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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

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

v.

LIBERTY UNITED MORTGAGE, LLC

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: Docket No. 12 0017 (ENF-CO)
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CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (“Department”), Bureau of Examinations has conducted an examination of Liberty United Mortgage, LLC (“Liberty United Mortgage”) and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance and Licensing (“Bureau”) concluded that Liberty United Mortgage operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. §§ 6101-6154, and the regulations known as the Proper Conduct of Lending and Brokering in the Mortgage Loan Business, 10 Pa. Code §§ 46.1-46.3 (“Regulations”). 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. Liberty United Mortgage is a mortgage loan correspondent with its corporate office located at 1201 Sharp Street, Suite 150, Baltimore, Maryland 21230.

4. Liberty United Mortgage maintains a branch location at 224 North George Street, York, Pennsylvania 17401.

5. Liberty United Mortgage is licensed as a mortgage loan correspondent by the Department, license no. 33414, Nationwide Mortgage Licensing System and Registry (“NMLS”) identification no. 132792.

6. As a mortgage loan correspondent, Liberty United Mortgage is responsible “for the acts and omissions of all mortgage originators” it employs. *See* 7 Pa. C.S. § 6121(13).

7. On February 14, 2011, the Bureau of Examinations, through an examiner, commenced an examination of Liberty United Mortgage at the York location.

8. During the examination, the examiner reviewed, in relevant part, 35 mortgage loan files brokered from January 1, 2008 through January 31, 2011 to ascertain compliance with the Mortgage Licensing Act and the Regulations.

9. The examiner found four violations of the Mortgage Licensing Act and Regulations as set forth below.

VIOLATIONS

Unlicensed Activity

10. First, the examiner found that Liberty United Mortgage permitted unlicensed mortgage originators to broker eight mortgage loans for Pennsylvania consumers.

11. The Mortgage Licensing 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. 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. . . .

See 7 Pa. C.S. § 6111(a).

12. By allowing its mortgage originators to originate eight mortgage loans without a license, Liberty United Mortgage violated Section 6111(a) of the Mortgage Licensing Act.

Unique Identifier Missing from Applications

13. Second, the examiner found that Liberty United Mortgage's mortgage originators did not display their NMLS identification numbers on six of 15 mortgage loan applications reviewed by the examiner for the 2010 calendar year.

14. Section 6121(14) of the Mortgage Licensing Act requires that "[i]n the case of 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).

15. By failing to require its mortgage originators to display their mortgage loan identifiers on the applications, Liberty United Mortgage violated Section 6121(14) of the Mortgage Licensing Act.

Pennsylvania Consumer Disclosure Forms

16. Third, the examiner found that Liberty United Mortgage's mortgage originators did not provide a consumer disclosure form to consumers in 22 of the 28 mortgage loan files that they originated or closed after March 20, 2009, the date the Regulations became effective.

17. The Regulations require licensees to issue a disclosure form prescribed by the Department within three business days after a mortgage application is received or prepared by licensee. *See* 10 Pa. Code § 46.2(b)(c).

18. The consumer disclosure form provides specific information to the applicants regarding the loan, specifically, whether the lender will escrow the property taxes and hazard insurance, whether the licensee is a lender with the ability to lock-in the interest rate, whether the loan contains a variable rate, balloon payment feature or prepayment penalty and whether the loan has a negative amortization feature. 10 Pa. Code § 46.2(b).

19. The Regulations require licensees to have applicants sign and date the disclosure form within 10 business days after delivery or mailing and to retain the original executed disclosure form in the applicant's loan file. *See* 10 Pa. Code § 46.2(e).

20. By failing to comply with the Regulations, Liberty United Mortgage committed an act defined in Section 6139(a)(2) of the Mortgage Licensing Act, 7 Pa. C.S. § 6139(a)(2), which authorizes the Department to institute an enforcement action against Liberty United Mortgage's license.

Records Not at Required Location

21. Fourth, the examiner found that Liberty United Mortgage did not have available to review four of the 35 mortgage loan files that the examiner sought to review as part of his examination; as a result, the examiner could not examine the loan files selected.

22. Liberty United Mortgage represented, through its President, to the examiner that the four mortgage loan files had inadvertently been stationed near the paper shredder at the corporate location and, as a result, an employee mistakenly disposed the files without management's knowledge at the time.

23. Section 6135(a)(2) of the Mortgage Licensing Act provides that:

[e]ach licensee shall maintain at its principal place of business, or at another place if agreed to by the department, the original or a copy of any books, accounts, records and documents, or electronic or similar access thereto, of the business conducted under the license as prescribed by the department to enable the

department to determine whether the business of the licensee is being conducted in accordance with the provisions of this chapter and the regulations, statements, of policy or orders issued under this chapter.

See 7 Pa. C.S. § 6135(a)(2).

24. By failing to maintain the four loan files requested by the examiner, Liberty United Mortgage violated Section 6135(a)(2) of the Mortgage Licensing Act.

AUTHORITY

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

26. The Department has the authority to fine a licensee that violates the Mortgage Licensing Act or commits any action which would subject the licensee to suspension, revocation or nonrenewal under section 6139 up to \$10,000 per offense. 7 Pa. C.S. § 6140(b).

27. Because Liberty United Mortgage violated the Mortgage Licensing Act and Regulations, the Department has the authority to issue this Order and impose a fine on Liberty United Mortgage.

RELIEF

28. Fine. Within 30 days of the effective date of this Order as defined in Paragraph 35, Liberty United Mortgage shall pay a fine in the amount of \$3,250. Payments shall be 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 and Licensing, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

29. Corrective Action. From the effective date of this Order, Liberty United Mortgage shall do all of the following:
- a. Liberty United Mortgage shall ensure that its mortgage originators are licensed by the Department prior to permitting them to engage in the mortgage loan business in Pennsylvania.
 - b. Liberty United Mortgage shall ensure that its mortgage originators display their NMLS identifiers on the mortgage loan applications that they complete.
 - c. Liberty United Mortgage shall ensure that its mortgage originators provide the consumer disclosure forms required by the Department to loan applicants within three business days after it receives or prepares the applications. Liberty United Mortgage shall have the applicants sign and date the forms and return them to Liberty United Mortgage within 10 days after delivery or mailing. Liberty United Mortgage shall retain the original executed disclosure forms in the applicants' loan files.
 - d. Liberty United Mortgage shall ensure that its mortgage loan files are maintained at its principal place of business or another place agreed to by the Department so they are available for examination when requested by the Department.

FURTHER PROVISIONS

30. Consent. Liberty United 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. Liberty United 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.

31. 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).

32. 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 Liberty United Mortgage.

33. Binding Nature. The Department and Liberty United Mortgage intend to be and are legally bound by the terms of this Order.

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

35. Effectiveness. Liberty United Mortgage hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (“Effective Date”).

36. 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 Liberty United Mortgage, in the future regarding all matters not resolved by this Order.

b. Liberty United 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.

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

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

39. 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 and Licensing and Liberty United Mortgage, 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 AND LICENSING**

John Talalai, Enforcement Administrator
Bureau of Compliance and Licensing
Department of Banking

Date: 2-6-2012

FOR LIBERTY UNITED MORTGAGE, LLC

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 1.19.12