

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

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

Petitioner

v.

ELLENI KLIMANTIS-BERGER  
d/b/a ALL CREDIT FINANCE, and  
RANDY DAVID BERGER, Individually,  
Respondents

Docket No. 080316

PA DEPT OF BANKING

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing, conducted an examination of Elleni Klimantis-Berger, d/b/a All Credit Finance, and her husband and loan officer, Randy David Berger (collectively "the Bergers"). Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Elleni Klimantis-Berger and Randy David Berger operated in violation of the Mortgage Bankers and Brokers and Consumer Equity Protection Act ("MBBCEPA"), 63 P.S. § 456.101, and its successor statute, 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 ("Order").

## BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the Mortgage Bankers and Brokers and Consumer Equity Protection Act, 63 P.S. § 456.101 *et seq.*, now repealed, and its successor statute, the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.*

2. The Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act on behalf of the Department.

3. The Bureau operates from the Department's main office located at 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

4. Elleni Klimantis-Berger, d/b/a All Credit Finance was a first mortgage broker with license number 3532, and a secondary mortgage broker with license number 1912.

5. All Credit Finance operated out of 1326 Freeport Road Suite 205, Pittsburgh, PA 15238-3131.

6. Elleni Klimantis-Berger and Randy David Berger, husband and wife, reside at 150 Millview Drive, Pittsburgh, PA 15238-1626.

7. Randy David Berger worked as a loan officer for his wife at All Credit Finance.

8. On November 10, 2008, the Bureau issued an Order to Show Cause against Elleni Klimantis-Berger d/b/a All Credit Finance and Randy David Berger alleging, among other things, that the Bergers violated the MBBCEPA, and its successor statute, numerous times by engaging in dishonest, fraudulent, unfair and unethical practices in the mortgage industry when they knowingly secured and used fraudulent and inflated appraisals prepared by an unlicensed

appraiser in support of mortgage loan applications for the purpose of defrauding lenders and borrowers.

9. On November 17, 2008, the Bureau filed a Cease and Desist Order against Elleni Klimantis-Berger d/b/a All Credit Finance requiring her to immediately cease and desist from engaging in the mortgage loan business in Pennsylvania which was docketed at 080317.

10. A hearing on the Cease and Desist Order was held on December 11, 2008.

11. On March 17, 2009, the hearing officer assigned to hear the challenge to the Cease and Desist Order issued a Proposed Report and Order, which order was affirmed in its entirety by the designated agency head on September 10, 2010.

12. On or about October 15, 2009, Elleni Klimantis-Berger and Randy David Berger filed for protection of the bankruptcy court in the U.S. Bankruptcy Court in the Western District of Pennsylvania.

13. On or about February 11, 2010, Elleni Klimantis-Berger and Randy David Berger pled guilty in open court to charges of wire fraud conspiracy based on the same allegations as those set forth in the Order to Show Cause and Cease and Desist Orders issued by the Bureau.

14. Elleni Klimantis-Berger and Randy David Berger are no longer eligible to obtain a license as a mortgage originator or mortgage broker in Pennsylvania because they have pled guilty to a felony involving fraud or dishonesty; such licenses became a requirement effective November 5, 2008 for originators and October 5, 2009 for brokers pursuant to the Mortgage Licensing Act and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 "SAFE Act." 7 Pa.C.S. § 6111; 12 U.S.C. § 5101 *et seq.*

### Authority of the Department

15. The Department shall deny a mortgage originator license if the applicant has been convicted of any felony, defined as entering a guilty plea among other things, during the seven-year period preceding the date of the license application or at any time preceding the date of application if the felony involved an act of fraud, dishonesty, breach of trust or money laundering. 7 Pa.C.S. §6133(d)(1) and (d)(1)(i).

16. Pursuant to the Mortgage Licensing Act, mortgage brokers are not exempt from the requirement for a mortgage originator license. 7 Pa.C.S. § 6111 (a).

17. The Department possesses broad authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and enforcement of the MBBCEPA, pursuant to section 310(a) of the MBBCEPA, now repealed and replaced by section 6138 of the Mortgage Licensing Act. 7 Pa. C.S. § 6138.

18. The Department may suspend, revoke or refuse to renew a license if a licensee engaged in dishonest, fraudulent or illegal practices or conduct in any business or unfair or unethical practices or conduct in connection with the mortgage loan business pursuant to section 313(a)(5) of the MBBCEPA, 63 P.S. § 456.313(a)(5), now repealed and replaced with 6139 of the Mortgage Licensing Act. 7 Pa. C.S. § 6139(a)(3).

19. The Department may suspend, revoke or refuse to renew a license if the licensee demonstrated negligence or incompetence in performing any act for which the licensee is required to hold a license pursuant to section 313(a)(14) of the MBBCEPA, 63 P.S. § 456.313(a)(14), now repealed and replaced by section 6139(a)(10) of the Mortgage Act. 7 Pa. C.S. § 6139(a)(10).

## VIOLATIONS

20. Elleni Klimantis-Berger d/b/a All Credit Finance violated section 313(a)(5) of the MBBCEPA, 63 P.S. § 456.313(a)(5), repealed, and replaced by section 6139(a)(3) of the Mortgage Licensing Act, 7 Pa.C.S. § 6139(a)(3), numerous times when she acted illegally, unethically, and dishonestly when she and her employee husband used an unlicensed person to prepare appraisals for the purpose of defrauding lenders in regard to at least fifteen (15) mortgage loan transactions.

21. Elleni Klimantis-Berger d/b/a All Credit Finance violated section 313(14) of the MBBCEPA, 63 P.S. § 456.313(a)(14), repealed and replaced by section 6139(a)(10) of the Mortgage Licensing Act, 7 Pa.C.S. § 6139(a)(10) numerous times when she acted in a negligent and incompetent manner when she or her employee husband used an unlicensed person to appraise properties related to mortgage loan transactions she brokered.

22. Randy David Berger, an unlicensed person, violated section 314(c) of the MBBCEPA, 63 P.S. 456.314(c), repealed and replaced by section 6140 of the Mortgage Act, 7 P.S. § 6140(a) and (b), numerous times by engaging in dishonest, unethical and illegal acts which violate section 313(a)(5) of the MBBCEPA, 63 P.S. § 456.313(a)(5), repealed and replaced by section 6139(a)(3) of the Mortgage Licensing Act, 7 Pa.C.S. § 6139(a)(3), when he and his wife used an unlicensed person to prepare appraisals for the purpose of defrauding lenders and consumer borrowers.

23. Randy David Berger, an unlicensed person, violated section 314(c) of the MBBCEPA, 63 P.S. 456.314(c), repealed and replaced by section 6140 of the Mortgage Act, 7 P.S. § 6140(a) and (b), numerous times when he acted in a negligent and incompetent manner in violation of section 313(14) of the MBBCEPA, 63 P.S. § 456.313(a)(14) repealed and replaced

by section 6139(a)(10) of the Mortgage Licensing Act, 7 Pa.C.S § 6139(a)(10) when he used an unlicensed person to prepare appraisals for the purpose of defrauding lenders and consumer borrowers.

### RELIEF

24. Corrective Measures. Elleni Klimantis-Berger d/b/a All Credit Finance hereby consents to the revocation of her first mortgage broker license and second mortgage broker's license.

25. Elleni Klimantis-Berger hereby knowingly, willingly, voluntarily and irrevocably consents, as an individual, to her prohibition from engaging in the residential mortgage loan business, on her own or in the employ of another, and in any capacity, for the remainder of her natural life, including, but not limited to, brokering, soliciting, lending, processing, or assisting in any such activity as a loan officer, secretary, receptionist, processor, sales person, clerk or broker for themselves or for any other mortgage broker, banker or lender in the residential mortgage loan business.

26. Randy David Berger, hereby knowingly, willingly, voluntarily and irrevocably consents, as an individual, to his prohibition from engaging in the residential mortgage loan business, on his own or in the employ of another, in any capacity, for the remainder of his natural life, including, but not limited to, brokering, soliciting, lending, processing, or assisting in any such activity as a loan officer, secretary, receptionist, processor, sales person, clerk or broker for themselves or for any other mortgage broker, banker or lender in the residential mortgage loan business.

27. The Bureau, by entering into this agreement, acknowledges that the outstanding Order to Show Cause is resolved and the docket shall be closed.

### Further Provisions

28. Consent. Elleni Klimantis-Berger and Randy David Berger 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. Elleni Klimantis-Berger and Randy David Berger, 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.

29. 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).

30. 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 Elleni Klimantis-Berger and Randy David Berger.

31. Binding Nature. The Department, Elleni Klimantis-Berger and Randy David Berger, and all officers, owners, directors, employees, heirs and assigns of Elleni Klimantis-Berger and Randy David Berger intend to be and are legally bound by the terms of this Order.

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

33. Effectiveness. Elleni Klimantis-Berger and Randy David Berger hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order.

34. 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 Elleni Klimantis-Berger and Randy David Berger in the future regarding all matters not resolved by this Order.

b. Elleni Klimantes-Berger and Randy David Berger acknowledge and agree 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.

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

36. Counterparts. This Order may be executed in separate counterparts, by facsimile and by PDF.

37. 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 Elleni Klimantis-Berger and Randy David Berger intending to be legally bound, do hereby execute this Consent Agreement and Order in resolution of all outstanding issues raised by the Order to Show Cause.

**FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING, BUREAU OF  
COMPLIANCE, INVESTIGATION AND LICENSING**

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

December 30, 2010

Department of Banking

Date: 12/18/10  
**FOR ALL CREDIT FINANCE**

\_\_\_\_\_  
(Officer's Signature)

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

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

Date: 12/18/10

**FOR ELLENI KLIMANTIS-BERGER**

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

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

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

Date: 12/18/10

**RANDY DAVID BERGER**

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

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

\_\_\_\_\_

(Title)

Date: 12-18-13