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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA	:	PA DEPT OF BANKING
DEPARTMENT OF BANKING, BUREAU OF	:	
COMPLIANCE AND LICENSING	:	
	:	
v.	:	
	:	
EXPRESS MORTGAGE FINANCIAL	:	DOCKET NO. 12 <u>0086</u> (ENF-CO)
SERVICES, P.C.	:	
	:	
and	:	
	:	
BRITTN Y DIANA WALLS, individually	:	
	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted a compliance examination of Express Mortgage Financial Services, P.C. ("Express Mortgage"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance and Licensing ("Bureau") believes that Express Mortgage operated in violation of the Mortgage Licensing Act ("MLA"), 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 MLA.

2. The Bureau is primarily responsible for administering and enforcing the MLA for the Department.

3. Express Mortgage is licensed by the Department as a mortgage broker, license number 28441, with a Nationwide Mortgage Licensing System and Registry ("NMLSR") identification number of 109645.

4. Express Mortgage's principal place of business is 229 Cunningham Drive, Hyndman, PA 15545.

5. Brittany Diana Walls, also known as Brittany D. Conner, (hereafter "Ms. Walls") is the President and one hundred percent (100%) owner of Express Mortgage.

6. Ms. Walls is licensed by the Department as a Mortgage Loan Originator, license number 29571, with a NMLSR identification number of 190640.

7. Ms. Walls is the only licensed Mortgage Loan Originator sponsored by Express Mortgage.

8. Ms. Walls has a full-time job outside of the mortgage industry and only does work for Express Mortgage in the evenings.

9. Rick O. Conner ("Mr. Conner") is listed as the contact for Express Mortgage.

10. Mr. Conner is not licensed as a Mortgage Loan Originator.

11. On October 11, 2011, the Department received a complaint concerning alleged unlicensed activity by Express Mortgage.

12. The Department conducted a compliance examination and investigation as a result of the complaint.

Unlicensed Activity

13. The examination revealed that Mr. Conner was not acting in the capacity of a loan processor as he had stated during the examination, but rather was engaged in the mortgage loan business as an unlicensed mortgage loan originator.

14. The MLA defines a loan processor or underwriter as “[a]n individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter.” 7 Pa. C.S. § 6102.

15. The Department examiner reviewed twenty (20) loan files during the examination.

16. Nineteen (19) of the twenty (20) loan documents in the loan files were signed by Ms. Walls as the mortgage originator; one was signed by Mr. Conner.

17. A Department examiner and special investigator interviewed approximately twelve (12) consumers selected from among the twenty (20) files that were reviewed.

18. Each of the consumers told the Department that they had never worked with or met Ms. Walls, and had dealt only with Mr. Conner throughout the entire loan process.

19. The MLA provides, in relevant part, that “on and after the effective date of this section, 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).

20. The MLA prohibits a mortgage broker from conducting mortgage loan business through an unlicensed mortgage originator. *See* 7 Pa.C.S. § 6139(a)(14).

21. The examination revealed that Mr. Conner originated residential first mortgage loans for Express Mortgage in Pennsylvania without a license.

22. By transacting business through an unlicensed mortgage originator, Express Mortgage was in violation of the MLA.

Negligent Supervision

23. The examination and investigation revealed that Express Mortgage knowingly allowed Mr. Conner to act in the capacity of a mortgage loan originator on its behalf.

24. The examination and investigation further revealed that Ms. Walls signed loan documents for which Mr. Conner acted as the mortgage loan originator.

25. By signing documents she did not originate, Express Mortgage and Ms. Walls engaged in unfair and unethical activities. *See* 7 Pa.C.S. § 6139(a)(3).

26. Express Mortgage and Ms. Walls displayed negligence and incompetence by allowing Mr. Conner to act as a mortgage loan originator without a license. *See* 7 Pa.C.S. § 6139(a)(10).

27. By allowing Mr. Conner to originate mortgage loans on behalf of Express Mortgage, Ms. Walls failed to maintain supervision and control of and responsibility over the acts of the mortgage originators employed by Express Mortgage.

Authority of the Department

28. Section 6138(a)(4) of the MLA grants the Department broad authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and the enforcement of the MLA. 7 Pa.C.S. § 6138(a)(4).

29. Section 6138(a)(5) of the MLA provides the Department with the authority to “[p]rohibit or permanently remove a person or licensee responsible for a violation of this chapter from working in the present capacity or in any other capacity of the person or licensee related to activities regulated by the department.” 7 Pa.C.S. § 6138(a)(5).

30. Section 6138(a)(8) of the MLA provides the Department with the authority to impose such other conditions as the Department deems appropriate. 7 Pa.C.S. § 6138(a)(8).

31. Section 6139(a)(3) of the MLA provides that the Department may suspend, revoke or refuse to renew a license issued under the Act if a licensee or a director, officer, partner, employee or owner of a licensee has “[e]ngaged in dishonest, fraudulent or illegal practices or conduct in a business or unfair or unethical practices or conduct in connection with the mortgage loan business.” 7 Pa.C.S. § 6139(a)(3).

32. Section 6139(a)(10) of the MLA provides that the Department may suspend, revoke or refuse to renew a license issued under the Act if a licensee or a director, officer, partner, employee or owner of a licensee has “[d]emonstrated negligence or incompetence in performing an act for which the licensee is required to hold a license under this chapter.” 7 Pa.C.S. § 6139(a)(10).

33. Section 6139(a)(14) of the MLA provides that the Department may suspend, revoke or refuse to renew a license issued under the Mortgage Licensing Act if a licensee or a employee or owner of a licensee, if a mortgage broker has “. . . conducted the mortgage loan business through an unlicensed mortgage originator.” 7 Pa.C.S. § 6139(a)(14).

VIOLATIONS

34. Express Mortgage is in violation of Section 6139(a)(14) of the MLA by allowing an unlicensed mortgage originator to originate mortgage loans.

35. Ms. Walls is in violation of Section 6139(a)(3) of the MLA by displaying negligence and incompetence in the mortgage loan business.

36. Ms. Walls is in violation of Section 6139(a)(10) of the MLA by engaging in unfair and unethical activities.

37. Ms. Walls is in violation of Section 6121(13)(i) of the MLA by failing to maintain supervision and control over the mortgage originators employed by the licensee.

RELIEF

38. License Revocation. Upon the Effective Date of this Order, Express Mortgage shall consent to the revocation of mortgage broker license number 28841.

39. Cease and Desist.

a. Express Mortgage's pipeline shall be completed within forty-five (45) days of the Effective Date of this Order.

b. In the event of unforeseen circumstances which cause unordinary delay in the closing or settlement of a loan, and work remains to be done within 45 days of the Effective Date of this Order, Ms. Walls is obligated to inform the Bureau of the delay and to seek permission to complete the work.

c. If, in the opinion of the Bureau, Ms. Walls, individually and on behalf of Express Mortgage, abuses this provision, the Department may take any additional steps necessary to ensure that the applications are processed in a timely manner.

40. Mortgage Originator License Surrender. Upon the Effective Date of this Order, Ms. Walls shall consent to the surrender of her individual mortgage originator license number 29571.

41. Prohibition.

a. Ms. Walls individually and/or on behalf of Express Mortgage shall not apply for a company license with the Department for a period of two (2) years from the Effective Date of this Order.

b. Ms. Walls shall not engage, in any capacity, in the mortgage business in the Commonwealth of Pennsylvania including, but not limited to, owner, shareholder, director, officer, independent contractor or employee for a period of one (1) year from the Effective Date of this Order.

c. Nothing in this Consent Agreement and Order shall prohibit Ms. Walls from working as a mortgage originator in the mortgage business, or in another position, under the direct supervision of an entity licensed by the Department after the expiration of the 1-year period noted in paragraph 41b.

d. Ms. Walls shall meet any and all future requirements for licensure or registration as required by the Department in order to work under the supervision of a licensed entity and shall notify the Department of the name of the entity she works for as provided in paragraph 41c.

FURTHER PROVISIONS

42. Consent. Express Mortgage and Ms. Walls hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order pursuant to the Bureau's order authority under the MLA, and agree that they understand all of the terms and conditions contained herein.

43. Waiver of Hearing or Appeal. Express Mortgage and Ms. Walls, by voluntarily entering into this Order, waive any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

44. 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).

45. 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.

46. Amendments. This Order may only be amended in writing by mutual agreement by the Bureau and Express Mortgage, Ms. Walls and Mr. Conner.

47. Binding Nature. The Department and Express Mortgage and Ms. Walls intend to be and are legally bound by the terms of this Order.

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

49. Effectiveness. Express Mortgage and Ms. Walls hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

50. 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 Express Mortgage and Ms. Walls in the future regarding all matters not resolved by this Order.

b. Express Mortgage and Ms. Walls acknowledge 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.

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

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

53. 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 of Banking and Express Mortgage Financial Services, P.C. and Brittny Diana Walls, intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU OF
COMPLIANCE AND LICENSING**

Ryan M. Walsh, Chief
Bureau of Compliance and Licensing
Department of Banking

Date: October 3, 2012

**EXPRESS MORTGAGE FINANCIAL
SERVICES, PC**

**FOR BRITTNY DIANA WALLS,
INDIVIDUALLY**

(Officer Signature)

(Signature)

(Print Officer Name)

(Print Name)

President
(Title)

Date: 10/3/12

Date: 10/3/12