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<p>COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF BANKING, BUREAU OF COMPLIANCE, INVESTIGATION AND LICENSING,</p> <p style="text-align: center;">v.</p> <p>A&amp;A ASSOCIATES MORTGAGE LITIGATORS.</p>	<p>:</p>	<p>Docket No. : 100228(ENF-ORD)</p>
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**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 A&A Associates Mortgage Litigators ("A&A Associates") and its officers, employees and directors. Based on the results of its review, the Bureau believes that A&A Associates is 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 was amended on August 5, 2009 by Act 31 of 2009, H.B. 1654 (P.N. 2448).

4. On or around December 23, 2009, the Department received information that A&A Associates was engaged in the mortgage loan modification business in Pennsylvania without a license.

5. A&A Associates was operating its mortgage loan modification business from 94 Werley Road, Allentown, PA 18104.

6. A&A Associates advertised that consumers must pay a total of \$3,000 in fees to A&A Associates prior to obtaining the mortgage loan modification.

7. In April 2010, a representative of the Bureau spoke with James Amelio, the owner of A&A Associates who stated that he had been conducting the mortgage loan modification business in Pennsylvania without a license.

8. By offering mortgage loan modification services to Pennsylvania consumers, A&A Associates has engaged in the "mortgage loan business" as defined in the Mortgage Licensing Act.

9. A&A Associates 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.

10. A&A Associates is not licensed to engage in the mortgage loan business in Pennsylvania.

11. The employees of A&A Associates that conduct the mortgage loan modification negotiations with third party lenders on behalf of consumers are not licensed as mortgage originators pursuant to the Mortgage Licensing Act and do not meet any exception to licensure. See 7 Pa. C.S. § 6102.

12. Only licensees that have an advance fee bond are permitted to collect advance fees. See 7 Pa. C.S. § 6131(e)(1).

13. A&A Associates, as an unlicensed mortgage broker, does not have a bond to collect advance fees.

14. On September 27, 2010, the Bureau issued an order against A&A Associates for the above-stated activities; Order issued Sept. 27, 2010, Docket No. : 100228(ENF-ORD).

15. This Order resolves the September 27, 2010 order.

#### Mortgage Licensing Act

16. 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).

17. Section 6102 of the Mortgage Licensing Act defines an “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.

18. 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.

19. Section 6102 of the Mortgage Licensing Act defines a “mortgage originator” as:

- (1) An individual [that] takes a mortgage loan application or offers or negotiates terms of a mortgage loan for compensation or gain.
- (2) The term does not include any of the following:
  - (i) An individual engaged solely as a loan processor or underwriter consistent with section 6112(8) (relating to exceptions to licensing requirements).
  - (ii) A person or entity solely involved in extensions of credit relating to timeshare plans. . . .

- (3) Except as set forth in paragraph (4), the term does not include an employee of a licensee or person exempt or excepted from licensure under this chapter who *solely renegotiates terms for existing mortgage loans held or serviced by that licensee or person* and who does not otherwise act as a mortgage originator.
- (4) . . . .

7 Pa. C.S. § 6102 (emphasis added).

20. 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.

21. 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.

22. 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.

23. 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).

24. Section 6131(e)(1) of the Mortgage Licensing Act provides that mortgage broker license applicants must obtain and “maintain a bond in the amount of \$100,000, in a form acceptable to the department, prior to the issuance of the license, from a surety company

authorized to do business in this Commonwealth. The bond shall be a penal bond conditioned on compliance with this chapter and subject to forfeiture by the department and shall run to the Commonwealth for its use. The bond shall also be for the use of any person against the mortgage broker for failure to carry out the terms of any provision for which advance fees are paid. . . .” 7 Pa. C.S. § 6131(e)(1).

25. 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).

26. 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).

#### VIOLATION

27. A&A Associates is in violation of Section 6111(a) of the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania when it was not licensed to do so.

#### RELIEF

28. Corrective Action. Upon the Effective Date of this Order, A&A Associates shall cease and desist from advertising or originating mortgage loans from a Pennsylvania location or to Pennsylvania consumers unless and until such time as it is licensed by the Department.

#### FURTHER PROVISIONS

29. Consent. A&A Associates 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 herein. A&A Associates 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.

30. 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).

31. 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 A&A Associates.

32. Binding Nature. The Department, A&A Associates, and all officers, owners, directors, employees, heirs and assigns of A&A Associates intend to be and are legally bound by the terms of this Order.

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

34. Effectiveness. A&A Associates hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

35. 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 A&A Associates in the future regarding all matters not resolved by this Order.
- b. A&A Associates 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.

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

37. Counterparts. This Order may be executed in separate counterparts, by facsimile or by PDF.

38. 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 A&A Associates 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**

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

Date: 11-24-2010

**FOR A&A ASSOCIATES MORTGAGE LITIGATORS**

\_\_\_\_\_  
(Officer Signature)

\_\_\_\_\_  
(Print Officer Name)

\_\_\_\_\_  
(Title)

Date: 11/19/2010