

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING 2011 AUG -2 PM 2:49

PA DEPT OF BANKING

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

Docket No. 11 0137 (ENF-CO)

v.

FAIRMORE FINANCIAL, LLC

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, conducted an examination of Fairmore Financial, LLC ("Fairmore Financial"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Fairmore Financial operated in violation of 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 Licensing Act.
2. The Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department.

3. Fairmore Financial is currently licensed under the Mortgage Licensing Act as a mortgage broker, with license number 20782 and with the National Mortgage Licensing System Registry (“NMLSR”) identification number of 120883.

4. Fairmore Financial maintains its principal place of business at 9756B Broadway Street, Irwin, Pennsylvania 15642.

5. On or around February 14, 2011 through February 22, 2011, the Bureau conducted an examination (“Examination”) of Fairmore Financial at its principal place of business.

NMLS Unique Identifier

6. The examination revealed that the advertisement located on Fairmore Financial’s website did not contain the NMLS unique identifier number (“unique identifier”) of its mortgage originators as required by the Mortgage Licensing Act. 7 Pa. C.S. § 6121(14).

7. Section 6121(14) of the Mortgage Licensing Act requires that all advertisements clearly display the unique identifier. 7 Pa. C.S. § 6121(14).

8. Because Fairmore Financial failed to include the unique identifiers in the content of its advertisement located on its website, Fairmore Financial is in violation of Section 6121(14) of the Mortgage Licensing Act.

9. Fairmore Financial corrected its website content during the course of the examination and indicated that moving forward all advertisements would include the mortgage originators’ unique identifiers as required by the Mortgage Licensing Act.

Authority of the Department

10. 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).

11. The Mortgage Licensing Act permits the Department to suspend, revoke or refuse to renew a license of a licensee where that licensee “failed to comply with or violated any provision of this chapter or any regulation or order promulgated or issued by the department under this chapter.” 7 Pa. C.S. § 6139(a)(2).

12. 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

13. Fairmore Financial is in violation of Section 6121(14) of the Mortgage Licensing Act by not including mortgage originators’ unique identifiers on all advertisements.

RELIEF

14. Fine. Fairmore Financial agrees to pay a fine of two hundred and fifty dollars (\$250) which shall be due and payable to the Department within thirty (30) days of the Effective Date of this Order. The fine payment shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of: Pennsylvania Department of Banking, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

FURTHER PROVISIONS

15. Consent. Fairmore Financial 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. Fairmore Financial, 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.

16. 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).

17. 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 Fairmore Financial.

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

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

20. Effectiveness. Fairmore Financial hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

21. 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 Fairmore Financial in the future regarding all matters not resolved by this Order.

b. Fairmore Financial 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.

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

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

24. 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 Fairmore Financial LLC 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 Katalai, Administrator
Department of Banking
Bureau of Compliance, Investigation and Licensing

Date: 8-2-2011

FOR FAIRMORE FINANCIAL LLC

(Officer Signature)

(Print Officer Name)

(Title)

Date: 7/26/2011