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DEPARTMENT OF BANKING

PA DEPT OF BANKING

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

Docket No. 0809009 (ENF-CO)

v.

PRIMARY RESIDENTIAL MORTGAGE, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations, has conducted an examination of Primary Residential Mortgage, Inc. ("Primary Residential"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that Primary Residential operated 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., 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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Act.

4. Primary Residential was licensed as a First Mortgage Banker under the MBBCEPA, license no. 1666, and as a Secondary Mortgage Lender under the SMLA, license no. 16817.

5. Primary Residential was granted a conditional license pursuant to the Mortgage Act on November 5, 2008.

6. Primary Residential's principal place of business in Pennsylvania is located at 502 N State St, Ephrata, PA 17522-1740 and currently has licensed branch locations in Salt Lake City, UT; Camp Hill, PA; Centennial Park, AZ; Lutherville, MD; Owings Mills, MD; Baltimore, MD; Reading, PA; Philadelphia, PA; Catonsville, MD; Corona, CA (the "Corona Location"); York, PA; Bel Air, MD and Wilkes Barre, PA.

7. On April 7, 2008, an examiner from the Department initiated an examination of Primary Residential at the former principal place located in Camp Hill, PA (the "Examination").

Unlicensed Activity

8. The Examination revealed that Primary Residential was originating Pennsylvania residential mortgage loans from the unlicensed branch location of 221 Mason Dr, Ephrata, PA 17522-2661 (the "Mason Dr Location").

9. The Mason Dr Location was previously licensed as a branch location of Primary Residential, first mortgage banker branch no. 1666.016 and secondary mortgage lender branch no. 16817.006.

10. Primary Residential did not renew the branch licenses for the Mason Dr Location and thus the branch licenses were cancelled effective July 1, 2007.

11. Based on a spreadsheet provided by Primary Residential on May 15, 2008, it was determined that Primary Residential originated thirty-seven (37) Pennsylvania residential mortgage loans from the Mason Dr Location subsequent to cancellation of the branch's licenses.

12. Section 6131(a)(1)(ii) of the Mortgage Act (corresponding to Section 304(a) of the MBBCEPA) provides, in relevant part, that an application for licensure shall include the "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(b)(2) of the Mortgage Act (corresponding to Section 305(a) of the MBBCEPA) provides that a licensee must pay a renewal fee for each branch office. 7 Pa. C.S. § 6132(b)(2) (corresponding to 63 P.S. § 456.305(a)).

14. Thus, based upon the foregoing, any office of a licensee where Pennsylvania mortgage loan business is conducted pursuant to the Mortgage Act must be licensed as a branch pursuant to the Mortgage Act.

Continuing Education

15. The Examination revealed that Primary Residential did not have an individual at the Corona Location or at a former branch in West Palm Beach, FL obtain the continuing education credits for the annual renewal period of July 1, 2006 through June 30, 2007 ("2006-2007 renewal period").

16. Section 6131(g)(2)(i) of the Mortgage Act (corresponding to Section 304(e) of the MBBCEPA) provides, in relevant part, that to maintain a license “[a] mortgage broker, mortgage lender or mortgage loan correspondent shall demonstrate to the satisfaction of the department that at least one individual from each licensed office that is not a mortgage originator, and all mortgage originators employed by the licensee, have attended a minimum of six hours of continuing education each year.” 7 Pa. C.S. § 6131(g)(2)(i) (corresponding to 63 P.S. § 456.304(e)).

17. At the time Primary Residential was required to complete its continuing education credits, the Mortgage Bankers and Brokers and Consumer Equity Protection Act regulations (the “MBBCEPA Regs”), 10 Pa. Code § 44.1 *et seq.*, provided that an initial licensee that had been licensed by the Department for less than 6 months prior to its first annual renewal date shall have an additional 6 months by which to complete its continuing education requirements.¹ See 10 Pa. Code § 44.2(b).

18. Based on Section 44.2(b) of the MBBCEPA Regs, Primary Residential had until December 31, 2007, to have individuals at the Corona Location and the West Palm Beach, FL former branch location complete the continuing education credits because they were initially licensed prior to the first renewal period of June 30, 2007.²

19. Primary Residential did not have individuals at the two branch locations complete the continuing education requirements by the December 31, 2007 extension.

¹ The MBBCEPA Regs were repealed on November 5, 2008.

² The West Palm Beach, FL branch was licensed effective May 22, 2007, and the Corona Location was licensed effective June 18, 2007.

Authority of the Department

20. Section 6138(a)(4) of the Mortgage Act (corresponding to 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) (corresponding to 63 P.S. § 456.310(a) and 7 P.S. § 6616(1)).

21. Section 6140(b) of the Mortgage Act (corresponding to Section 314(c) of the MBBCEPA and Section 22(b) of the SMLA) 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) and 7 P.S. § 6622(b)).

VIOLATIONS

22. Primary Residential is in violation of Sections 6131(a)(1)(ii) and 6132(b)(2) of the Mortgage Act (corresponding to Sections 304(a) and 305(a) of the MBBCEPA) by originating loans from an unlicensed branch location.

23. Primary Residential is in violation of Section 6131(g)(2)(i) of the Mortgage Act (corresponding to Section 304(e) of the MBBCEPA) by not completing the required continuing education credits for two of its branch locations.

RELIEF

24. Fine. Within thirty (30) days of the Effective Date of this Order, Primary Residential shall pay to the Department a fine in the amount of \$16,000. The fine shall be remitted by a certified check or money order made payable to the Department and sent to the

attention of the Compliance Division at 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

25. Corrective Measures. Upon the Effective Date of this Order, Primary Residential shall:

- a. cease and desist from originating loans from unlicensed locations; and
- b. comply with the continuing education requirements as set forth in the Mortgage Act.

FURTHER PROVISIONS

26. Consent. Primary Residential 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. Primary Residential, 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.

27. 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).

28. 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 Primary Residential.

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

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

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

32. 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 Primary Residential in the future regarding all matters not resolved by this Order.

b. Primary Residential 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.

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

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

35. 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 Primary Residential Mortgage, Inc. 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**

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

Date: January 6, 2009

FOR PRIMARY RESIDENTIAL MORTGAGE, INC.

(Officer Signature)

(Print Officer Name)

Executive Vice President
(Title)

Date: 1/5/09