

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
BALTIMORE DIVISION**

CONSUMER FINANCIAL
PROTECTION BUREAU

and

CONSUMER PROTECTION
DIVISION, Office of the Attorney
General of Maryland

Plaintiffs,

v.

GARY KLOPP,

ALL COUNTY SETTLEMENTS,
LLC,

and

CARROLL ABSTRACTS, INC.,

Defendants.

Case No. 1:15-cv-01235-RDB

**PLAINTIFFS' APPLICATION FOR AN ORDER TO SHOW CAUSE WHY GARY KLOPP
SHOULD NOT BE HELD IN CONTEMPT**

Plaintiffs, the Consumer Financial Protection Bureau (the "Bureau") and the Consumer Protection Division of the Office of the Attorney General of Maryland (the "Division"), file this application for an order to show cause why Defendant Gary Klopp ("Klopp") should not be held in

contempt. The reasons for this application are more fully set forth below and in the accompanying memorandum in support.

Klopp is on notice that this Court entered a Stipulated Final Judgment and Order on November 16, 2015, and yet has violated numerous specific provisions of that Order and reaped substantial personal financial benefit from those violations. There is no indication that Klopp will comply with the Court's November 16, 2015 order absent further judicial intervention and imposition of sanctions. Plaintiffs respectfully request that the Court act to prevent further harm to consumers by issuing an immediate order to show cause.

SUMMARY

In November 2015, Plaintiffs and Defendant Klopp settled allegations that Klopp and his companies received kickbacks from Genuine Title, LLC, a defunct title company that was based in Owings Mills, Maryland, in violation of the Real Estate Settlement Procedures Act ("RESPA") and the Maryland Consumer Protection Act ("CPA").

As part of the settlement, Klopp was generally prohibited from engaging in the mortgage industry and ordered to provide certain notices. In a limited exception to the prohibitions, the order allowed Klopp to act solely as a personnel or human-resources manager for a mortgage business, including providing personnel or human-resources-related management and administrative functions.

In spite of the clear prohibitions in the settlement, Klopp has been extensively engaged in the mortgage business. He manages two offices of an Oklahoma bank. The branch offices' only business is to offer mortgage loans. His branches employ as many as 100 persons. He personally deals with issues arising in connection with individual consumers' loan applications, communicates with lenders, title companies and appraisers in connection with loan applications, and receives benefits on behalf of his

staff from title companies with which his office is engaged to close mortgage loans – all in violation of the Stipulated Final Judgment and Order with Respect to Gary Klopp, All County Settlements, LLC and Carroll Abstracts, Inc. (“Stipulated Judgment”). A copy of the Stipulated Judgment is attached hereto as Exhibit A. In further explanation of the basis for this application, Plaintiffs state as follows:

PARTIES

1. The Bureau is an agency of the United States charged with regulating the offering and providing of consumer-financial products and services under “Federal consumer financial laws,” 12 U.S.C. § 5491(a), including RESPA and the Consumer Financial Protection Act of 2010 (“CFPA”). 12 U.S.C. § 5481(12)(M), (14). The Bureau has independent litigating authority, 12 U.S.C. § 5564(a)-(b), including the authority to enforce RESPA and the CFPA. 12 U.S.C. § 2607(d)(4).

2. The Division, part of the Office of the Attorney General of Maryland, enforces regulatory and consumer-protection laws, including the Maryland Consumer Protection Act., Md. Code Ann., Com. Law §§ 13-101 through 13-501 (2013 Repl. Vol. & 2016 Supp.) (“CPA”).

3. Gary Klopp is a resident of Manchester, Maryland, and participates in originating federally related mortgage loans to consumers primarily for personal, household, or family purposes. *See* 12 U.S.C. § 2602.

PROCEDURAL BACKGROUND

4. On April 29, 2015, Plaintiffs filed a Complaint against Gary Klopp, his companies, the title company Genuine Title, LLC and others, alleging that Defendants participated in an illegal scheme to exchange kickbacks or things of value for referrals of settlement-service business in connection with consumers’ home-mortgage transactions. Specifically, the Complaint alleged that Defendants violated The Real Estate Settlement Procedures Act (“RESPA”) by giving or accepting a “fee, kickback, or thing

of value” in exchange for a referral to Genuine Title of business related to real-estate-settlement services, including services ordinarily provided by title companies, such as title searches, title examinations, the provision of title certificates, and title insurance. 12 U.S.C. § 2607(a).

5. On November 13, 2015, Plaintiffs and Defendants Gary Klopp, All County Settlements, LLC and Carroll Abstracts, Inc., filed a joint motion requesting that the Court enter a proposed Stipulated Final Judgment and Order.

6. This Court entered the Stipulated Judgment on November 16, 2015.

7. The Stipulated Judgment contains the following prohibitions:

- a. Defendants Klopp, All County Settlements, LLC and Carroll Abstracts, Inc. (henceforth “Klopp” or “Defendants”) shall not give and Defendants shall not accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real-estate-settlement service involving a federally related mortgage loan shall be referred to any person. *See* Stipulated Judgment, Paragraph 7.
- b. Pursuant to 12 U.S.C. § 5565(a)(2)(G), Defendants are banned from participation in the Mortgage Industry as follows:
 - i. Defendants are prohibited from contacting, soliciting, or otherwise dealing with consumer borrowers or loan applicants in any capacity with regard to any mortgage business; and
 - ii. Defendants are prohibited from contacting, soliciting, or otherwise dealing with any third party businesses engaged in offering any settlement service; but

- c. These limitations shall not prohibit Defendant Klopp from acting solely as a personnel or human-resources manager for a mortgage business operated by an FDIC-insured banking institution, including providing personnel or human-resources-related management and administrative functions with regard to National Mortgage Licensing System-registered loan originators, as that term is defined in Md. Fin. Inst. Code Ann. §11-601.

See id., Paragraph 8.

8. The Stipulated Judgment also contains reporting requirements, including:
 - a. Within 60 days of the Effective Date of the Stipulated Judgment, Defendant Klopp must disclose this action and Order to the Nationwide Mortgage Licensing System and Registry (“NMLSR”) and, in accordance with NMLSR procedure, upload an electronic copy of this Order. *See id.*, Paragraph 9.
 - b. Defendants must notify the Bureau of any development that may affect compliance obligations arising under this Order, including but not limited to the filing of any bankruptcy or insolvency proceeding by or against Defendants; or a change in Defendants’ name or address. Defendants must provide this notice, if practicable, at least 30 days before the development, but in any event no later than 14 days after the development. *See id.*, Paragraph 15.
 - c. Within 10 days of the Effective Date of the Stipulated Judgment, Defendants shall notify the Bureau and the CPD of (a) Defendants’ current residence, postal address, email address, and telephone number; and (b) Defendants’ current role in any business activity, including any business for which they provide services,

whether as an employee, officer, or otherwise, and any entity in which Defendants have any ownership interest, identifying for each its name, physical address, and internet address. *See id.*, Paragraph 16.

- d. For 2 years from the Effective Date, Defendants shall notify the Bureau and the CPD of (a) any change in name, including aliases or fictitious names; (b) any change in residence, postal address, email address, or telephone number; or (c) any change in title or role in any business activity, including any business for which Defendants provide services, whether as an employee, officer, or otherwise, and any entity in which Defendants have any ownership interest, identifying for each its name, physical address, and internet address. *See id.*, Paragraph 17.

9. A Settlement Service, as defined in 12 U.S.C. § 2602(3), includes any service provided in connection with a real estate settlement including, but not limited to, the following: title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a real estate agent or broker, the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans), and the handling of the processing, and closing or settlement.

KLOPP'S ONGOING ACTIVITIES

10. Klopp manages two branch offices of an Oklahoma-based bank, Peoples Bank & Trust Company ("Peoples Bank") – one in Owings Mills, Maryland and one in Lake Forest, California. *See* Klopp testimony attached as Exhibit B, at 16, 19-20, 29. The President, CEO and Chairman of the

Board of Peoples Bank has confirmed that Klopp manages a branch for Peoples Bank in Owings Mills, Maryland. *See* Declaration of Ben Branson, attached as Exhibit C at ¶7.

11. In testimony provided under oath in a hearing conducted by the CPD and the Bureau to gather information about his compliance with the Court's order, Klopp testified that he is ultimately responsible for what happens in the office, manages the mortgage loan offices, makes policy decisions, and has the authority to hire and fire personnel at his branches. Exhibit B, at 20, 30, 54. The branches only originate mortgage loans. They have no deposits and no credit card accounts. *Id.* at 32.

12. Klopp's two branches employ dozens of people, all working to originate mortgage loans. *Id.* at 17-19, 42-43; Exhibit C at ¶8.

13. Klopp deals directly with mortgage lenders when issues arise relating to loan closings. Exhibit B at 22, 62. If there is a problem, Klopp intervenes to try to resolve the problem and to make policy determinations. As a result, he is included in e-mails between persons at his branch, personnel at the lenders, appraisers and title companies. *Id.* at 63. He concedes that he personally intervenes in these e-mail chains about a dozen times in a month. *Id.* at 62. He indicates that he doesn't usually have to get involved with loan applications. *Id.* at 63. He monitors these communications, however, and has the authority to intervene if the issue cannot be resolved by his loan officers and managers.

14. For example, Klopp was included in e-mail strings about how to handle early payoffs of a loan, *see* Exhibit D; a request for a fee concession on behalf of a loan applicant, Exhibit E; sending a loan application to another lender when one lender would not underwrite it because of a bankruptcy filing, Exhibit F; a comparison of closing costs among various lenders, Exhibit G; and past-due appraisal fees, Exhibit H. Some of the e-mail strings that Klopp participated in included personnel from title companies and appraisers. *See* Exhibit H.

15. Title companies with which Klopp's branch works provide free lunches to the office staff of Klopp's branch. For example, Resource Real Estate Services, LLC provided meals costing Five Thousand Six Dollars and Forty-Five Cents (\$5,006.45) to Klopp's Owings Mills branch between November 2015 and October 2016. *See* Custodian's Declaration from Resource Real Estate Services, LLC attached as Exhibit I. In addition, Meymax Title, LLC, at the request of Klopp's assistant manager, delivered free lunches to Klopp's branch. *See* Exhibit J.

16. Klopp did not upload the Stipulated Judgment onto the NMLS system and, although it was uploaded, he does not know who did and had no role in doing so. Exhibit B at 11-14.

17. Klopp estimates that between November 16, 2015 and September 30, 2016, his branch closed about 400 to 500 loans with lender CMG Financial. Exhibit B, at 99. He also estimates that his branch closed double that number of loans with Freedom Mortgage during the same time period. *Id.* at 102.

18. Klopp further estimates that he earned about \$400,000 to \$450,000 between November 16, 2015 and September 30, 2016. *Id.* at 96.

19. According to the Division of Unemployment of the Maryland Department of Labor, Licensing and Regulation, Mr. Klopp earned at least \$765,000.00 from Peoples Bank between January 1, 2016 and March 31, 2017. *See* Affidavit of Karen Wood, attached as Exhibit K.

KLOPP VIOLATED A SPECIFIC AND DEFINITE ORDER OF THIS COURT

20. Klopp has demonstrated that he has no intention of complying with the Court's Stipulated Judgment and will likely continue to violate the Court's Stipulated Judgment.

21. First, Klopp has engaged in business activities prohibited by paragraph 8 of the Stipulated Judgment by:

- a. dealing with consumers' mortgage loan applications, when he communicated with lenders about the loan applications;
- b. dealing with third-party businesses engaged in offering settlement services in connection with mortgage loan applications, when he communicated with lenders, title companies and appraisers; and
- c. accepting a fee, kickback, or thing of value, when he accepted free lunches for his branch office from title companies that solicited the office's business.

22. Second, he failed to disclose his current role in any business activity, in direct violation of paragraph 16 of the Stipulated Judgment.

23. Third, he failed to comply with reporting requirements of the Stipulated Judgment by:
- a. failing to disclose this action and the Stipulated Judgment to the NMLSR and, in accordance with NMLSR procedure, take action to upload an electronic copy of the Stipulated Judgment, as required by paragraph 9. To the extent that he could not comply with his obligations under the Stipulated Judgment, he was required to notify the Bureau of his inability to comply, as required by paragraph 15.
 - b. failing to disclose the addresses in California that he uses and used, as required by paragraph 16; and
 - c. failing to disclose his current email address(es) and telephone number(s), as required by paragraph 17.

REQUEST FOR RELIEF

24. Plaintiffs respectfully request that this Court enter an Order to Show Cause why Klopp should not be held in contempt of the Stipulated Judgment. Thereafter, the Court should impose

sanctions for violating the terms of the Stipulated Judgment and to ensure that Klopp come into compliance with an amended Stipulated Judgment. Klopp should be ordered to comply with the injunctive provisions in an amended Stipulated Judgment that bans him from participation in the Mortgage Industry in any professional capacity and extends the reporting, notification, cooperation and compliance terms of the Stipulated Judgment for three years from the effective date of the Contempt Order. "Mortgage Industry" means any business that involves a federally related mortgage loan or loans as defined in 12 U.S.C. § 2602(1) or any business that involves settlement services as defined in 12 U.S.C. § 2602(3). Furthermore, he should be ordered to disgorge the income that he earned in defiance of the Stipulated Judgment. Sanctions should include the following:

- a. Within 60 days of the effective date of the Contempt Order, Defendant Klopp shall disclose the Contempt Order to NMLSR or otherwise, in accordance with NMLSR procedure, ensure that a copy of the Contempt Order is uploaded to NMLSR.
- b. Within 60 days of the effective date of the Contempt Order, Defendant Klopp shall disgorge to Plaintiffs all income earned from Peoples Bank & Trust from November 16, 2015 to the present.

25. As set forth in the accompanying Memorandum, which is fully incorporated herein, the Court should issue an Order to Show Cause why Klopp should not be found in civil contempt and issue sanctions that would coerce Klopp into complying with its Stipulated Judgment, as amended herein, disgorge benefits that he received in violation of the Stipulated Judgment and remedy any harm and expenses the Plaintiffs have suffered thus far.

WHEREFORE, Plaintiffs respectfully request that this Court issue an order to show cause and find Klopp in contempt.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of June, 2017, I served by first class mail, postage prepaid, Plaintiffs' Application For An Order To Show Cause Why Gary Klopp Should Not Be Held In Contempt and supporting Memorandum on:

Gary L. Klopp
2915 Eden Drive
Manchester, MD 21102

and

Harry Levy
901 Dulaney Valley Road
Towson, MD 21204

_____/s/_____
Lucy A. Cardwell

EXHIBITS

- A Stipulated Final Judgment and Order
- B Klopp testimony transcript excerpts
- C Declaration of Ben Branson
- D E-mail string concerning early payoff of a loan
- E E-mail string concerning request for a fee concession on behalf of a loan applicant
- F E-mail string concerning sending a loan application to another lender
- G E-mail string concerning a comparison of closing costs among various lenders
- H E-mail string concerning past-due appraisal fees, copying personnel from title companies and appraisers on e-mails
- I Declaration of Custodian of Records for Resource Real Estate Services, LLC
- J Declaration of Custodian of Records for MeyMax Title
- K Affidavit of Karen Wood, Department of Labor, Licensing and Regulation