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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING, BUREAU :
OF COMPLIANCE, INVESTIGATION :
AND LICENSING :
v. :
CFS HOME LOANS, INC., and :
MARATHON MORTGAGE SOLUTIONS, INC. :

DOCKET No.

090021 (ENF-co)

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking, ("Department"), Bureau of Non-Depository Examination, has reviewed the business practices of CFS Home Loans, Inc., and Marathon Mortgage Solutions, Inc., (collectively "CFS"), and its officers and employees. Based on the results of the Investigation, the Bureau of Compliance, Investigation, and Licensing ("Bureau") alleges that CFS operated in violation of 7 Pa.C.S. § 6101 et seq. (the "Mortgage Act"). CFS, while neither agreeing nor disagreeing with the Department's findings, has acted amicably throughout the process and seeks to resolve the Departments allegations without further contest. The parties to the above-captioned matter, in lieu of litigation, hereby stipulate to the following information and agree to the terms of this Consent Agreement and Order ("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 has the primary responsibility of 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 ("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 were repealed by operation of law and replaced by the Mortgage Act.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) CFS Home Loans, Inc. and Marathon Mortgage Solutions, Inc. are Pennsylvania domestic business corporation, and were formerly licensed as CFS Home Loans, Inc. a First Mortgage Broker, license no. 3793 pursuant to the MBBCEPA, and a Secondary Mortgage Broker, license no. 1404 pursuant to the SMLA; and as Marathon Mortgage Solutions, Inc. a First Mortgage Broker, license no. 12195 pursuant to the MBBCEPA, and a Secondary Mortgage Broker, license no. 12196 pursuant to the SMLA; and both companies were granted conditional licenses pursuant to the Mortgage Act on November 5, 2008.

5) CFS maintains a principal place of business in Pennsylvania located at 2425 Sidney Street, Pittsburgh, PA 15203-2116.

VIOLATIONS

6) On February 11, 2008, the Department examined CFS at its principal place of business.

7) The Department alleges that various violations by CFS of the Mortgage Act, formerly Chapter 3 of the MBBCEPA, including, but not limited to, failure to maintain records of the CFS Home Loans, Inc. and Marathon Mortgage Solutions, Inc. separately; failure to maintain all records at a principal place of business; and, failure to include in advertisements language that CFS is licensed by the Department of Banking.

8) The Department alleges that some letters and mortgage loan disclosures contained borrower signatures that were not true borrower signatures.

9) The Department alleges that at least one mortgage loan transaction misrepresented the occupancy of an investment property as an owner-occupied property.

10) The Department alleges that CFS did not have sufficient internal controls in place to detect the dissemination of inaccurate information from CFS mortgage originators to mortgage loan lenders.

11) The Department alleges insufficient internal controls were in place, to actively detect, review, and halt the passing of inaccurate information to mortgage loan lenders. The Department alleges CFS demonstrated negligence as provided in Section 6139(a)(10) of the Mortgage Act, 7 Pa.C.S. § 6139(a)(10) (corresponding to Section 313(a)(14) of the MBBCEPA, 63 P.S. § 456.313(a)(14)).

12) On July 18, 2008, the Department received a complaint from a consumer, regarding CFS.

13) The complaint alleged that Marathon Mortgage Solutions, Inc. issued to June 9, 2008 a commitment to close on a mortgage loan by July 31, 2008.

14) On July 16, 2008 was informed by CFS that the mortgage loan commitment for July 31, 2008 could not be honored because the mortgage loan lender would not approve the loan.

15) CFS, a mortgage broker, cannot issue mortgage loan commitments as provided in Section 6123(7) of the Mortgage Act (corresponding to Section 309(a)(5) of the MBBCEPA).

16) CFS, upon realizing their error, subsequently arranged for a mortgage loan for the that closed on September, 16, 2008 with better loan terms than the original loan.

17) On October 2, 2008 the Department conducted an examination of Todd H. Fletcher licensed as First Mortgage Broker, license no. 18646 pursuant to the MBBCEPA,

subsequently issued a conditional license on November 5, 2008, and conducting business at 20530 Route 19, Cranberry Township, PA 16066-7518.

18) During the October 2, 2008 examination, it was found that Todd H. Fletcher originated and closed 6 mortgages in the name of CFS Home Loans, Inc between July 1, 2008 and October 2, 2008.

19) CFS Home Loans, Inc. maintained a branch location at 20530 Route 19, Cranberry Township, PA 16066-7518 until it failed to renew license no. 3793.001 on June 30, 2008.

20) The Department alleges that between July 1, 2008 and October 2, 2008, Todd H. Fletcher used the name CFS when Todd H. Fletcher transacted six (6) mortgage loans that were brokered to CFS.

21) The Department alleges that CFS could not allow Todd H. Fletcher, a mortgage broker, to use a name other than the name Todd H. Fletcher when transacting business brokered to CFS as provided in Section 6136(a) of the Mortgage Act (corresponding to Section 309(a)(1) of the MBBCEPA).

AUTHORITY OF THE DEPARTMENT

22) Section 6138(a)(4) of the Mortgage Act (corresponding to Section 310(a) of the MBBCEPA) provides the Department with authority to issue orders as may be necessary for the enforcement of the Mortgage Act. 7 Pa.C.S. § 6138(a)(4).

23) Section 6139(a)(10) of the Mortgage Act (corresponding to Section 313(a)(14) of the MBBCEPA) authorizes the Department to suspend, revoke or refuse to renew a license issued under the Mortgage Act) if the licensee has "[d]emonstrated negligence or incompetence

in performing any act for which the licensee is required to hold a license under this chapter.” 7 Pa.C.S. § 6139(a)(10).

24) Section 6140(b) of the Mortgage Act (corresponding to Section 314(c) of the MBBCEPA) authorizes the Department to issue a fine against 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 [of the Mortgage Act]. . . .” 7 Pa.C.S. § 6140(b).

RELIEF

25) Suspension of Mortgage Broker License. From February 1, 2009 until March 2, 2009, CFS agrees to suspend the advertisement, solicitation, negotiation, arrangement and any other conduct whatsoever that constitutes engaging in the first mortgage loan business.

26) By January 31, 2009, CFS shall provide a list of consumers who have submitted applications to CFS but whose mortgage loans have not closed. “Application” shall mean a completed Uniform Residential Loan Application (1003). The list shall include the name, address and telephone number of the consumer as well as the status of the processing of the application. This list shall be sent to the attention of:

Brian Crossland Chief of Compliance
Bureau of Compliance, Investigation and Licensing
Pennsylvania Department of Banking
17 N. Second Street, Suite 1300
Harrisburg, PA 17101

This list shall comprise the pipeline for CFS. No additional applications may be added to the pipeline after January 31, 2009.

27) Fines. CFS agrees to pay a fine of \$15,000 in ten (10) installments of \$1,500.00. The first installment of \$1,500.00 shall be due within thirty (30) days of the Effective Date of

this Order. Each subsequent payment of \$1,500.00 shall be due thirty (30) days from the date of the previous payment until paid in full.

28) Internal Control Plan. CFS shall submit to the Department an internal control plan that it has implemented as policies and procedures to actively detect warning indicators, review those warning indicators, and mitigate the dissemination of inaccurate or fraudulent information to mortgage loan lenders. The plan provides policies and procedures for, but not limited to:

- a) the procurement and implementation of a third party vendor's services or equivalent software services devised for the early detection and mitigation of inaccurate mortgage loan information;
- b) the training of CFS employees and managers; and
- c) the type and usage of background checks when hiring new CFS employees.

29) External Audit. Within one-hundred and eighty (180) days of the Effective Date of this Order CFS shall submit to the Department for review and approval the names of three suitable accounting firms that are able to conduct an independent review of CFS internal control policies and procedures. Further:

- a) after obtaining approval and recommendation from the Bureau for one of the three accounting firms, CFS shall engage that accounting firm to conduct an independent review of its internal control policies and procedures;
- b) upon independent audits completion, CFS shall notify the Bureau of the audits completion with a tentative date when the report can be made available for the Bureau's review; and
- c) upon receipt of the independent audit, CFS shall submit an original or attested copy to the Bureau for review.

30) Education. Within ninety (90) days of the Effective Date of this Order, CFS shall submit certificates to the Bureau evidencing the fact each mortgage loan originator employed by CFS completed six (6) hours of continuing education.

31) Abeysance. CFS agrees that, if the Department finds future violations of this Order, an immediate suspension of the CFS license shall be imposed.

FURTHER PROVISIONS

32) Consent. CFS hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the MBBCEPA and SMLA and agrees that it understands all of the terms and conditions contained herein. CFS, 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.

33) 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).

34) 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 CFS..

35) Binding Nature. The Bureau, CFS, all officers, owners, directors, employees, heirs and assigns of CFS intend to be and are legally bound by the terms of this Order.

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

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

38) Other Enforcement Action.

(a) The Department reserves all of its rights, duties, and authority to enforce all statutes, policy statements, rules and regulations under its jurisdiction against CFS and MMS in the future regarding all matters not resolved by this order.

(b) CFS 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.

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

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

41) 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 Bureau and CFS 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

Brian Crossland
Chief of Compliance
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 1/20/09

FOR CFS HOME LOANS, INC. and
MARATHON MORTGAGE SOLUTIONS, INC.

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 1-16-09