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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING,
BUREAU OF COMPLIANCE,
INVESTIGATION AND LICENSING

Docket No. 08 0043 (ENF-C&D)

v.

THOMAS W. ALEXANDER

CEASE AND DESIST ORDER

WHEREAS, the Commonwealth of Pennsylvania, Department of Banking, (“Department”) is the Pennsylvania state governmental administrative agency authorized and empowered to administer and enforce the Mortgage Bankers and Brokers & Consumer Equity Protection Act (“MBBCEPA”), 63 P.S. § 456.101 *et. seq.*, and the Secondary Mortgage Loan Act (“SMLA”), 7 P.S. § 6601 *et. seq.*, and

WHEREAS, the Department’s Bureau of Compliance, Investigation and Licensing (“Bureau”) is the Bureau within the Department with the primary responsibility of administering and enforcing the MBBCEPA and the SMLA, and

WHEREAS, NLMC, Inc. is licensed in Pennsylvania as a First Mortgage Banker, license no. 16109, and

WHEREAS, NLMC, Inc. has its principal place of business in Pennsylvania located at 2745 Dutch Ridge Rd., Beaver, PA 15009-9762 (“Principal Place”) and a licensed branch office located at 333 North Belt, Ste 105, Houston, TX 77060 (“Corporate Office”), and

WHEREAS, Thomas W. Alexander was employed by NLMC, Inc. as the Manager of the Principal Place until his employment ceased on July 2, 2007, and

WHEREAS, the Department has received complaints from Pennsylvania consumers stating that Thomas W. Alexander has been soliciting and/or accepting Pennsylvania residential mortgage applications subsequent to his employment with NLMC, Inc. (a copy of several of the complaints are attached hereto as Appendix A), and

WHEREAS, the complaints allege that Thomas W. Alexander had consumers complete residential mortgage applications and required a “commitment fee” to be remitted by the consumers in order to process the applications, and

WHEREAS, several of the consumers paid Thomas W. Alexander the “commitment fee,” and

WHEREAS, Thomas W. Alexander is advertising and/or soliciting at the website address <http://nlmcapproved.com> that NLMC, Inc. can be contacted for banking services at an address located in N. Huntingdon, PA 15642, which is not a licensed location of NLMC, Inc., to put consumers in touch with him directly to do business with him (copies of the internet advertisement and related complaints are attached hereto as Appendix B), and

WHEREAS, Thomas W. Alexander has not been employed at NLMC, Inc. since July 2, 2007, and

WHEREAS, Thomas W. Alexander is not currently licensed under the MBBCEPA or the SMLA, and

WHEREAS, the Department has no information indicating that Thomas W. Alexander is employed by a licensed entity, and

WHEREAS, the provisions of the MBBCEPA apply to “[a]ny person who engages in the first mortgage loan business in this Commonwealth,” 63 P.S. § 456.318(2) (emphasis added), and

WHEREAS, a person is engaged in the first mortgage loan business in this Commonwealth if “that person advertises, causes to be advertised, solicits, negotiates or arranges in the ordinary course of business, offers to make or makes more than two first mortgage loans in a calendar year in this Commonwealth, whether directly or by any person acting for his benefit,” 63 P.S. § 456.302, and

WHEREAS, Section 303(a) of the MBBCEPA, provides, in relevant part, that “no person shall act as a mortgage banker, loan correspondent, mortgage broker or limited mortgage broker in this Commonwealth *without a license* as provided for in this chapter . . . ,” 63 P.S. § 456.303(a) (emphasis added), and

WHEREAS, a mortgage banker is defined as “[a] person who directly or indirectly originates and closes mortgage loans with its own funds in the primary market for consideration,” 63 P.S. § 456.302, and

WHEREAS, a mortgage broker is defined as “[a] person who directly or indirectly negotiates or places mortgage loans for others in the primary market for consideration,” 63 P.S. § 456.302, and

WHEREAS, by soliciting and/or taking mortgage loan applications from Pennsylvania consumers and accepting a “commitment fee” to process the applications, Thomas W. Alexander is in violation of the MBBCEPA, and

WHEREAS, by advertising and/or soliciting in NLMC, Inc.’s name as providing residential mortgage banking services and directing consumers to contact an address other than the Principal Place or any other licensed location so they can do business with Thomas W. Alexander directly when he is no longer employed by NLMC, Inc. and when Thomas W.

Alexander is not licensed to provide banking and/or brokering services in Pennsylvania, Thomas W. Alexander is in violation of the MBBCEPA, and

WHEREAS, Section 310(a) of the MBBCEPA, 63 P.S. § 456.310(a), grants the Department broad authority to issue orders for the enforcement of the MBBCEPA, and

WHEREAS, Section 16(1) of the SMLA, 7 P.S. § 6616(1), provides the Department with broad authority to issue orders as may be necessary for enforcement of the SMLA, and

AND NOW THEREFORE, because Thomas W. Alexander has been engaged in the first mortgage loan business when he was not licensed to do so, the Bureau, under the authority cited above, hereby imposes the following Order. Upon the Effective Date¹ of this Order:

1. Thomas W. Alexander shall immediately cease and desist accepting any applications and/or any fees for residential first mortgage loans from Pennsylvania consumers.

2. Thomas W. Alexander shall immediately cease and desist from advertising and/or soliciting to provide residential first mortgage business to Pennsylvania consumers through use of NLMC, Inc.'s name or by representing himself as an employee of NLMC, Inc. or in any other manner.

3. To the extent that Thomas W. Alexander is soliciting, advertising or otherwise engaged in the secondary mortgage business, he shall immediately cease from engaging in such conduct.

4. Thomas W. Alexander shall return any and all fees collected from any Pennsylvania consumers subsequent to his employment with NLMC, Inc. to the Department of Banking within 60 days of the Effective Date of this Order.

¹ The Effective Date is the date a final order is entered. Please refer to the attached Notice to Appeal for when a final order can be entered.

5. Thomas W. Alexander shall provide the Department with a status report relating to the consumer refunds within 60 days from the Effective Date of this Order which shall include: (1) a list of all the consumers to which Thomas W. Alexander owed a refund; and (2) the manner in which Thomas W. Alexander has made the refunds; and (3) the date on which the refunds were sent to the consumers.

6. Thomas W. Alexander shall provide evidence to the Department that he has refunded the fees to the consumers by providing the Department with copies of any and all cancelled checks sent to consumers within 180 days of the Effective Date of this Order.

7. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary.

IT IS SO ORDERED.

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

February 28, 2009
(Date)