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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

Docket No. 10020 (ENF-CO)

v.

PRIMARY RESIDENTIAL MORTGAGE, INC.:

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations has conducted an examination of Primary Residential Mortgage, Inc. ("Primary Residential") and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that Primary Residential operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* Primary Residential enters into this agreement and order to resolve this matter without litigation, but without admitting guilt or wrongdoing. Accordingly, the parties, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order (the "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. Primary Residential is a mortgage lender with a Nationwide Mortgage Licensing System and Registry ("NMLSR") identification number of 3094 and a Pennsylvania Department of Banking Mortgage Lender license no. 23206.

4. Primary Residential's principal place of business is located at 4750 West Wiley Post Way, Suite 200, Salt Lake City, Utah 84116.

5. On March 11, 2010, the Department's Bureau of Examination commenced an examination of Primary Residential at the branch located at 2929 Gettysburg Road, Suite 7, Camp Hill, Pennsylvania 17011.

## ALLEGED VIOLATIONS

### Advertising

6. It is the Bureau's position that Primary Residential did not disclose it was licensed by the Department on its website, a form of advertising; did not have the mortgage originator's unique identifiers on loan applications; and individual mortgage loan originators did not have their unique identifier on their business cards, all in violation of the requirements of the Mortgage Licensing Act.

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

8. Section 6121(14) provides that a mortgage originator clearly display the mortgage originator's unique identifier on all mortgage loan application forms and personal solicitations or advertisements, including business cards. 7 Pa. C.S. § 6121(14).

### Licensed Name

9. The Bureau alleges that Primary Residential used a name other than its designated licensed name on loan contracts, though Primary Residential was the legal party in interest in any such transactions, thereby violating the Mortgage Licensing Act.

10. Section 6136(a) of the Mortgage Licensing Act states, “[a] licensee cannot transact any business under this chapter under any other name or names except those names designated in its license.” 7 Pa. C.S. § 6135(a)(5).

### Unlicensed Loan Officers

11. The Bureau alleges that Primary Residential funded six loans that were originated by five unlicensed loan originators thereby violating the Mortgage Licensing Act.

12. Section 6111(a) of the Mortgage Act provides, in relevant part, that “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. . . .” 7 Pa. C.S. § 6111(a).

13. Section 6139(a)(14) provides that the Department may suspend, revoke or refuse to renew a license issued under the Mortgage Licensing Act if a mortgage lender has conducted the mortgage loan business through an unlicensed mortgage originator. 7 Pa. C.S. § 6139(a)(14).

### Material Misstatement

14. The Bureau alleges, based on a review of Primary Residential’s license application and related submissions on the NMLSR system, that Primary Residential did not

disclose that it was engaged in the origination of reverse mortgages as required in the "Other Business" section of the MUI form thereby violating the Mortgage Licensing Act.

15. Section 6131(b) of the Mortgage Licensing Act provides "[a]ll applicants and licensees shall be required to provide the department with written notice of the change in any information contained in an application for a license or for any renewal of a license within ten days of an applicant or licensee becoming aware of the change." 7 Pa. C.S. § 6131(b).

16. Section 6139(a)(1) of the Mortgage Licensing Act provides that the Department may suspend, revoke or refuse to renew a license if the licensee has made a material misstatement in an application.

#### Federal Violations

17. The Bureau alleges that Primary Residential failed to comply with all applicable Federal law when it did not issue credit denials within thirty days of the credit decision in ten loan files; did not complete the 4506T form in thirty loan files; and did not complete the Fee Deposit Agreement in eight loan files, thereby violating the Mortgage Licensing Act.

18. Section 6121(3) of the Mortgage Licensing Act states a licensee shall, "[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.)." 7 Pa. C.S. § 6121(3).

### Consumer Disclosure Form

19. The Bureau alleges that Primary Residential did not provide the required disclosure form, or retain it in its records as required on at least sixteen occasions thereby violating the Proper Code of Conduct, 10 Pa. Code § 46.2.(c) and (e) and the Mortgage Licensing Act.

20. The Proper Conduct Regulations require a licensee to issue disclosures on a form prescribed by the Department within three (3) business days after the application is received or prepared by the licensee, and retain the signed consumer disclosure form in its records. 7 Pa. C.S. § 6138(a)(4).

21. Section 6138(a)(4) of the Mortgage Licensing Act requires licensees to comply with the Proper Conduct Regulations found at 10 Pa. Code § 46.2 *et seq.*

22. Primary Residential does not admit any wrongdoing as described in the above paragraphs.

### Authority of the Department

23. 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).

24. 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

25. Fine. Within 30 days of the effective date of this Order as set forth in paragraph 31 below, Primary Residential shall pay the Department a fine in the amount of \$4,000 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.

26. Corrective Action. Upon the effective date of this Order, Primary Residential shall correct all violations asserted in this Order.

## FURTHER PROVISIONS

27. Consent. Primary Residential 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. Primary Residential, 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 represents the final resolution of the Department's Examination of Primary Residential and evidences the Department's agreement that no other fines, remedies, proceedings or actions shall be commenced, asserted or directed against Primary Residential as a result of the Examination.

28. 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).

29. 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 Primary Residential.

30. Binding Nature. The Department and Primary Residential intend to be and are legally bound by the terms of this Order.

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

32. Effectiveness. Primary Residential hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

33. 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 Primary Residential, in the future regarding all matters not resolved by this Order.

b. Primary Residential acknowledges and agree 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.

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

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

35. 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, Primary Residential 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**

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

Date: 2-3-2011

**FOR PRIMARY RESIDENTIAL MORTGAGE, INC.**

\_\_\_\_\_  
(Officer Signature)

\_\_\_\_\_  
(Print Officer Name)

\_\_\_\_\_  
(Title)

Date: 2-02-2011