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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

Docket No. 10 0140 (ENF-CO)

PA DEPT OF BANKING

v.

SECKEL CAPITAL, LLC

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of Seckel Capital, LLC ("Seckel Capital"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that GMAC Mortgage operated in violation of 7 Pa. C.S. § 6101 et seq. ("Mortgage Licensing 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 ("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 Department issued Seckel Capital a conditional license as a Mortgage Broker pursuant to the Mortgage Licensing Act.

4. The Mortgage Licensing Act is the successor statute to Chapter 3 of the MBBCEPA and the SMLA.

5. Seckel Capital is currently licensed as a mortgage broker under the Mortgage Licensing Act with the Nationwide Mortgage Licensing System and Registry ("NMLS") identification number of 139832.

6. Seckel Capital maintains its principal place of business at 642 Newtown Yardley Road, Suite 220, Newtown, Pennsylvania 18940 ("Principal Place").

7. The Department's Consumer Services Division received several complaints regarding the collection of application fees by Seckel Capital.

8. After receiving several complaints, the Bureau initiated an on-site examination ("Examination") of Seckel Capital on or around September 28, 2009.

Advance Fees

9. The Examination revealed that Seckel Capital collected approximately \$24,006.15 in advance fees from consumers even though the consumers' loans did not close with Seckel Capital.

10. The Mortgage Licensing Act requires mortgage brokers to obtain or maintain a bond ("Penal Bond") in the amount of \$100,000 in a form acceptable to the Department from a surety company authorized to do business in Pennsylvania. 7 Pa. C.S. § 6131(e)(1).

11. A mortgage broker applicant is required to obtain its Penal Bond prior to the issuance of the mortgage broker license. Id.

12. The Mortgage Licensing Act explains that the Penal Bond is for use of "any person against the mortgage broker for failure to carry out the terms of any provision for which advance fees are paid." Id.

13. Mortgage brokers who demonstrate to the Department that they do not and will not accept advance fees shall be exempt from the Penal Bond requirement. 7 Pa. C.S. § 6131(e)(2).

14. Seckel Capital did not maintain the \$100,000 Penal Bond required by the Mortgage Licensing Act to collect advance fees.

15. Seckel Capital violated Section 6131(e)(1) of the Mortgage Licensing Act when it collected advance fees from consumers without obtaining and maintaining a Penal Bond.

16. Upon conclusion of the Department's examination, Seckel Capital took immediate corrective actions to reimburse the consumers and secure the required Penal Bond.

17. Seckel Capital obtained a Penal Bond effective on November 30, 2009.

Commitments

18. The Examination revealed Seckel Capital issued rate lock agreements and commitments to close in its own name.

19. The Mortgage Licensing Act states a mortgage broker licensee shall not "...commit to close or close mortgage loans in its own name, service mortgage loans, enter into lock-in agreements or collect lock-in fees..." unless the lock-in agreement is on behalf of and payable to the lender, not the mortgage broker. 7 Pa. C.S. § 6123(7).

Authority of the Department

20. Section 6138(a)(1) of the Mortgage Licensing Act provides the Department with the authority to "[E]xamine any instrument, document, account, book, record or file of a licensee or any person having a connection to the licensee or make other investigation as may be necessary to administer the provisions of this chapter." See 7 Pa. C.S. § 6138(a)(1).

21. The licensee or entity being examined by the Department shall bear the costs of that examination. See 7 Pa. C.S. § 6138(a)(1).

22. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department broad authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

23. The Mortgage Licensing Act provides the Department with the authority to order a person or licensee to make restitution for actual damages to consumers caused by any violation of this chapter. 7 Pa. C.S. § 6138(a)(6).

24. 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

25. Seckel Capital was in violation of Section 6131(e)(1) of the Mortgage Licensing Act because it collected advance fees from consumers without maintaining the required Penal Bond.

26. Seckel Capital was in violation of Section 6123(7) of the Mortgage Licensing Act because it issued rate lock agreements and commitments to consumers in its own name.

RELIEF

27. Fine and Examination Costs. Seckel Capital agrees to pay a fine of twelve thousand dollars (\$12,000) along with the examination costs of eight thousand nine hundred dollars and twenty five cents (\$8,900.25). The payments shall be made by one payment of

\$2,900.25 followed by eight payments of \$2,250. The first payment is due within 30 days of the Effective Date of this Order. The subsequent payments are due 30 days thereafter until paid in full. Payments shall be made by certified check or money order made payable to the "Department of Banking" and sent to the attention of Department of Banking, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

28. Corrective Measures. Upon the Effective Date of this Order, Seckel Capital agrees to maintain the required bond for the acceptance of advance fees and to cease from issuing mortgage commitments and rate locks in the name of Seckel Capital.

FURTHER PROVISIONS

29. Consent. Seckel Capital 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. Seckel Capital, 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 Seckel Capital.

32. Binding Nature. The Department, Seckel Capital, and all officers, owners, directors, employees, heirs and assigns of Seckel Capital 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. Seckel Capital hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "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 Seckel Capital in the future regarding all matters not resolved by this Order.

b. Seckel Capital 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 and 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 Seckel Capital 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: June 9, 2010

FOR SECKEL CAPITAL, LLC

(Officer Signature)

(Print Officer Name)

PRESIDENT
(Title)

Date: 6/9/10