

STATE OF NORTH CAROLINA

WAKE COUNTY

IN A MATTER  
BEFORE THE COMMISSIONER OF BANKS  
DOCKET NO. 22:086:MT

IN RE: )  
)  
LIPSKY & ASSOCIATES, INC )  
)  
)  
NMLS ID No. 2164 )  
)  
\_\_\_\_\_ )

CONSENT ORDER

NOW COME the Non-Depository Entities Division of the North Carolina Office of the Commissioner of Banks (NCCOB) and Lipsky & Associates, Inc. (Lipsky), collectively referred to as “the Parties,” and agree to the entry of this Consent Order.

**FINDINGS OF FACT**

1. The NCCOB is responsible for the regulation and licensing of money transmitters under Article 16B of Chapter 53 of the North Carolina General Statutes as periodically amended (MTA), and its predecessor, Article 16A of Chapter 53 of the North Carolina General Statutes (Article 16A) (repealed October 1, 2016).

2. On 21 July 2016, Lipsky was initially licensed by the NCCOB as a money transmitter under Article 16A.

3. Thereafter, Lipsky’s license under Article 16A transitioned to the MTA by operation of law pursuant to N.C. Gen. Stat. § 53-208.64, and Lipsky has been so licensed since 21 July 2016.

4. On 24 October 2022, Lipsky’s MTA license was summarily suspended by Summary Suspension Order effective 28 October 2022, for failing to maintain net worth pursuant to N.C. Gen. Stat. § 53-208.46(a).

5. Lipsky has provided 2022 audited financial statements and 2023 interim financial statements to show sufficient net worth.

6. Lipsky neither admits nor denies the allegations herein but desires to resolve this matter without further cost or expense through this Consent Order.

7. The Parties have voluntarily, willingly and of their own accord agreed to the terms of this Consent Order.

8. The Parties further agree and acknowledge that this Consent Order sets forth all terms and conditions between them concerning this matter and supersedes all prior oral and written statements and representations. There are no terms or conditions between the parties except as specifically herein set forth.

9. Lipsky waives its right to a contested hearing before the North Carolina Commissioner of Banks (Commissioner), and to appeal this Consent Order to the North Carolina State Banking Commission or any court.

10. Lipsky agrees to entry of this Consent Order.

11. Upon entry of this Consent Order, the NCCOB will consider this matter fully resolved as to Lipsky and agrees to take no further enforcement action regarding the matters alleged in this proceeding as against Lipsky.

12. Lipsky has had the opportunity to consult with legal counsel concerning the terms of this Consent Order.

13. The undersigned represent and warrant that they are authorized to enter into this Consent Order.

### **CONCLUSIONS OF LAW**

1. The Commissioner has jurisdiction over Lipsky and the subject matter of this proceeding.

2. Chief Deputy Commissioner Stephanie R. White has the authority to enter into this Consent Order for and on behalf of the NCCOB.

3. The entry of this Consent Order is in the public interest.

4. This Consent Order is a matter of public record and may be disseminated as such.

5. Pursuant to N.C. Gen. Stat. § 53-208.46(b), the Commissioner may by order increase the amount of net worth required of a licensee to ensure safe and sound operations.

6. Nothing in this Consent Order shall be construed to prohibit the NCCOB from investigating compliance with this Consent Order or to prohibit the NCCOB from investigating or pursuing enforcement proceedings against other persons for their involvement in the matters alleged in this proceeding. Nothing in this Consent Order shall be construed as a waiver of any claim or defense that an individual consumer may have against Lipsky.

7. This Consent Order shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors, and assigns.

Based upon the foregoing findings of fact and conclusions of law, the Commissioner enters the following:

### **ORDER**

1. The Summary Suspension Order entered herein on 24 October 2022 is hereby lifted, and Lipsky's MTA license is reinstated.

2. Pursuant to N.C. Gen. Stat. § 53-208.46(b), Lipsky shall continually maintain net worth of at least \$500,000, calculated in accordance with generally accepted accounting principles (GAAP), to ensure safe and sound operation.

3. Lipsky shall provide its balance sheet and income statement each month for the remainder of 2023 (due no later than 30 days following month end) via upload to NCCOB Online.

4. Should Lipsky anticipate falling below the required net worth at any time, Lipsky shall immediately notify NCCOB of this fact via a written statement uploaded to NCCOB Online that includes a detailed plan to correct the shortfall and the timetable for achieving the required net worth.

5. Should Lipsky's net worth fall below \$500,000, Lipsky shall be subject to appropriate enforcement action(s) under the MTA.

6. Lipsky's consent to this order shall not deprive the NCCOB of jurisdiction over its money transmission activities under the MTA occurring prior to the effective date of this Consent Order. NCCOB may initiate an enforcement action against Respondent seeking any of the remedies available under the MTA and other applicable laws including consumer restitution, civil money penalties, and

injunctive relief. This provision does not apply to the issues resolved by this Consent Order.

7. Lipsky shall cooperate fully and to the best of its ability with any future NCCOB complaints, investigations, and examinations. Such cooperation shall include, but not be limited to, providing affidavits and/or sworn testimony.

8. This Consent Order shall be deemed a regulatory action and shall be disclosed through the Nationwide Mortgage Licensing System and Registry by Lipsky within thirty (30) days of its effective date.

**IT IS SO ORDERED.**

<b>NORTH CAROLINA COMMISSIONER OF BANKS</b>	
Katherine M.R. Bosken Commissioner of Banks	
Effective Date	06/19/2023
<b>WE CONSENT</b>	
<b>For the Office of the Commissioner of Banks</b>	
Stephanie R. White Chief Deputy Commissioner of Banks	
Date	06/19/2023
Sidney A. Thomas Attorney	
Date	06/16/2023
<b>For Lipsky &amp; Associates, Inc.</b>	
Daniel Ko Vice President of Finance	
Date	06/16/2023