

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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DEPARTMENT OF BANKING, BUREAU
OF COMPLIANCE, INVESTIGATION
AND LICENSING

v.

THE LOANLEADERS OF AMERICA, INC.

DOCKET No. 08 0321 (ENF-CO)

PA DEPT OF BANKING

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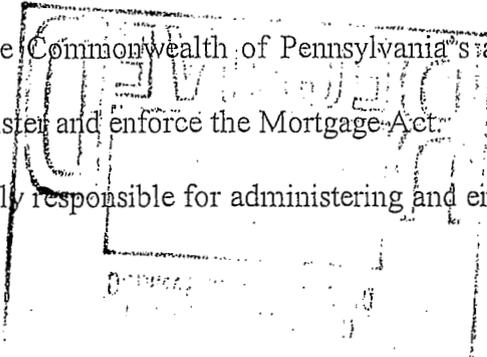
FILED

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking, (THE "Department"), Bureau of Examinations, has conducted an examination of The Loanleaders of America, Inc., (the "The Loanleaders"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that The Loanleaders is 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 agree to the terms of this Consent Agreement and Order (the "Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's 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. On November 5, 2008, Chapter 3 of the MBBCEPA and the Secondary Mortgage Loan Act (the "SMLA"), 7 P.S. § 6601 et seq., were repealed by operation of law and replaced by the Mortgage Act.

4. The Loanleaders was formerly licensed as a First Mortgage Banker, license no. 16250, pursuant to the MBBCEPA and was granted a conditional license pursuant to the Mortgage Act on November 5, 2008.

5. The Loanleaders has a listed Pennsylvania principal place of business located at 116 Bangor St., Pittsburgh, PA 15211 (the "Principal Place") and a licensed branch location in Irvine, CA (the "CA Branch").

6. On July 18, 2007, an examination ("the Examination") of The Loanleaders' commenced at the Principal Place.

Continuing Education

7. The Examination revealed that The Loanleaders could not produce a continuing education certificate or proof that a mortgage professional had completed the continuing education credits for the Principal Place for the annual renewal period beginning July 1, 2006 and ending June 30, 2007.

8. Section 6131(g)(2)(i) of the Mortgage Act (formerly Section 304(e) of the MBBCEPA) provides, in relevant part, that to maintain a mortgage banker's license a "licensee shall demonstrate to the satisfaction of the department that at least one individual from each licensed office . . . have attended a minimum of six hours of continuing education each year." 7 Pa. C.S. § 6131(g)(2)(i) (formerly 63 P.S. § 456.304(e)).

9. Section 44.1 of the MBBCEPA Continuing Education Regulations, 10 Pa. Code § 44.1 et seq., defines the Annual Renewal Period as “[t]he licensing term commencing July 1 of 1-calendar year and ending on June 30 of the following calendar year. 10 Pa. Code § 44.1.

10. Section 44.2 of the MBBCEPA Regs provides, in relevant part, that a mortgage banker shall demonstrate to the satisfaction of the Department that it has “at least one separate mortgage professional at each licensed office who has successfully completed during the annual renewal period at least 6 credit hours of continuing education programs. . .” 10 Pa. Code § 44.2.

Record Keeping/Staffing

11. The Examination revealed that The Loanleaders was maintaining its Pennsylvania first mortgage loan records at the CA Branch.

12. Section 6135(a)(2) of the Mortgage Act (formally Sections 308(a)(2) of the MBBCEPA) 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)).

13. The Loanleaders does not have authorization from the Department to maintain its Pennsylvania mortgage records at any location other than the Principal Place.

14. The Examination also revealed that The Loanleaders was not staffing the Principal Place.

15. Specifically, no one was at the Principal Place when the examiner arrived and it was difficult to contact the employee that works at the Principal Place.

16. The Examination was delayed because the Principal Place was not staffed.

17. Section 6102 of the Mortgage Act (formerly Section 302 of the MBBCEPA) defines a principal place of business as “[t]he primary office of a person located in this

Commonwealth which is staffed on a full-time basis and at which the person's books, records, accounts and documents are maintained." 7 Pa. C.S. § 6102 (formerly 63 P.S. § 456.302).

18. Section 6135(a)(4) of the Mortgage Act (formerly Section 308(a)(4) of the MBBCEPA) provides, in relevant part, that a licensee shall "[b]e subject to examination by the department at its discretion, at which time the department or commission shall have free access, during regular business hours, to the licensee's place or places of business in this Commonwealth. . ." 7 Pa. C.S. § 6135(a)(4) (formerly 63 P.S. § 456.308(a)(4)).

Authority of the Department

19. Section 44.5(a) of the MBBCEPA Regs provides, in relevant part that "[t]he Department may levy a fine of up to \$2,000 for each offense under section 314(c) of the [MBBCEPA]. . ."

20. 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)).

21. 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)).

VIOLATIONS

22. The Loanleaders is in violation of Section 6131(g)(2)(1) (formerly Section 304(e)

of the MBBCEPA) and Section 44.2 of the MBBCEPA Regs by not having a mortgage professional complete the continuing education requirements for the July 1, 2006 through June 30, 2007 renewal year.

23. The Loanleaders is in violation of Section 6135(a)(2) (formerly Section 308(a)(2) of the MBBCEPA) for not maintaining its Pennsylvania first mortgage loan files at its principal place of business when The Loanleaders did not have authorization to keep those records elsewhere.

24. The Loanleaders is in violation of Section 6135(a)(4) (formerly Section 308(a)(4) of the MBBCEPA) by not providing the Department with free access to records by which to conduct an examination.

RELIEF

25. Fine. Within thirty (30) days of the Effective Date of this Order, The Loanleaders shall pay the Department a fine in the amount of \$1,000 for the recordkeeping violations.

26. Corrective Action:

a. Continuing Education. Upon the Effective Date of this Order, The Loanleaders shall have at each licensed location at least one separate mortgage professional who meets the continuing education requirements of the Mortgage Act.

b. Record Keeping. Upon the Effective Date of this Order, The Loanleaders shall maintain all Pennsylvania mortgage loan records at its licensed principal place of business in Pennsylvania unless and until such time as the Department otherwise authorizes.

c. Staffing. Within thirty (30) days of the Effective Date of this Order, The Loanleaders shall staff its principal place of business on a full-time basis, i.e. The Loanleaders

shall have a knowledgeable W-2 employee who meets the continuing education requirements of the Mortgage Act and who is physically located at the principal place of business during regular business hours. Knowledgeable is defined as having the capability to conduct the business of The Loanleaders, including being able to directly contact consumers to present, negotiate or provide advice regarding loan terms.

FURTHER PROVISIONS

27. Consent. The Loanleaders hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Act and agrees that it understands all of the terms and conditions contained herein. The Loanleaders, 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.

28. 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).

29. 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 The Loanleaders.

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

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

32. Effectiveness. The Loanleaders hereby stipulates and agrees that the Order shall

become effective on the date that the Bureau executes the Order (the "Effective Date").

33. 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 The Loanleaders in the future regarding all matters not resolved by this Order.

b. The Loanleaders 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.

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

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

36. 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.

