

3. Oak Mortgage is a mortgage lender with its principal place of business located at 525 Lincoln Drive, Suite 101, Marlton, New Jersey 08053.

4. Oak Mortgage engages in the mortgage loan business in the Commonwealth and its principal place of business is licensed, Mortgage Lender License No. 22529 and Nationwide Mortgage Licensing System and Registry Identification ("NMLS") No. 138879.

5. Oak Mortgage also has a branch office at 180 Tuckerton Road, Suite 17, Medford, New Jersey 08055 ("Medford Branch").

6. As a mortgage lender, Oak Mortgage must "[m]aintain supervision and control of and *responsibility for* the acts and omissions of all mortgage originators" that it employs. *See* 7 Pa. C.S. § 6121(13)(i) (emphasis added).

7. Thus, if Oak Mortgage's originators violate any provision of the Mortgage Licensing Act, Oak Mortgage is responsible for their conduct.

8. On August 2, 2010, the Bureau of Examinations commenced an examination of Oak Mortgage at its principal place of business.

9. The examiner found several violations of the Mortgage Licensing Act.

10. The purpose of this Order to resolve all issues arising from the August 2, 2010 examination.

VIOLATIONS

Unlicensed Branch Office

11. First, the examiner found that approximately 47 loans were originated for Pennsylvania consumers by one mortgage originator employed by Oak Mortgage to originate loans from the Medford Branch between January 1, 2009 and September 22, 2010.

12. Although the mortgage originator was licensed by the Department, the Medford Branch was not licensed.

13. The Mortgage Licensing Act requires mortgage originators to “[b]e assigned to and work out of a licensed location of the employer licensee. . . .” See 7 Pa. C.S. § 6131(f)(2).

14. By assigning its mortgage originator to originate loans from an unlicensed location, Oak Mortgage violated Section 6131(f)(2) of the Mortgage Licensing Act.

Advance Fee Disclosure Form

15. Second, the examiner found that Oak Mortgage did not provide Pennsylvania consumers the disclosure form notifying them of which fees are nonrefundable when they completed a mortgage loan application.

16. The Mortgage Licensing Act provides that “[t]he licensee shall disclose to the consumer, in writing, at the time of a loan application which fees paid or to be paid are nonrefundable.” See 7 Pa. C.S. § 6121(10).

17. By failing to notify the consumers, in writing, at the time of a loan application which fees are nonrefundable, Oak Mortgage violated Section 6121(10) of the Mortgage Licensing Act.

18. Oak Mortgage immediately provided all affected consumers whose loans were in the pipeline during the examination with the required notification and it updated its company policies and procedures to aid in ensuring that this requirement is met prospectively.

Unique Identifier Missing from Applications

19. Third, the examiner found that Oak Mortgage did not require its mortgage originators to clearly display their NMLS unique identifier number on the mortgage loan applications that they originated.

20. Mortgage originators must "clearly display" their unique identifier on "all mortgage loan application forms and personal solicitations or advertisements, including business cards." See 7 Pa. C.S. § 6121(14).

21. By failing to require its mortgage originators to clearly display their unique identifiers on the mortgage loan applications, Oak Mortgage violated Section 6121(14) of the Mortgage Licensing Act.

Advertising

22. Fourth, the examiner found that Oak Mortgage advertised its mortgage loan business on several websites, brochures and mailers but did not disclose in the advertisements that it was licensed by the Department.

23. Further, Oak Mortgage's mortgage originators did not display their NMLS unique identifiers on their personal mortgage originator websites.

24. The Mortgage Licensing Act requires each licensee to include "in all advertisements language indicating that the licensee is licensed by the department. In the case of a mortgage originator, all advertising shall include the name of the mortgage originator's employer and the mortgage originator's unique identifier." See 7 Pa. C.S. § 6135(a)(5).

25. By failing to indicate that it is licensed by the Department on its website, brochures and mailers and by failing to require its mortgage originators to display their unique

identifiers on their personal websites, Oak Mortgage violated Section 6135(a)(5) of the Mortgage Licensing Act.

Display Mortgage Licenses

26. Fifth, the examiner found that Oak Mortgage was not displaying copies of licenses as required by the Mortgage Licensing Act.

27. Oak Mortgage did not display a copy of its mortgage lender license at its principal place of business.

28. Further, Oak Mortgage did not display copies of its mortgage originators' licenses in the locations where the originators were assigned.

29. Finally, Oak Mortgage's originators did not keep a copy of their licenses (including the wallet-sized license) in their immediate possession when engaging in the mortgage loan business.

30. The Mortgage Licensing Act provides that:

A licensee who is a . . . mortgage lender . . . shall conspicuously display, at each licensed place of business, its license and copies of the licenses of all mortgage originators assigned to that location. A licensee who is a mortgage originator shall keep the license in the immediate possession of the licensee whenever the licensee is engaged in the mortgage loan business.

See 7 Pa. C.S. § 6135(a)(1).

31. By failing to display its mortgage lender license, its mortgage originators' licenses and by failing to require its originators to possess a copy of their license when engaging in the mortgage loan business, Oak Mortgage violated Section 6135(a)(1) of the Mortgage Licensing Act.

Continuing Education – Non Mortgage Originator

32. Sixth, the examiner found that Oak Mortgage did not have one individual at each licensed office (aside from the licensed mortgage originators) complete eight hours of continuing education required by the Mortgage Licensing Act.

33. Section 6131.1(d)(1) of the Mortgage Licensing Act provides, in relevant part, that “one individual from each licensed office of a mortgage broker, mortgage lender, or mortgage loan correspondence *that is not a mortgage originator*. . . shall complete at least eight hours of education programs....” See 7 Pa. C.S. § 6131.1(d)(1).

34. By failing to have one individual from each licensed office complete eight hours of continuing education that is not a licensed mortgage originator, Oak Mortgage did not comply with Section 6131.1(d)(1) of the Mortgage Licensing Act.

Federal Violations

35. Seventh, the examiner found that Oak Mortgage’s mortgage originator sent a post card mailer advertising its mortgage loan services but did not include information required by applicable federal law.

36. The post card provided, in relevant part, that:

The market has recently dropped and mortgage rates are at historic lows. I am urging all of my clients to take advantage of this once in a lifetime opportunity. I have clients refinancing into 15 year loans in the low 4% range. New home buyers in the upper 4% range on 30 year mortgages.

Call me today to find out how much money you can save. I look forward to hearing from you soon.

37. The Truth in Lending Act (Regulation Z) requires the following when advertising closed-end credit:

(c) *Advertisement of rate of finance charge.* If an advertisement states a rate of finance charge, it shall state the rate as an 'annual percentage rate,' using that term. If the annual percentage rate may be increased after consummation, the advertisement shall state that fact. . . . If an advertisement is for credit secured by a dwelling, the advertisement shall not state any other rate, except that a simple annual rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(d) *Advertisement of terms that require additional disclosures –*

(1) *Triggering terms.* If any of the following terms is set forth in an advertisement, the advertisement shall meet the requirements of paragraph (d)(2) of this section:

- (i) The amount or percentage of any down payment.
- (ii) The number of payments or period of repayment.
- (iii) The amount of any payment.
- (iv) The amount of any finance charge.

(2) *Additional terms.* An advertisement stating any of the terms in paragraph (d)(1) of this section shall state the following terms, as applicable

- (i) The amount or percentage of the downpayment.
- (ii) The terms of repayment, which reflect the repayment obligations over the full term of the loan, including any balloon payment.
- (iii) The 'annual percentage rate,' using that term, and, if the rate may be increased after consummation, that fact.

See 12 C.F.R. § 226.24(c)-(d).

38. Here, the advertisement set forth a period of repayment, either 15 or 30 years, as set forth in (d)(1)(iii); thus, the advertisement should have contained the additional terms required by (d)(2).

39. However, the advertisement did not use the terms "annual percentage rate" nor did it set forth the amount or percentage of the down payment or the terms of repayment; as a result the advertisement did not conform to the requirements of 12 C.F.R. §§ 226.24(c), (d)(2).

40. Section 6121(3) of the Mortgage Licensing Act requires licensees to “[c]omply with *all applicable Federal law*, including the Real Estate Settlement Procedures Act (88 Stat. 1724, 12 U.S.C. §§ 2601 *et seq.*), the Truth in Lending Act (82 Stat. 146, 15 U.S.C. §§ 1601 *et seq.*) and the Equal Credit Opportunity Act (88 Stat. 1521, 15 U.S.C. §§ 1691 *et seq.*)” *See* 7 Pa. C.S. § 6121(3) (emphasis added).

41. By failing to comply with the Truth in Lending Act (Regulation Z), Oak Mortgage violated Section 6121(3) of the Mortgage Licensing Act.

AUTHORITY

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

43. The Department has the authority to fine licensees that violate the Mortgage Licensing Act “up to \$10,000 for each offense.” *See* 7 Pa C.S. § 6140(b).

RELIEF

44. Fine. Within 30 days of the effective date of this Order (as defined in Paragraph 51), Oak Mortgage shall pay the Department a fine in the amount of \$17,400 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.

45. Corrective Action. Upon the effective date of this Order (as defined in Paragraph 51), Oak Mortgage shall:

- a. require its mortgage loan originators to work from locations licensed by the Department as required by 7 Pa. C.S. § 6131(f)(2); and
- b. provide Pennsylvania consumers, at the time they complete a mortgage loan application, the disclosure form notifying them of which fees are nonrefundable as required by 7 Pa. C.S. § 6121(10); and
- c. require the mortgage originators that it employs to clearly display their NMLS unique identifier on any mortgage loan applications that they complete and in all advertisements and solicitations, including business cards and their personal websites, as required by 7 Pa. C.S. §§ 6135(a)(5), 6121(14); and
- d. disclose that it is licensed by the Department in its advertisements including, but not limited to, its websites, brochures and mailers as required by 7 Pa. C.S. § 6135(a)(5); and
- e. display its mortgage lender license at its principal place of business; and
- f. display its mortgage originators' licenses in the locations where the originators are assigned to engage in the mortgage loan business; and
- g. require its mortgage originators to keep a copy of their licenses in their immediate possession when engaging in the mortgage loan business as required by 7 Pa. C.S. § 6135(a)(1); and

- h. require one individual that is not licensed as a mortgage originator to complete eight hours of continuing education at each licensed location as required by 7 Pa. C.S. § 6131.1(d)(1); and
- i. ensure that all advertisements contain the disclosures mandated by applicable federal law (including 12 C.F.R. § 226.24) as required by 7 Pa. C.S. § 6121(3).

FURTHER PROVISIONS

46. Consent. Oak Mortgage 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. Oak Mortgage, 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.

47. 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).

48. 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 Oak Mortgage.

49. Binding Nature. The Department and Oak Mortgage intend to be and are legally bound by the terms of this Order.

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

51. Effectiveness. Oak Mortgage hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

52. 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 Oak Mortgage, in the future regarding all matters not resolved by this Order.

b. Oak Mortgage 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.

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

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

55. 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 Commonwealth of Pennsylvania, Department of Banking, Bureau of Compliance, Investigation and Licensing and Oak Mortgage Company, 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 P. [Signature] alai, Enforcement Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 6-7-2011

FOR OAK MORTGAGE COMPANY, LLC

(Officer Signature) |

(Print Officer Name) |

(Title) 00

Date: 6/7/2011

