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DEPARTMENT OF BANKING

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

PA DEPT OF BANKING

v.

Docket No. 11 0110 (ENF-CO)

FIRST ALLIANCE HOME MORTGAGE, LLC

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania acting through the Department of Banking, Bureau of Examinations has conducted an examination of First Alliance Home Mortgage, LLC ("First Alliance") and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance, Investigation and Licensing ("Bureau") has concluded that First Alliance operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 et seq. and the regulations known as the Proper Conduct of Lending and Brokering in the Mortgage Loan Business, 10 Pa. Code § 46.1 et seq. ("Regulations"). The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in 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. First Alliance is a mortgage lender that engages in the mortgage loan business in the Commonwealth as set forth in 7 Pa. C.S. § 6151.

4. First Alliance's principal place of business is located at 1 Woodbridge Center Drive, Suite 225, Woodbridge, New Jersey 07095.

5. First Alliance maintains a branch office located at 1 Marketway West, Suite 206-207, York, Pennsylvania 17401.

6. First Alliance is licensed as a mortgage lender, Nationwide Mortgage Licensing System and Registry ("NMLSR") Identification No. 5034 and Mortgage Lender License, License No. 21628.

7. On September 15, 2010, the Bureau of Examinations commenced an examination of First Alliance's branch office.

8. During the examination, the examiner found that First Alliance violated the Mortgage Licensing Act by failing to comply with the Regulations issued by the Department as set forth below.

Disclosure Forms

9. The examiner found that First Alliance did not provide the required consumer disclosure form to applicants in 28 of the mortgage loan files reviewed because the original fully executed form was not present in the file.

10. The Regulations provide that mortgage lenders "who take an application" shall "[o]n a form prescribed by the Department . . . disclose the following to the applicant:

- (1) If the lender providing the loan will escrow the applicable property taxes and hazard insurance.
- (2) If the licensee is a lender with the ability to directly lock-in a loan interest rate.
- (3) Whether the loan contains a variable interest rate or balloon payment feature.

(4) Whether the loan has a negative amortization feature.

See 10 Pa. Code § 46.2(b).

11. The mortgage lender issuing the disclosure form “shall sign and date the disclosure form and deliver or place in the mail the disclosure form within 3 business days after the application is received or prepared by the licensee.” 10 Pa. Code § 46.2(c).

12. Further, the mortgage lender must require the applicant to sign and date the disclosure form “within 10 business days after delivery or mailing and *retain the original executed disclosure form in the applicant’s loan file.*” 10 Pa. Code § 46.2(e) (emphasis added).

13. By failing to maintain the original executed form in the applicant’s loan file, First Alliance violated Section 46.2(b),(c),(e) of the Regulations.

Requiring Consumers to Sign Incomplete Forms

14. The examiner also found that First Alliance allowed applicants in 17 mortgage loan files reviewed to sign a Request for Transcript of Tax Return (Form 4506-T) that was not complete; specifically, lines 6 and 9 of the form were left blank.

15. Form 4506-T provides a caution: “**DO NOT SIGN** this form if a third party requires you to complete Form 4506-T, and lines 6 and 9 are blank.”

16. Although lines 6 and 9 of the Form were blank, First Alliance permitted the applicants to execute the Form to obtain tax documents necessary to complete the mortgage loan transactions.

17. The Regulations provide that:

A licensee may not: . . . [d]irect, encourage, permit or otherwise be involved with the improper execution of any document, including: . . . [r]equesting or allowing an applicant to sign documents that contain blank spaces where material information regarding the loan transaction is required.

See 10 Pa. Code § 46.2(j)(6)(i).

18. By permitting loan applicants to sign documents with blank spaces to request tax documents pertinent to the mortgage loan transactions, First Alliance violated Section 46.2(j)(6)(i) of the Regulations.

AUTHORITY

19. The Department has the authority to issue orders for the proper conduct of the mortgage licensing business and to enforce the Mortgage Licensing Act, 7 Pa. C.S. § 6138(a)(4).

20. The Department may fine any "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. . . up to \$10,000 for each offense." 7 Pa C.S. § 6140(b).

21. First Alliance violated Section 6139(a)(2) of the Mortgage Licensing Act by failing to comply with the Department's regulations.

22. Thus, the Department has the authority to impose a order, including a fine, on First Alliance for the violations.

RELIEF

23. Fine. Within 30 days of the effective date of this Order, as defined in Paragraph 30, First Alliance shall pay the Department a fine in the amount of \$2,000 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.

24. Corrective Action. Upon the effective date of this Order, as defined in Paragraph 30, First Alliance shall do all of the following:

- a. First Alliance shall provide the completed disclosure form, on the form required by the Department, to applicants within 3 business days after the mortgage loan application is received or prepared. First Alliance shall require applicants to sign and date the disclosure form within 10 business days after delivery or mailing. First Alliance shall retain the original executed disclosure form in the applicant's loan file as required by 10 Pa. Code § 46.2; and
- b. First Alliance shall not direct, encourage, permit or otherwise be involved with the improper execution of any document. Specifically, First Alliance shall not request or allow an applicant to sign documents that contain blank spaces where material information regarding the loan transaction is required, including, but not limited to, the Federal 4506-T Form as set forth in 10 Pa. Code § 46.2(j)(6)(i).

FURTHER PROVISIONS

25. Consent. First Alliance 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 therein. First Alliance, 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.

26. 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).

27. 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 First Alliance.

28. Binding Nature. The Department and First Alliance intend to be and are legally bound by the terms of this Order.

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

30. Effectiveness. First Alliance hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

31. 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 First Alliance in the future regarding all matters not resolved by this Order.

b. First Alliance 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.

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

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

34. 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.

