

FILED

2010 SEP 29 AM 10:27

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

v.

VAN DYK MORTGAGE CORPORATION

:
:
:
:
:
:
: Docket No. 10 0232 (ENF-CO)
:
:
:
:
:

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 Van Dyk Mortgage Corporation, ("Van Dyk"), operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* It is Van Dyk's position that at all times it operated with the belief that it was in compliance with the Mortgage Licensing Act, and all other relevant statutes and regulations. Van Dyk enters into this agreement and order to resolve this matter without litigation, but without admitting guilt or wrongdoing. Accordingly, the parties, 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. Van Dyk is licensed as a mortgage lender under the Mortgage Licensing Act with license number 20857 and a National Mortgage Licensing System identification number of 3035.

4. Van Dyk maintains its principal place of business at 2449 Camelot Court SE, Grand Rapids, Michigan 49546-6001.

5. Van Dyk cooperated fully with the investigation and provided all the necessary information requested in a timely fashion to the Department.

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. Beginning on September 10, 2010 the Bureau conducted an investigation leading it to conclude that Van Dyk had originated mortgages through employees unlicensed to perform such services.

8. The Bureau believes that Van Dyk originated, through telemarketing by unlicensed loan originators, multiple loans during the period beginning November 5, 2008 through September 16, 2010 based on a loan log obtained from Van Dyk pursuant to the Bureau's investigation, however only three loans closed.

9. It is the conclusion of the Bureau that the mortgage loan applications originated by Van Dyk subsequent to November 5, 2008 through unlicensed individuals are in violation of the Mortgage Licensing Act.

10. Van Dyk is required to directly supervise, control and maintain responsibility for the acts and omissions of the mortgage originators it employs. 7 Pa. C.S. § 6131(f)(1).

11. It is the conclusion of the Bureau that Van Dyk failed to employ only licensed mortgage loan originators, and failed to directly supervise, control and maintain responsibility for the acts and omission of the mortgage originators it employed as required by the Mortgage Licensing Act.

12. Van Dyk stated that at all times it believed it was properly originating and processing mortgage loans.

13. Nevertheless, Van Dyk has 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. Van Dyk as of September 23, 2010 is in full compliance with section 7 Pa. C.S. § 6111(a) of the Mortgage Licensing Act.

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).

ALLEGED VIOLATIONS

18. The Bureau believes Van Dyk violated the Mortgage Licensing Act when it continued to conduct the mortgage loan business through unlicensed mortgage originators after November 5, 2008, and when it failed to properly control and supervise its employees in accordance with the requirements of the Mortgage Licensing Act. 7 Pa. C.S. § 6111(a); 7 Pa. C.S. § 6131(f)(1).

19. Van Dyk denies any wrongdoing.

RELIEF

20. Fine. Van Dyk, to avoid litigation and without admitting wrongdoing, agrees to pay a fine of \$8,000.00 which shall be due and payable to the Department in six monthly installments. The first installment of \$2,000.00 shall be due and payable on November 1, 2010 and the remaining 5 installments of \$1,200.00 each shall be due and payable on the first of each month starting December 1, 2010 and ending April 1, 2011. The fine payments 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.

21. Corrective Measures. Upon the effective date of this Order, Van Dyk shall cease and desist from conducting the mortgage loan business through unlicensed mortgage originators

and from failing to properly control and supervise its employees in accordance with the requirements of the Mortgage Licensing Act.

FURTHER PROVISIONS

22. Consent. Van Dyk hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order issued 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. Van Dyk, 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.

23. 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)

24. 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 Van Dyk.

25. Binding Nature. The Department, Van Dyk and all officers, owners, directors, employees, heirs and assigns of Van Dyk intend to be and are legally bound by the terms of this Order.

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

27. Effectiveness. Van Dyk hereby stipulates and agrees that the Order shall become effective on the date the Bureau executes the Order.

FOR VAN DYK MORTGAGE CORPORATION

(Officer Signature) _____

(Print Officer Name) _____

President

(Title)

Date: *9/28/08*