

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:	Docket No. : 09 <u>0222</u> (ENF-ORD)
DEPARTMENT OF BANKING, BUREAU	:	
OF COMPLIANCE, INVESTIGATION	:	
AND LICENSING,	:	
	:	
	:	
v.	:	
	:	
AMERICAN MODIFICATION	:	
CONSULTANTS LLC.	:	

ORDER

WHEREAS, the Department of Banking (the "Department") is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the Mortgage Licensing Act, 7 Pa. C.S. § 6101 et seq.; and

WHEREAS, the Bureau of Compliance, Investigation and Licensing (the "Bureau") is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department; and

WHEREAS, the Mortgage Licensing Act amended the Mortgage Act on August 5, 2009. *See* 7 Pa. C.S. § 6101 et seq., amended by Act 31 of 2009, H.B. 1654 (P.N. 2448); and

WHEREAS, American Modification Consultants LLC ("AMC") maintains a principal place of business at 239 Chestnut Street, 2nd Floor, Philadelphia, PA 19106; and

WHEREAS, AMC is currently registered with the Pennsylvania Department of State as a Domestic Limited Liability Company, Entity Number 3870833; and

WHEREAS, AMC maintains a website, www.americanmitigationconsultants.com; and

WHEREAS, AMC offers mortgage loan modification and debt settlement services; and

WHEREAS, on or around October 8, 2009, the Department received a complaint from a Pennsylvania consumer (the "Consumer") regarding AMC; and

WHEREAS, the Consumer received a mail solicitation from AMC stating that "Your loan may be eligible for special modification program guidelines created in conjunction with the Governmental Economic Stimulus Act of 2008." (See Exhibit A); and

WHEREAS, the Consumer was instructed to remit \$1,500 by check or credit card in order for AMC to initiate the loan modification application (See Exhibit B); and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines "mortgage loan business" as "[t]he business of advertising, causing to be advertised, soliciting, negotiating or arranging in the ordinary course of business or offering to make or making mortgage loans." 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a "first mortgage loan" as a loan which is "(1) made primarily for personal, family or household use; and (2) secured by any first lien mortgage, deed of trust, or equivalent consensual security interest on a dwelling or on residential real estate." 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a "secondary mortgage loan" as "(1) made primarily for personal, family or household use; and (2) secured by any secondary lien mortgage, deed of trust, or equivalent consensual security interest on a dwelling or on residential real estate." 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a "mortgage loan" as "[a] first or secondary mortgage loan, or both, as the context may require." 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a “mortgage originator” as “(1) [a]n individual [who] takes a mortgage loan application or offers or negotiates terms of a mortgage loan for compensation or gain.” 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines “advance fee” as “[a]ny funds requested by or to be paid to a person in advance of or during the processing of a mortgage loan application, excluding those fees paid by a consumer directly to a credit agency reporting bureau, title company or real estate appraiser.” 7 Pa. C.S. § 6102; and

WHEREAS, the Mortgage Licensing Act applies to any mortgage loan that is “(i) negotiated, offered or otherwise transacted within this Commonwealth, in whole or in part, whether by the ultimate lender *or any other person*; (ii) made or executed within this Commonwealth; or (iii) notwithstanding the place of execution, secured by real property located in this Commonwealth.” 7 Pa. C.S. § 6135(1) (emphasis added); and

WHEREAS, by advertising and conducting mortgage loan modifications for consumers, AMC has engaged in the “mortgage loan business” as defined in the Mortgage Licensing Act; and

WHEREAS, Section 6111(a) of the Mortgage Licensing Act provides that “. . . no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator as provided under this chapter. A mortgage originator may not engage in the mortgage loan business unless the mortgage originator is employed and supervised by a licensed mortgage broker, mortgage lender or mortgage loan correspondent. . .” 7 Pa. C.S. § 6111(a); and

WHEREAS, AMC does not meet any of the exceptions to licensure in Sections 6111(b) and 6112 of the Mortgage Licensing Act. *See* 7 Pa. C.S. § 6111(b), 6112; and

WHEREAS, a licensed mortgage broker must have a bond in order to collect advance fees. *See* 7 Pa. C.S. § 6131(e)(1) & (2); and

WHEREAS, AMC is not licensed to engage in the mortgage loan business in Pennsylvania; and

WHEREAS, AMC has violated the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania without a license; and

WHEREAS, Section 6138(a)(4) of the Mortgage Licensing Act provides the Department with authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4); and

WHEREAS, Section 6140(a) of the Mortgage Licensing Act provides, in relevant part that “[a] person subject to the provisions of this chapter and not licensed by the department who violates any provision of this chapter or who commits any action which would subject a license to suspension, revocation or nonrenewal under section 6139 (relating to suspension, revocation or refusal) may be fined by the department up to \$10,000 for each offense.” 7 Pa. C.S. § 6140(a); and

AND NOW, THEREFORE, since AMC has engaged in unlicensed activity, the Bureau, pursuant to its authority referenced above hereby imposes the following Order:

1. Loan Origination. Upon the effective date of this Order, AMC and any and all officers, members, managers, employees, independent contractors or agents of AMC shall cease and desist from engaging in the mortgage loan business subject to the Mortgage Licensing Act, including, but not limited to, advertising (including website advertising), accepting applications and negotiating mortgage loans and mortgage loan modifications in Pennsylvania or to Pennsylvania consumers, unless and until such time that AMC and all loan originators as defined

by the Mortgage Licensing Act are licensed by the Department pursuant to the Mortgage Licensing Act.

2. Pipeline Report. Upon the effective date of this Order, AMC shall provide a list of consumers who AMC has worked with in order to negotiate mortgage loan modifications (the “Pipeline Report”). The Pipeline Report shall include, but is not limited to:

- a. The names, addresses and phone numbers of consumers that have responded to AMC’s advertisements or that AMC has as clients; and
- b. The amount of fees collected from the consumers; and
- c. The current rate, term and payment of the consumers’ loans; and
- d. The proposed rate, term and payment of the loans subsequent to the loan modification; and
- e. The current status and/or resolution of the loan modification.

The list shall be sent to Ryan Walsh, Administrator, Compliance Division, at rywalsh@state.pa.us, by 5:00 PM eastern time on the effective date of this Order.

3. Advertising. Upon the effective date of this Order, AMC shall provide a list of any other websites or copies of any other advertising that AMC utilizes including, but not limited to, mail solicitations. The information shall be sent to Ryan Walsh, Administrator, Compliance Division, at rywalsh@state.pa.us, by 5:00 PM eastern time on the effective date of this Order.

4. Contact Information. Upon the effective date of this Order, AMC shall provide a list of all owners, officers and employees of AMC. The list shall include the name, address telephone number and position of these individuals. The information shall be sent to Ryan Walsh, Administrator, Compliance Division, at rywalsh@state.pa.us, by 5:00 PM eastern time on the effective date of this Order.

5. Non-prohibited Conduct. Nothing in this Order shall prevent AMC from negotiating loan modifications for consumers listed on the Pipeline Report if the consumers listed on the Pipeline Report provided the consumer wants AMC to proceed on his/her behalf.

6. Reservation of Rights. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary including, but not limited to imposing fines pursuant to Section 6140(a) or (b) of the Mortgage Licensing Act or seeking restitution for consumers.

IT IS SO ORDERED.

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

November 13, 2009
(Date)

EXHIBIT A

REDACTED

2. ID Number 1001		Loan Modification - Payment Reduction		Code 1001	
3. Company Phone Number (866) 232-3653			Property County Monroe		
c. property address and ZIP code [REDACTED]			Property Type RESIDENTIAL		Subject: NOTIFICATION
			Notice Type 009-S		
d. Addressee's Personal ID Number [REDACTED]					
a. name, address, and ZIP code [REDACTED] 24111 [REDACTED] [REDACTED]			RE: HR 5140 Economic Stimulus Act of 2008		
State PA		BUYOUT PROGRAM		Issuer: Program Director	
				Total Loan Amount \$150,000	

Form **009-S** Payment Reduction Notification

2009

FORM 009
PAYMENT REDUCTION NOTIFICATION

STIMULUS ACT 2008

PLEASE READ ENTIRE DOCUMENT CAREFULLY

RE: Payment Reduction Program

Issued Date: October 1st, 2009

Your loan may be eligible for special modification program guidelines created in conjunction with the Governmental Economic Stimulus Act of 2008.

These new programs may enable you to modify your existing home loan and reduce your monthly mortgage payments, receive interest rate reductions, and/or freeze your existing interest rate, without the traditional restrictions on credit history, income or employment status, equity and reserves.

If you have experienced financial hardship, have late mortgage payments, or have negative equity call 866-232-3653 to confirm eligibility. When calling please reference file number [REDACTED].

HR 5140 Economic Stimulus Act of 2008 was designed to provide economic stimulus through recovery rebates to individuals, incentive for business investment, and increase in conforming and loan limits. This Act became Public Law No: 110-185 on February 13, 2008. HR 5140 information is available to anyone at www.govtrack.us/congress/bill.rpd?bill=110-5140

DON'T FORGET TO ASK US ABOUT OUR DEBT SETTLEMENT PROGRAMS.

This product or service has not been approved or endorsed by any government agency and this offer is not being made by an agency of government. All borrowers must be qualified and approved under the lender's current underwriting guidelines. Rates and terms are subject to change.

EXHIBIT B



AMERICAN MODIFICATION CONSULTANTS

Reasons people turn to Loss Mitigation

- Unable to Refinance
- They owe more than their home is worth
- ARM is expiring on their current loan
- Unaffordable monthly payments
- Hardship
- Avoid Bankruptcy

Our priorities are to terminate foreclosures and keep you in the home that you work hard for, renegotiate, your existing loan with your current lender and get you a more affordable payment with a fixed low interest rate, even a short sale to homeowners in some cases.

The information you have verbally provided to me pre-qualifies you into one of our programs. Therefore it appears we are going to be able to assist you in saving your home from foreclosure or a mortgage delinquency. There are many programs we can submit to your lender.

Without obtaining additional information from you, I cannot guarantee which program your lender will agree to. We will make every effort to save your home.

Please complete the enclosed forms and return to us either via E-mail or fax: 206-333-1473. Time is of the essence so please forward this information immediately.

A payment in the amount of \$ 1,500 can be paid check by phone, credit card or by filling out the credit card authorization form. You can mail certified funds or money order made payable to: American Modification Consultants.

If you have any questions or concerns, please contact one of our consultants at (866)-232-3653. We look forward to helping you save your home!



American Modification Consultants Programs

We strive to achieve the results of Modifications as follows...

Loan Modification: A written change to the terms of a homeowners mortgage to restructure monthly payments temporarily or permanently involving one or more of the following...

- Reducing the interest rate temporarily or permanently
- On ARM loans, fixing the interest rate temporarily or permanently;
- Extending the term of the loan;
- Deferring past due amounts;
- Capitalizing past due amounts;
- Deferring principal causing a balloon payment to be due at maturity or some other date;
- Conditionally forgiving a portion of the debt; and forgiving the debt.

Recapitalization Agreement- Is the best possible result in a loan modification. This allows all arrearages, interest, fees and accumulated payments to be added to the principle of the mortgage loan. This will bring you current with your existing lender.

Partial Claims: A cash advance on a loan for home owners to repay past due interest and escrow amounts. This advance is interest free and does not have to be paid back until the loan is paid in full or borrower no longer owns the property.

Forbearance: A temporary agreement, which allows the homeowner to make partial or no payments for a period of time. The loan is evaluated and homeowners circumstances are look at to see if there are any permanent workout options. This is common for homeowners who are willing to pay but cannot due to temporary and finite hardship.

Repayment Plan: An agreement in which the homeowner continues to make regular monthly payments along with a portion of the past due amount, until payments are caught up and loan is brought current.

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v.

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CONSULTANTS LLC.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Order upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST CLASS MAIL AND FASCIMILE

Paul Galeski, Manager
American Modification Consultants LLC
239 Chestnut Street, 2nd Floor
Philadelphia, PA 19106
Fax (206)333-3653

Jeremy Walker, Esquire
Bennett, Walker & Associates, LLC
100 South Broad Street
Suite 2130
Philadelphia, PA 19110
Fax (215)564-1414

Dated this 13th day of November, 2009.

Lauren A. Sassani
Assistant Counsel
Attorney I.D. # 203016
FOR: Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471