

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING, BUREAU :
OF COMPLIANCE, INVESTIGATION :
AND LICENSING :
v. :
ADVISORS MORTGAGE GROUP, LLC :

Docket No. 08 0325 (ENF-CO)

2008 NOV 21 PM 1:40
PA DEPT OF BANKING

FILED

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations, has conducted an examination of Advisors Mortgage Group, LLC ("Advisors Mortgage") and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that Advisors Mortgage operated in violation of 7 Pa.C.S. § 6101 et seq. (the "Mortgage Act"). The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agreed to the terms of this Consent Agreement and Order (the "Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania administrative agency authorized and empowered to administer and enforce the Mortgage Act.
2. The Bureau is primarily responsible for administering and enforcing the Mortgage Act for the Department.

3. The Mortgage Act is the successor statute to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (the "MBBCEPA"), 63 P.S. § 456.301 et seq., and the Secondary Mortgage Loan Act (the "SMLA"), 7 P.S. § 6601 et seq. On November, 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Act.

4. Advisors Mortgage was formally licensed as a First Mortgage Banker, license no. 19818, under the MBBCEPA and as a Secondary Mortgage Lender, license no. 19819, under the SMLA. Advisors was granted a conditional license pursuant to the Mortgage Act on November 5, 2008.

5. Advisors Mortgage has its current principal place of business in Pennsylvania located at 4663 West Chester Pike, Newtown Square, PA 19073-2227 (the "Principal Place").

6. Advisors Mortgage's former principal place of business in Pennsylvania was located at 1115 E Passyunk Ave, 1st Floor, Philadelphia, PA 19147 (the "Former Principal Place").

7. Advisors Mortgage currently maintains active branch licenses in Manasquan, NJ; Bala Cynwyd, PA; Bethlehem, PA; Philadelphia, PA (the "Philadelphia Location") and Greenbrook, NJ.

8. On January 23, 2008, an examiner from the Department initiated an examination of Advisors Mortgage at the Former Principal Place (the "Examination"). The Examination continued at the Principal Place on January 24, 2008

Unlicensed Activity

9. The Examination revealed that Advisors Mortgage's loan officers originated a total of eight (8) mortgage loans involving Pennsylvania property from the Principal Place and the Philadelphia Location prior their initial date of licensure.

10. Five (5) mortgage loans were originated from the Principal Place prior to the initial license date of February 1, 2008.

11. Three (3) mortgage loans were originated at the Philadelphia Location prior to the initial license date of March 17, 2008.

12. Specifically, the Uniform Residential Loan Applications (1003s) listed either the Principal Place or the Philadelphia Location and a representative of Advisors Mortgage confirmed that the loans were originated from those locations prior to them becoming licensed.

13. The Mortgage Act (formally the MBBCEPA) applies to, *inter alia*, any mortgage loan which is "notwithstanding the place of execution, *secured by real property located in this Commonwealth.*" 7 Pa. C.S. § 6151(1)(iii) (formerly 63 P.S. § 456.318(1)(iii)). (*emphasis added*).

14. Section 6102 of the Mortgage Act (formally Section 302 of the MBBCEPA) defines a "branch" as "[a]n office or other place of business, other than the principal place of business, located in this Commonwealth *or any other state*, where a person engages in the mortgage loan business subject to this chapter." 7 Pa. C.S. § 6102 (formerly 63 P.S. § 456.302). (*emphasis added*).

15. Section 6131(a)(1)(ii) of the Mortgage Act provides, in relevant part, that an application for licensure shall include the "address of the principal place of business of the applicant and the address or addresses where the applicant's mortgage loan business is to be

conducted. 7 Pa. C.S. § 6131(a)(1)(ii) (formerly Section 304(a) of the MBBCEPA, 63 P.S. § 456.304(a)).

16. Section 6132(b)(2) of the Mortgage Act provides that a licensee must pay a renewal fee for each branch office. 7 Pa. C.S. § 6132(b)(2) (formerly Section 305(a) of the MBBCEPA, 63 P.S. § 456.305(a)).

17. Thus, based upon the foregoing, any office of a licensee where Pennsylvania mortgage loan business is conducted pursuant to the Mortgage Act must be licensed as a branch

Record Keeping

18. The Examination revealed that Advisors Mortgage had been maintaining its Pennsylvania first and secondary mortgage loans at the corporate headquarters located in Manasquan, NJ.

19. Section 6135(a)(2) of the Mortgage Act (formally Sections 308(a)(2) of the MBBCEPA and 10(a)(2) of the SMLA) requires a licensee to maintain records at its principal place of business in Pennsylvania unless the licensee has authorization from the Department to maintain those records elsewhere. 7 Pa. C.S. § 6135(a)(2) (formerly 63 P.S. § 456.308(a)(2) and 7 P.S. § 6610(a)(2)).

20. Advisors Mortgage did not have authorization from the Department to maintain its Pennsylvania mortgage loan files at any location other than its principal place of business in Pennsylvania.

21. Because the Examiner did not have access to Advisors Mortgage's records, he could not complete the examination of the Principal Place.

22. Prior to the conclusion of the examination, Advisors Mortgage returned all records involving Pennsylvania transactions to the Principal Place.

23. Subsequent to the examination, Advisors Mortgage did apply for, and was granted, approval to maintain records at 407 Pine St, Red Bank, NJ 07701-6103 ("approved location").

Authority of the Department

24. Section 6138(a)(4) of the Mortgage Act (formerly Sections 310(a) of the MBBCEPA and 16(1) of the SMLA) grants the Department broad authority to issue orders for the enforcement of the Mortgage Act. 7 Pa. C.S. § 6138(a)(4) (formerly 63 P.S. § 456.310(a) and 7 P.S. § 6616(1)).

25. Section 6140(b) of the Mortgage Act provides, in relevant part, that "[a] person licensed under this chapter or director, officer, owner, partner, employee or agent of a licensee who violates a provision of this chapter or who commits any action which would subject the licensee to suspension, revocation or nonrenewal under section 6139 may be fined by the department up to \$10,000 for each offense." 7 Pa. C.S. § 6140(b) (formerly Section 314(c) of the MBBCEPA, 63 P.S. § 456.314(c), and Section 22(b) of the SMLA, 7 P.S. § 6622(b).

VIOLATIONS

26. Advisors Mortgage violated Sections 6132(a) and 6132(b) of the Mortgage Act (formally Sections 304(a) and 305(a) of the MBBCEPA) by originating mortgage loans involving Pennsylvania property from unlicensed branch locations.

27. Advisors Mortgage violated Section 6135(a)(2) of the Mortgage Act (formally Section 308(a)(2) of the MBBCEPA and Section 10(a)(2) of the SMLA) by not maintaining records at its principal place of business in Pennsylvania when Advisors Mortgage did not have authorization from the Department to maintain the records elsewhere.

RELIEF

28. Fine. Within thirty (30) days of the Effective Date of this Order, Advisors Mortgage shall pay a fine to the Department in the amount of \$5,000. The fine payment shall be remitted by a certified check or money order made payable to the "Department of Banking" and forwarded to the following: Department of Banking, Bureau of Compliance, Investigation and Licensing, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

29. Corrective Measures.

a. Advisors Mortgage shall cease and desist from originating and/or closing mortgage loans from unlicensed locations.

b. Advisors Mortgage shall maintain all Pennsylvania residential mortgage loan records at the approved location unless the Department authorizes Advisors Mortgage to maintain records at another location.

FURTHER PROVISIONS

30. Consent. Advisors Mortgage hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Act (formally the MBBCEPA and SMLA) and agrees that it understands all of the terms and conditions contained therein. Advisors Mortgage, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

31. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking Code. 71 P.S. § 733-302.A.(5).

32. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Bureau and Advisors Mortgage.

33. Binding Nature. The Department, Advisors Mortgage, and all officers, owners, directors, employees, heirs and assigns of Advisors Mortgage intend to be and are legally bound by the terms of this Order.

34. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

35. Effectiveness. Advisors Mortgage hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

36. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against Advisors Mortgage in the future regarding all matters not resolved by this Order.

b. Advisors Mortgage acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

37. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

38. Counterparts. This Order may be executed in separate counterparts and by facsimile.

39. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department and Advisors Mortgage intending to be legally bound do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING
BUREAU OF COMPLIANCE, INVESTIGATION
AND LICENSING**

Ryan M. Walsh, Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: November 21, 2008

FOR ADVISORS MORTGAGE GROUP, LLC

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 11/19/2008