

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

PA DEPT OF BANKING

v.

Docket No. 10 0277 (ENF-CO)

1ST TRUST FINANCIAL, LLC
and ANDREW WULK, INDIVIDUALLY

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, through the Department of Banking's (the "Department") Bureau of Compliance, Investigation and Licensing (the "Bureau"), based on information obtained through its investigation, believes that 1st Trust Financial, LLC ("1st Trust") and Andrew Wulk, its president and owner, as an individual, 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. At all relevant and material times, 1st Trust was licensed as a mortgage broker under the Mortgage Licensing Act with license number 21265 and a National Mortgage Licensing System (NMLS) identification number of 140182.

4. 1st Trust maintains its principal place of business in Pennsylvania at 604 French Creek Lane, Chester Springs, Pennsylvania 19425-2342.

5. Andrew Wulk is the president of 1st Trust and owns one hundred per cent of the company.

Unlicensed Mortgage Originators

6. The Mortgage Licensing Act provides, in relevant part, that “. . . on and after the effective date of this section [November 5, 2008], no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a . . . 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).

7. Effective October 5, 2009, amendments to the Mortgage Licensing Act required owners of licensed mortgage brokers to be licensed individually as mortgage originators before performing the services of a mortgage originator. 7 Pa.C.S. § 6111.

8. Beginning on November 1, 2010 the Bureau conducted an investigation that revealed Andrew Wulk originated mortgages for his company 1st Trust after October 5, 2009, when unlicensed to perform such loan origination services.

9. The Bureau obtained a loan log from 1st Trust pursuant to its investigation for the period beginning October 5, 2009 through October 15, 2010.

10. The loan log shows that thirty five mortgage loan applications were originated between October 5, 2009 and October 8, 2010 by Andrew Wulk on behalf of 1st Trust while he remained unlicensed as a mortgage originator.

11. The mortgage loan applications originated by Andrew Wulk for 1st Trust subsequent to October 5, 2009 are in violation of the Mortgage Licensing Act.

12. 1st Trust and Andrew Wulk stated that at all times it believed it was properly originating and processing mortgage loans.

13. 1st Trust and Andrew Wulk have informed the Department that it has instituted internal control measures which will ensure that all mortgage originators are properly licensed and will also prohibit unlicensed individuals from engaging in the mortgage business in Pennsylvania.

14. 1st Trust and Andrew Wulk deny any wrongdoing.

Authority of the Department

15. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department broad authority to issue orders for the proper conduct of the mortgage licensing business and the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

16. Section 6139 of the Mortgage Licensing Act provides that the Department may suspend, revoke or refuse to renew a license issued under the Mortgage Licensing Act if an owner has "failed to comply with or violated any provision of this chapter. . ." and if "a mortgage broker, mortgage lender or mortgage loan correspondent, conducted the mortgage loan business through an unlicensed mortgage originator." 7 Pa. C.S. § 6139(a)(2) and (a)(14).

17. Section 6140(b) of the Mortgage Licensing Act 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).

Violations

18. 1st Trust and Andrew Wulk jointly and severally violated the Mortgage Licensing Act on thirty five occasions when Andrew Wulk continued to perform the services of a mortgage originator without a separate mortgage originator license after October 5, 2009 in accordance with the Mortgage Licensing Act. 7 Pa. C.S. § 6111.

Relief

19. Fine. 1st Trust and Andrew Wulk, jointly and severally, agree to pay a fine of \$8,750.00 which shall be due and payable to the Department in ten installments each of \$875.00. Installments will be due on or before the 1st of each month starting on December 1, 2010 and ending September 1, 2011. The fine payment shall be remitted by a certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of Licensing Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

20. Corrective Measures. Upon the effective date of this Order, 1st Trust and Andrew Wulk shall cease and desist from performing the services of a mortgage originator without a separate mortgage originator license.

Further Provisions

21. Consent. 1st Trust and Andrew Wulk hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order issued pursuant to the Bureau's order authority under the Mortgage Licensing Act and agree that they understand all of the terms and conditions

contained herein. 1st Trust and Andrew Wulk, by voluntarily entering into this Order, waive 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 1st Trust and Andrew Wulk.

24. Binding Nature. The Department, Andrew Wulk, and 1st Trust and all officers, owners, directors, employees, heirs and assigns of 1st Trust intend to be and are legally bound by the terms of this Order.

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

26. Effectiveness. 1st Trust and Andrew Wulk hereby stipulate and agree that the Order shall become effective on the date the Bureau executes the Order.

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 1st Trust and Andrew Wulk in the future regarding all matters not resolved by this Order.

b. 1st Trust and Andrew Wulk acknowledge and agree that this Order is only binding upon the Department and not 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 or electronic mail in portable document format "pdf."

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, 1st Trust and Andrew Wulk 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**

Robert E. Knaub, Enforcement Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 11/18/10

FOR 1ST TRUST FINANCIAL, LLC

(Officer Signature)

(Print Officer Name)

Council
(Title)

Date: 11/12/2010

FOR ANDREW WULK, individually

(Signature)

(Print Name)

Date: 11/12/2010