

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

FILED

2010 JUN 29 AM 11:57

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

v.

HOME OWNERSHIP POSSIBILITIES FOR
EVERYONE, LLC

PA DEPT OF BANKING

Docket No. : 10 0146 (ENF-ORD)

ORDER

WHEREAS, the Department of Banking (the "Department") is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the Mortgage Licensing Act, 7 Pa. C.S. § 6101 et seq.; and

WHEREAS, the Bureau of Compliance, Investigation and Licensing (the "Bureau") is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department; and

WHEREAS, the Mortgage Licensing Act amended the Mortgage Act on August 5, 2009. *See* 7 Pa. C.S. § 6101 et seq., amended by Act 31 of 2009, H.B. 1654 (P.N. 2448); and

WHEREAS, Home Ownership Possibilities for Everyone, LLC. ("H.O.P.E.") maintains a website at www.mortgagehopenow.com; and

WHEREAS, H.O.P.E. maintains a corporate location of 900 Corporate Campus Drive, Louisville, Kentucky, 40223; and

WHEREAS, on or about May 10, 2010, H.O.P.E. sent a pre-approval letter to an individual in Pennsylvania regarding a mortgage loan for a residential home purchase. *See* Exhibit A; and

WHEREAS, at least eight Pennsylvania consumers were applicants for mortgages as of June 1, 2010; *See* Exhibit B; and

WHEREAS, H.O.P.E. is not currently, and never has been, licensed with the Department to engage in the mortgage loan business; and

WHEREAS, by soliciting mortgage loans and accepting loan applications from Pennsylvania consumers, H.O.P.E. has engaged in, and held themselves out, as being engaged in the "mortgage loan business" in Pennsylvania as defined in the Mortgage Licensing Act; and

WHEREAS, 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); and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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); and

WHEREAS, H.O.P.E. 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; and

WHEREAS, H.O.P.E. has violated the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania without a license; and

WHEREAS, 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); and

WHEREAS, 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); and

AND NOW, THEREFORE, since H.O.P.E. has engaged in the mortgage loan business without a license to do so, the Bureau, pursuant to its authority referenced above hereby imposes the following Order:

1. Loan Origination. Upon the effective date of this Order, H.O.P.E. and any and all officers, members, managers, employees, independent contractors or agents of H.O.P.E. shall cease and desist from engaging in the mortgage loan business subject to the Mortgage Licensing Act, including, but not limited to, advertising (including website advertising), accepting applications and negotiating mortgage loans in Pennsylvania or to Pennsylvania consumers,

unless and until such time that H.O.P.E. and all loan originators as defined by the Mortgage Licensing Act are licensed by the Department pursuant to the Mortgage Licensing Act.

2. Fine. H.O.P.E. shall pay a fine of \$10,000 (ten thousand dollars) within thirty (30) days of the effective date of this Order remitted by certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of the Compliance Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

3. Escrow Fees. Upon the Effective Date of this Order, H.O.P.E. shall immediately place any fees previously collected from Pennsylvania consumers relative to any pending mortgage loan applications in a separate escrow account maintained at a federally insured bank until proper restitution can be ordered. Within five (5) days of the Effective Date of this Order, H.O.P.E. shall provide proof that the fees have been placed in an escrow account maintained at a federally insured bank to Ryan Walsh, Administrator, Compliance Division, at rywalsh@state.pa.us.

4. Pipeline Report. Upon the Effective Date of this Order, H.O.P.E. shall provide a pipeline report for the following categories of loans:

- a. loans that have closed, but have not yet funded;
- b. loans that have been approved but that have not closed;
- c. applications that have been received, but no decision has been made on approving the applications; and
- d. applications that are in the initial stages of review and document gathering.

The pipeline report shall include the following information:

- i. the name, address and telephone number of the applicant consumer;

- ii. the loan number;
- iii. the amount of all prepaid loan fees submitted by the applicant consumer;
- iv. the amount of each loan
- v. the status of the loan;
- vi. the purpose of the loan (i.e., purchase or refinance);
- vii. contact information for the broker who referred the loan to H.O.P.E. (if applicable);
- viii. status of what is being done with the loan (funded by H.O.P.E., referred to another broker/lender, returned to broker, withdrawn by the applicant); and
- ix. contact information for the broker/lender where the loan is placed, should H.O.P.E. not fund the loan itself.

The list shall be sent to Ryan Walsh, Administrator, Compliance Division, at rywalsh@state.pa.us, by 5:00 PM eastern time on the effective date of this Order.

5. Treatment of Loans in Pipeline. With the written consent of the Bureau and the consumer, and with oversight of the Bureau, a loan in the pipeline may continue to be processed to prevent financial harm or other detriment to a consumer.

6. Advertising. Upon the effective date of this Order, H.O.P.E. shall provide a list of any other websites or copies of any other advertising that H.O.P.E. utilizes including, but not limited to, mail solicitations, internet pop-ups, radio, or ads or inserts in publications. The information shall be sent to Ryan Walsh, Administrator, Compliance Division, at rywalsh@state.pa.us, by 5:00 PM eastern time on the effective date of this Order.

7. Contact Information. Upon the effective date of this Order, H.O.P.E. shall provide a list of all owners, officers and employees of H.O.P.E. The list shall include the name,

address telephone number and position of these individuals. The information shall be sent to Ryan Walsh, Administrator, Compliance Division, at rywalsh@state.pa.us, by 5:00 PM eastern time on the effective date of this Order.

8. Reservation of Rights. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary including, but not limited to imposing fines pursuant to Section 6140(a) or (b) of the Mortgage Licensing Act or seeking restitution for consumers.

IT IS SO ORDERED.

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

June 29, 2010
(Date)

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DEPARTMENT OF BANKING

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v.

HOME OWNERSHIP POSSIBILITIES FOR
EVERYONE, LLC.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Order upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST CLASS MAIL

Home Ownership Possibilities for Everyone, LLC.
9900 Corporate Campus Dr
Suite 3000
Louisville, KY 40223

Dated this 29th day of June, 2010.

Linda Carroll
Deputy Chief Counsel
Attorney I.D. #35868
FOR: Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471