

Violation of Consent Agreement and Order

WHEREAS, on July 23, 2008, Expert Mortgage entered into a Consent Agreement and Order with the Department, Docket No. 080184 (CO) (“Order”) (*see* a copy of the Order attached as Appendix A (“App. A”));

WHEREAS, Expert Mortgage, in the Order, admitted that by processing and closing first and secondary mortgage loans originated by unlicensed brokers and by compensating the unlicensed broker as an independent contractor it violated the MBBCEPA and the SMLA (*see* App. A, ¶¶ 7-18);

WHEREAS, to resolve the matter, Expert Mortgage agreed, in relevant part, to pay a fine in the amount of eight thousand dollars (\$8,000) payable within thirty days (30) of the Effective Date of the Order (*see* App. A, ¶ 25);

WHEREAS, Expert Mortgage consented to “the entry of th[e] Order pursuant to the Bureau’s order authority under the MBBCEPA and SMLA” and agreed that it understood that terms and conditions of the Order (*see* App. A, ¶ 27);

WHEREAS, the Department reserved “all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against Expert Mortgage in the future regarding all matters not resolved by this Order” (*see* App. A, ¶33a);

WHEREAS, the Order was binding on Expert Mortgage and “all officers, owners, and directors,” (*see* App. A, ¶30);

WHEREAS, the Order was effective on July 23, 2008 (*see* App. A);

WHEREAS, the fine payment was due to the Department on August 22, 2008;

WHEREAS, as of the date of this Order, the Department has not received the fine payment;

WHEREAS, the Department sent Expert Mortgage a letter, dated August 27, 2008, requesting payment of the fine due within thirty (30) days, or by no later than September 26, 2008 (*see* a copy of the correspondence dated August 27, 2008 attached as Appendix B);

WHEREAS, the Department stated in its letter to Expert Mortgage that “[f]ailure to submit the past due amount could subject Expert Mortgage to additional administrative action, including revocation, under the MBBCEPA and the SMLA” (*see* App. B);

WHEREAS, by not remitting the fine payment within the required timeframe, Expert Mortgage has violated the Order;

Relief

WHEREAS, because Expert Mortgage failed to comply with an Order of the Department, the Department has the authority to suspend its license until Expert Mortgage becomes compliant with the Order;

WHEREAS, Section 313(a)(2) of the MBBCEPA provides, in relevant part, that “*the department may suspend, revoke or refuse to renew any license issued pursuant to this chapter*” if the licensee has “*[f]ailed to comply with or violated any provision of this chapter or any rule, regulation or order promulgated by the department pursuant to this chapter,*” *see* 63 P.S. § 456.313(a)(2) (emphasis added);

WHEREAS, Section 19(a)(2) of the SMLA provides, in relevant part, that “*The secretary may suspend, revoke or refuse to renew any license issued pursuant to this act*” if the licensee has “*[f]ailed to comply with or violated any provision of this act or any rule, regulation or order, and promulgated by the secretary pursuant thereto,*” *see* 7 P.S. § 6619(a)(2) (emphasis added);

WHEREAS, Section 310(a) of the MBBCEPA provides, in relevant part, that:

the department *shall have the authority to issue* rules and regulations and *orders* as may be necessary for the proper conduct of the business of a mortgage banker, loan correspondent, a mortgage broker or limited mortgage broker and *for the enforcement of this chapter*, including, but not limited to, cease and desist orders, notices of fines and *such other orders as the department in its discretion may issue*.

See 63 P.S. § 456.310(a) (emphasis added);

WHEREAS, Section 16(a) of the SMLA similarly provides that,

[t]he secretary shall have the authority to: (1) Issue rules and regulations. . . and such general rules and regulations *and orders as may be necessary* for insuring the proper conduct of the business and *for the enforcement of this act*.

See 7 P.S. § 6616(a) (emphasis added);

AND NOW THEREFORE, because Expert Mortgage has failed to comply with the provisions of the Consent Agreement and Order dated July 23, 2008, the Department hereby imposes the following Order in accordance with its authority pursuant to Section 310(a) of the MBBCEPA and Section 16(a) of the SMLA:

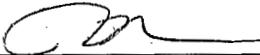
1. Expert Mortgage' First Mortgage Broker License, License No. 14940, and Secondary Mortgage Broker License, License No. 14941, **are hereby suspended thirty (30) days from the effective date of this Order**, which means that Expert Mortgage, **and** its owners, officers and/or directors, shall not conduct any first or secondary mortgage loan business in the Commonwealth including, but not limited to, advertising, soliciting, negotiating, arranging or making loans or any other conduct whatsoever that constitutes engaging in the first or secondary mortgage loan business; and

2. Expert Mortgage' licenses shall remain suspended until such time that the fine payment of \$8,000 is remitted to the Department and all terms of the Consent Agreement and Order dated July 23, 2008 are satisfied; and

3. Nothing in this Order suspending Expert Mortgage' licenses shall prevent the Department from taking any further administrative action as deemed necessary.

IT IS SO ORDERED.

Date: October 6, 2008



Ryan Walsh, Administrator
Bureau of Compliance, Investigation and Licensing
Pennsylvania Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101

3. Nothing in this Order suspending Expert Mortgage' licenses shall prevent the Department from taking any further administrative action as deemed necessary.

IT IS SO ORDERED.

Date: October 6, 2008

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