

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

DEC 18 PM 3:14
PA DEPT OF BANKING

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

Docket No.: 090235 (EMF-Co)

v. :

MASON DIXON FUNDING, INC. :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Compliance, Investigation and Licensing (the "Bureau") has reviewed the business practices of Mason Dixon Funding, Inc. ("Mason Dixon") and its officers, employees and directors. Based on the results of its review, the Bureau believes that Mason Dixon operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 et seq. 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 Licensing Act.
2. The Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department.

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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.

4. Mason Dixon was licensed as a First Mortgage Banker, license no. 17299, pursuant to the MBBCEPA and as a Secondary Mortgage Lender, license no. 17301, pursuant to the SMLA.

5. Mason Dixon was granted a conditional license as a Mortgage Lender pursuant to the Mortgage Licensing Act on December 29, 2008.

6. Mason Dixon applied for, and was granted, a Mortgage Lender license, license no. 21346, on January 29, 2009.

7. Mason Dixon's principal place of business is located at 800 King Farm Blvd, Ste 210, Rockville, MD 20850-6148.

8. Mason Dixon maintains branch licenses located at 1100 N Mountain Rd., Harrisburg, PA 17112-1752 and, as of September 25, 2009, 3301 Lancaster Pike, Ste 1D, Wilmington, DE 19805 (the "Wilmington Location").

Unlicensed Activity

9. On October 8, 2009, the Department received a letter from Mason Dixon's counsel, self reporting unlicensed activity from the Wilmington Location.

10. The October 8, 2009 letter revealed that from August 2008 until September 3, 2009 Mason Dixon originated fifty-four (54) Pennsylvania mortgage loans from the Wilmington Location prior to the Wilmington Location becoming licensed as a branch.

11. The Mortgage Licensing Act defines a "branch" as "[a]n office or other place of business, other than the principal place of business, where a person engages in the mortgage loan business subject to this chapter." 7 Pa. C.S. § 6102 (corresponding to 63 P.S. § 456.302).

12. Section 6131(a)(1)(ii) of the Mortgage Licensing Act (corresponding to Section 304(a) of the MBBCEPA) provides, in relevant part, that an application for licensure shall include "... the address *or addresses* where the applicant's mortgage loan business is to be conducted." 7 Pa. C.S. § 6131(a)(1)(ii) (emphasis added) (corresponding to 63 P.S. § 456.304(a)).

13. Section 6132 of the Mortgage Licensing Act (corresponding to Section 305 of the MBBCEPA) provides that a licensee must pay initial application fees and renewal fees for each branch office. 7 Pa. C.S. § 6132 (corresponding to 63 P.S. § 456.305).

14. Based on the foregoing, any office of a licensee where mortgage loan business is conducted under the Mortgage Licensing Act must be licensed as a branch pursuant to the Mortgage Licensing Act.

15. It is noted that Mason Dixon self reported the unlicensed activity to the Department and, upon discovering this oversight, Mason Dixon immediately ceased all loan activity from the Delaware branch until licensure on September 25, 2009.

Authority of the Department

16. Section 6138(a)(4) of the Mortgage Licensing Act (corresponding to Section 310(a) of the MBBCEPA) 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. See 7 Pa. C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a)).

17. Section 6140(b) of the Mortgage Licensing Act (corresponding to Section 314(c) of the MBBCEPA) 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) (corresponding to 63 P.S. § 456.314(c)).

VIOLATIONS

18. Mason Dixon violated Sections 6131(a)(1)(ii) and 6132 of the Mortgage Act (corresponding to Sections 304(a) and 305(a) of the MBBCEPA) by originating loans from an unlicensed branch location.

RELIEF

19. Fine. On the Effective Date of this Order, Mason Dixon agrees to pay the Department a fine in the amount of \$13,500. Payments shall be remitted by business check, certified check or money order made payable to the Department of Banking, and will be sent to the Attention of: Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

20. Corrective Action. Upon the Effective Date of this Order, Mason Dixon agrees to comply with the requirements for licensure under the Mortgage Licensing Act.

FURTHER PROVISIONS

21. Consent. Mason Dixon hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Licensing Act and agrees that it understands all of the terms and conditions contained therein.

Mason Dixon, 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.

22. 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).

23. 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 Mason Dixon.

24. Binding Nature. The Department and Mason Dixon intend to be and are legally bound by the terms of this Order.

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

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

27. 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 Mason Dixon in the future regarding all matters not resolved by this Order.

b. Mason Dixon 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.

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

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

30. 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 Department and Mason Dixon, 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**

John Talalai, Administrator
Bureau of Compliance,
Investigation and Licensing
Department of Banking

Date: 12-18-09

FOR MASON DIXON FUNDING, INC.

(Officer Signature)

(Print Officer Name)

Executive VP
(Title)

Date: 12-16-09