

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the, the Mortgage Licensing Act, the Consumer Discount Company Act and associated regulations.

2. Blue Mountain applied for a Consumer Discount Company license on March 29, 2010 and was approved with assigned license number CD 31469 on June 4, 2010.

3. Blue Mountain's principal place of business is located at 228 South Broadway, Suite D, Wind Gap, Pennsylvania 18091.

4. Beginning January 12, 2011 through March 25, 2011, the Bureau of Examinations conducted an examination of Blue Mountain at its principal place of business.

5. Subsequently, the Bureau reviewed the application Blue Mountain submitted in support of its Consumer Discount Company License.

Consumer Discount Company Act

6. The Bureau concludes based on its examination and information available to date, that no consumer borrowers have been harmed by Blue Mountain in its exercise of its license under the Consumer Discount Company Act.

7. Records of the Department of State, Bureau of Corporations, indicate that Blue Mountain was incorporated in 1965 with 600 shares of stock divided among six individuals, and that a later amendment in 1987 provided for 2,000 shares, 800 of which were issued.

8. Upon review of Blue Mountain's license application in 2010, the Bureau determined that Blue Mountain provided Articles of Incorporation dated in 1991 in support of its application for a license in 2010.

9. The Articles of Incorporation dated in 1991 provide for 600 shares of common stock all held by Francis Cinelli.

10. The license application filed in 2010 also included a tax return for the year 2008 which indicates that Blue Mountain is wholly owned by Francis Cinelli Family LTD Partnership.

11. The Bureau concludes based on the foregoing that Blue Mountain failed to provide to the Department at the time of its license application a copy of its actual Articles of Incorporation as filed with the Department of State, Bureau of Corporations, and all amendments thereto and failed to provide sufficient documentation of true ownership of the corporation.

12. The Bureau concludes based on its examination that Blue Mountain cannot produce attested financials, that the corporation may have suffered from internal fraud, and that Blue Mountain does not have the minimum required capital of seventy-five thousand dollars as required by the Consumer Discount Company Act, 7 P.S. § 6207.

13. The Bureau concludes based on its examination that Blue Mountain transacted two consumer loans for terms of ten years in violation of the Consumer Discount Company Act, 7 P.S. § 6214 H, which prohibits a licensee from discounting or deducting interest in advance on any contract for any period in excess of 7 years 15 day.

14. The Bureau concludes based on its examination that Blue Mountain failed to notify the Department there was a change in management effective October 8, 2010 as required by the Consumer Discount Company regulations, 10 Pa. Code §41.6 (c).

Mortgage Licensing Act

15. 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).

16. The Bureau concludes based on its examination that Blue Mountain originated three mortgage loans through an unlicensed loan originator after the effective date of the Mortgage Licensing Act.

17. Blue Mountain 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).

18. The Bureau concludes based on its examination that Blue Mountain failed to employ a licensed mortgage loan originator, and failed to directly supervise, control and maintain responsibility for the acts and omission of the mortgage originator it employed as required by the Mortgage Licensing Act.

19. The exam revealed that Blue Mountain did not perform an Ability to Repay analysis for a mortgage loan transacted after the March 20, 2009 effective date of the after the Proper Conduct Regulations in violation of 10 Pa. Code § 46.2(g).

Authority of the Department

20. The Consumer Discount Company Act provides that “[t]he Secretary of Banking shall have the power to reject any application for license if he is satisfied that the financial responsibility, experience, character and general fitness of the person or person shown on the application for license as officers and directors of the application corporation are not such as to command the confidence of the community and to warrant the conclusion that the business will

be operated honestly, fairly, and within the intent and purpose of this act and in accordance with the general laws of the Commonwealth. . .” 7 P.S. § 6212.

21. The Consumer Discount Company Act further provides that “[t]he Secretary of Banking, upon thirty (30) days’ written notice to the licensee . . . may revoke any license if the licensee shall violate any provision of this act . . . or if any fact or condition exists or is discovered, which, if it had existed or had been discovered at the time of filing of the application for such license, would have warranted the Secretary of Banking in refusing to issue such license. . . .” 7 P.S. § 6212.

22. The Mortgage Licensing Act grants the Department broad authority to issue orders for the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

23. 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).

RELIEF

24. Fine. Within 30 days of the effective date of this Order as defined in paragraph 31 below, Blue Mountain shall pay the Department a fine in the amount of \$1,750, for violations of the Mortgage Licensing Act, remitted by certified check or money order made payable to the Department of Banking. The fine payment shall be sent to the attention of: Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

25. Corrective Action. Upon the effective date of this Order, Blue Mountain and the Bureau agree to the following corrective action:

- a) Blue Mountain's lending authority under its consumer discount company license **shall be suspended** immediately pending further determination of the license status of the company and specific approval of the Bureau to resume lending;
- b) that no later than June 30, 2011, Blue Mountain will provide to the Bureau, a report concerning the company's current financial condition based upon best information available, prepared by a certified public accountant to the best of his ability, inclusive of any and all necessary explanations related thereto;
- c) that no later than June 30, 2011, Blue Mountain will provide to the Bureau evidence that any deficit in capitalization has been corrected;
- d) that no later than June 30, 2011, Blue Mountain will provide the Bureau evidence of the ownership of Blue Mountain, including any documents supporting ownership of the stock prior to the transfer to the Francis Cinelli Family LTD Partnership, the number of shares issued, and the true and correct Articles of Incorporation, with any and all amendments;
- e) no later than June 30, 2011, Blue Mountain will provide a completed change of management form to the Bureau to document the termination of the former office manager;
- f) henceforth, Blue Mountain shall cease and desist from violating the Mortgage Licensing Act and related regulations by not engaging in unlicensed loan origination;
- g) henceforth, Blue Mountain shall cease and desist from violating the Mortgage Licensing Act by not failing to properly supervise and control loan originators;

- h) henceforth, Blue Mountain shall cease and desist from violating any provision of the Consumer Discount Company Act;
- i) Blue Mountain shall cease and desist from violating the Consumer Discount Company Act by not discounting or deducting interest in advance on any contract for a period in excess of 7 years 15 day;
- j) Blue Mountain shall cease and desist from violating the Mortgage Licensing Act by performing an Ability to Repay analysis for all mortgage loans;
- k) Nothing in this order prevents Blue Mountain from collecting or servicing its loan portfolio;
- l) nothing in this order prevents Blue Mountain from seeking the approval of the Department to sell its loan portfolio to a licensed entity, or dissolve the corporation;
- m) nothing in this order prevents the Bureau from taking further enforcement action as required by changed circumstances, as required by newly acquired facts, or upon review of the reports submitted by Blue Mountain.

FURTHER PROVISIONS

26. Consent. Blue Mountain 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 the Consumer Discount Company Act and agrees that it understands all of the terms and conditions contained therein. Blue Mountain, 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. This Order is intended to rehabilitate or transition the assets and liabilities of the company and therefore it is not a final resolution of the matter. The Department specifically

reserves its right to impose further fines, penalties, remedies, proceedings or actions against Blue Mountain as necessary based on information learned through ongoing efforts.

27. 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).

28. 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 Blue Mountain.

29. Binding Nature. The Department and Blue Mountain intend to be and are legally bound by the terms of this Order.

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

31. Effectiveness. Blue Mountain hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

32. 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 Blue Mountain, in the future regarding all matters not resolved by this Order.

b. Blue Mountain 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.

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

26. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic mail in portable document format "PDF."

27. 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, Blue Mountain 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**

~~John Tatalai~~, Enforcement Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 7-1-2011

FOR BLUE MOUNTAIN CONSUMER DISCOUNT COMPANY

(Officer Signature)

(Print Officer Name)

General Auditor
(Title)

Date: 6-29-11