O.C.G.A. §§ 7-1-1013(1), (2), (6), (11), 7-1-1004.1, 7-1-1004(k) and Rule 80-11-1-.05, and as such the order to cease and desist is warranted.

15.

Pursuant to O.C.G.A. § 7-1-1017(a), revocation is proper if grounds exist to not issue an original license. O.C.G.A. § 7-1-1004(b) provides that the Department shall not license a mortgage broker unless the Department is satisfied that the broker “may be expected to operate its mortgage ... brokerage activities in compliance with the laws of this state and in a manner which protects the contractual and property rights of the citizens of this state.” Based on Petitioners’ repeated inaccurate, false, and misleading statements to the Department in violation of O.C.G.A. § 7-1-1013(11), the alteration of loan documents in violation of O.C.G.A. §§ 7-1-1013(1), (2) and (6), and Petitioners’ failure to run GCIC background checks on employees as required by O.C.G.A. § 7-1-1004(k), Mortgage Experts cannot be expected to operate in compliance with the laws of this state as required by O.C.G.A. § 7-1-1004(b). Based on the use

of altered documents to complete a mortgage transaction in violation of O.C.G.A. § 7-1-1013, Mortgage Experts cannot be expected to operate in a manner which protects the contractual and property rights of citizens in Georgia as required by O.C.G.A. § 7-1-1004(b).

16.

Pursuant to O.C.G.A. § 7-1-1017(a), revocation is proper if grounds exist to not issue an original license. O.C.G.A. § 7-1-1004(d)(3) provides that a mortgage loan originator must demonstrate “character[] and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of [GRMA].” The violations enumerated above, specifically Ms. Smith’s repeated inaccurate, false, and misleading statements to the Department in violation of O.C.G.A. § 7-1-1013(11) and her alteration of loan documents in violation of O.C.G.A. §§ 7-1-1013(1), (2) and (6), support the Department’s determination that Ms. Smith has not demonstrated character and general fitness such as to command the confidence of the community nor that Ms. Smith will operate honestly, fairly, and efficiently as required by O.C.G.A. § 7-1-1004(d)(3).

17.

Although Petitioners argue for a suspension of their licenses, this is not a sufficient remedy due to the underlying activity. Any one of the violations enumerated above, including the alteration of loan documents in violation of O.C.G.A. §§ 7-1-1013(1), (2), and (6), the repeated filing of inaccurate Mortgage Call Reports in violation of O.C.G.A. §§ 7-1-1004.1 and 7-1-1013(11) and Department Rule 80-11-3-.01(28), which on at least one occasion was done to improperly resolve a pending administrative action, the numerous false and conflicting statements provided to the Department in violation of O.C.G.A. § 7-1-1013(11), and the failure to conduct GCIC background checks on employees in violation of O.C.G.A. § 7-1-1004(k), is adequate to support the revocation of Mortgage Experts’ broker license, the revocation of Ms. Smith’s mortgage loan originator license, and the order to cease and desist issued to Ms. Smith. Collectively, these violations show a pattern of prohibited activity that compels the enforcement of the Actions against Petitioners.

D. DETERMINATION

After thoughtful consideration and taking into account the foregoing Findings of Fact and Conclusions of Law, the documents entered into evidence, and the testimony and credibility of the witnesses, this Tribunal has determined that Petitioners violated Georgia law and the Department’s regulations by submitting false documents in connection with a mortgage loan in violation of O.C.G.A. § 7-1-1013(1), misrepresenting or concealing material factors, terms, or conditions of a mortgage transaction in violation of O.C.G.A. § 7-1-1013(2), engaging in a practice which is not in good faith and fair dealing and which operated a fraud against a borrower in violation of O.C.G.A. § 7-1-1013(6), repeatedly providing false information and material misrepresentations to the Department and NMLS in violation of O.C.G.A. § 7-1-1013(11), failing to file accurate and timely Mortgage Call Reports as required by O.C.G.A. § 7-1-1004.1 and Department Rule 80-11-3-.01(28), and failing to obtain background checks on covered employees in violation of O.C.G.A. § 7-1-1004(k) and Department Rule 80-11-1-.05.


Further, based on these violations of law and the pattern of prohibited activity which such violations show, this Tribunal has determined that Petitioners do not meet the minimum character and fitness standards for licensure as required by O.C.G.A. §§ 7-1-1004(a), (b) and (d)(3).

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law set forth herein, it is the FINAL ORDER of this Tribunal that:

- 1. The annual mortgage broker license of Mortgage Experts is REVOKED;**
- 2. The mortgage loan originator license of Tyesa Smith is REVOKED; and**
- 3. Tyesa Smith is ORDERED to Cease and Desist.**

SO ORDERED this 3rd day of February, 2021.



KEVIN B. HAGLER
Commissioner
Department of Banking and Finance