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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:
DEPARTMENT OF BANKING, BUREAU	:
OF COMPLIANCE, INVESTIGATION	:
AND LICENSING	:
	:
v.	: Docket No. 11 <u>0028</u> (ENF-CO)
	:
FRANKLIN FIRST FINANCIAL, LTD	:
	:
	:

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of Franklin First Financial, LTD ("Franklin First"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Franklin First operated in violation of 7 Pa. C.S. § 6101 *et seq.* ("Mortgage Licensing Act") and the regulation promulgated under the Mortgage Licensing Act known as the Proper Conduct of Lending and Brokering in the Mortgage Loan Business ("Proper Conduct Regulation"), 10 Pa. Code § 46.1 *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. Franklin First is licensed as a Mortgage Lender, under the Mortgage Licensing Act with license number 20820 and a Nationwide Mortgage Licensing System and Registry identification number of 1630.

4. Franklin First maintains its principal place of business at 445 Broadhollow Rd. Suite 215, Melville, New York 11747.

5. On or around June 23, 2010, the Bureau commenced an examination of Franklin First.

Unlicensed Loan Originator

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 broker, mortgage lender, mortgage loan correspondent or 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. The examination revealed that three (3) mortgage originators employed by Franklin First originated three (3) mortgage loans subsequent to November 5, 2008 involving Pennsylvania real estate although none of the originators were licensed to do business in the Commonwealth.

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

9. Franklin First 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).

10. By failing to ensure that Franklin First employed only licensed mortgage loan originators, Franklin First failed to directly supervise, control and maintain responsibility for the acts and omission of the mortgage originators they employed as required by the Mortgage Licensing Act.

Consumer Disclosure

11. The examination revealed that of the fifty (50) mortgage loan files reviewed, eleven (11) contained no evidence that the applicants received Pennsylvania Consumer Disclosures; this is a violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6121(3).

12. The examination revealed Franklin First failed to comply with federal law by failing to issue the initial Good Faith Estimate and Truth-in-Lending within three (3) days of the application date; this is a violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6121(3).

13. The Proper Conduct Regulation states a licensee must disclose certain information to an applicant within three days of application and that the executed original must be obtained within ten (10) days and retained by the licensee in the applicant's loan file. 10 Pa. Code § 46.2(b), (c) and (e).

14. The examination revealed Franklin First failed to comply with federal law by not disclosing appraisal fees paid outside of closing to a third party vendor on the HUD-1 Settlement

in violation of the Real Estate Settlement Procedures Act ("Regulation X"); this is a violation of the Mortgage licensing Act, 7 Pa. C.S. § 6121 (3).

15. Section 46.3(a) of the Proper Conduct Regulation provides that a violation of the Proper Conduct Regulation is a violation of the Mortgage Licensing Act. 10 Pa. Code § 46.3(a)

16. By failing to provide consumer disclosures and comply with all applicable Federal law, including but limited to Regulation X as required by the Proper Conduct Regulation and the Mortgage licensing Act, Franklin Financial violated the Mortgage Licensing Act.

Authority of the Department

17. 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).

18. 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 or any regulations or order promulgated or issued by the Department under this chapter. 7 Pa. C.S. § 6139(a) (2)

19. The Department may deny a license or otherwise restrict a license if it finds that an applicant has violated or failed to comply with any provisions of this chapter or any regulation, statement of policy or order of the department. 7 Pa. C.S. § 6133(e) (3).

20. The Department may suspend, revoke or refuse to renew a license issued under the Mortgage Licensing Act 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) (14).

21. 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).

RELIEF

22. Fine. Franklin First Financial, LTD agrees to pay a fine of four thousand two hundred and fifty dollars (\$4,250.00) which shall be due and payable to the Department within thirty (30) days of the effective date of this Order as defined in paragraph 29 below. Payment shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of the Compliance Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

23. Corrective Measures. Upon the effective date of this Order, Franklin First Financial, LTD shall:

- a) Cease and desist from conducting the mortgage loan business through unlicensed mortgage originators in accordance with the requirements of the Mortgage Licensing Act;
- b) Cease and desist from failing to provide and maintain in its records the Consumer Disclosure as prescribed by the Proper Conduct Regulation;
- c) Cease and desist from failing to accurately disclose fees paid outside of closing cost to a third party vendor in strict accordance with the Mortgage Licensing Act, and all related federal and state laws, regulations, policy statements and orders.

FURTHER PROVISIONS

24. Consent. Franklin First Financial, LTD., 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 agree that they understand all of the terms and conditions contained herein. Franklin First 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.

25. 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)

26. Entire Agreement. This Order contains the whole agreement between the parties. There is 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 Franklin First .

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

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

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

FRANKLIN FIRST FINANCIAL, LTD

(Officer Signature)

(Print Officer Name)

COO
(Title)

Date: 2/11/11