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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF BANKING, BUREAU : Docket No. 12 0022 (ENF-CO)  
OF COMPLIANCE AND LICENSING :  
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v. :  
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NFM, INC., d/b/a NFM CONSULTANTS, INC. :  
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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 NFM, Inc., d/b/a NFM Consultants, Inc., ("NFM"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance and Licensing ("Bureau") concludes that NFM operated in violation of 7 Pa. C.S. § 6101 *et seq.* ("Mortgage Licensing Act"). NFM, without admitting wrongdoing, and in order to avoid litigation, agrees with the Bureau to be legally bound 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. NFM is currently licensed under the Mortgage Licensing Act as a Mortgage Lender, license no. 25770, with a Nationwide Mortgage Licensing System and Registry

("NMLS") identification number of 2893.

4. NFM maintains its principal place of business at 505 Progress Drive, Suite 100, Linthicum, Maryland 21090.

5. In September 2010, NFM entered into a Consent Agreement and Order with the Department, docket number ENF-100213(ENF-CO), in resolution of alleged violations of the Mortgage Licensing Act, based on a single individual originating loans without being licensed in Pennsylvania or in any other jurisdiction.

6. Beginning on October 21, 2011 the Bureau conducted a second investigation of NFM.

#### Unlicensed Branch Location

7. Based on the second investigation, the Bureau alleges that employees of NFM originated (9) nine mortgage loans from a branch located at 12330 Perry Highway, Wexford, Pennsylvania prior to the date that the branch had been approved by the Department.

8. The Mortgage Licensing Act defines a "branch" as an office or other place of business, other than the principal place of business, where a person engages in the mortgage loan business subject to this chapter." 7 Pa. C.S. § 6102.

9. The Mortgage Licensing Act requires licensed mortgage originators to work from licensed locations. 7 Pa. C.S. § 6131(0)(2).

10. NFM is required to directly supervise, control and maintain responsibility for the acts and omissions of the mortgage originators it employs. 7 Pa. C.S. §§ 6121(13); 6131(0)(1).

11. It is the conclusion of the Bureau that by allowing employees to work out of an unlicensed location, NFM failed to directly supervise and control the acts and omissions of the

mortgage originators it employed as required by the Mortgage Licensing Act. 7 Pa. C.S. §§ 6121(13); 6131(0(1)).

12. NFM states that it was properly licensed to originate mortgages in Pennsylvania at its principle place of business.

13. NFM further states that it filed an application for a license for the Wexford office prior to the date any loan applications were accepted at that office location, although the application had not yet been approved.

14. NFM argues that the originators working out of the Wexford office were licensed in Pennsylvania, and NFM was in the process of properly sponsoring those originators at the Wexford office.

15. NFM further argues that only preliminary steps had been taken in the origination process, and no loans had been approved, denied, closed, or withdrawn prior to licensing of the branch.

16. NFM, therefore, denies any wrongdoing given that it was a licensed entity in Pennsylvania, its originators were properly licensed in Pennsylvania and because it had properly applied for and ultimately received a license for the Wexford office.

17. NFM states that it instituted internal controls measures which will ensure that going forward all locations from which it conducts the mortgage business will be licensed branches prior to any loan origination work beginning at that location.

#### Unlicensed Loan Originators

18. Based on the second investigation, the Bureau alleges that a number of residential mortgage applications for Pennsylvania properties were originated by individuals that were not

licensed originators in Pennsylvania, and that those applications were forwarded to the principal place of business to be closed by licensed originators after origination.

19. As of November 5, 2008, individuals acting as mortgage loan originators for property located within Pennsylvania were required to be licensed as mortgage originators by the Department pursuant to section 6111(a) of the Mortgage Licensing Act.

20. It is the conclusion of the Bureau that NFM failed to supervise and control the mortgage originators it employs by allowing individuals unlicensed in Pennsylvania to originate loans and forward them to licensed originators to adopt as their own. 7 Pa. C.S. §§ 6121(13); 6131(f)(1).

21. NFM states that all of their originators, including those originating loans for Pennsylvania properties from out of state, were licensed originators in at least one jurisdiction, although not necessarily in Pennsylvania.

22. NFM has informed the Department that it has instituted internal control, and all individuals originating mortgage loans for Pennsylvania for properties will be licensed in Pennsylvania and that origination work will not be shared between licensed and unlicensed originators.

23. NFM cooperated fully with the investigation and provided the Department with all documentation requested.

#### Authority of the Department

24. 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).

25. 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. . ." and 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)(2) and (a)(14).

26. 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).

#### VIOLATIONS

27. It is the position of the Bureau that NFM violated the Mortgage Licensing Act when it conducted the mortgage loan business through mortgage originators unlicensed in Pennsylvania after November 5, 2008; when it failed to properly control and supervise its employees; and when it conducted the mortgage loan business out of an unlicensed location. 7 Pa.C.S. § 6111(a); 7 Pa.C.S. § 6131(f)(1); and 7 Pa.C.S. § 6131(b).

28. NFM denies that it has committed any violations or wrongdoing and is agreeing to this Consent Agreement and Order to avoid litigation.

#### RELIEF

29. Fine. NFM agrees to pay a fine of \$40,250.00 which shall be due and payable to the Department in ten installments of \$4,025.00 each starting on or before March 1, 2012 and ending on or before December 1, 2012. The fine payment shall be remitted by a company check,

certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of Licensing Division, Bureau of Compliance and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

30. NFM further agrees to waive its right to a due process hearing and serve an immediate suspension of not less than fifteen days in the event the Bureau determines, upon proper investigation and examination, that NFM has violated this Consent Agreement or its prior Consent Agreement and Order.

31. Corrective Measures. Upon the effective date of this Order, as defined in paragraph 34 below, NFM shall immediately cease and desist from:

- a. originating Pennsylvania residential mortgages through loan originators not properly licensed under the Mortgage Licensing Act, and
- b. originating loans from unlicensed locations.

#### FURTHER PROVISIONS

32. Consent. NFM 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 herein. NFM 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.

33. 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).

34. 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 NFM.

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

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

37. Effectiveness. NFM hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

38. 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 NFM in the future regarding all matters not resolved by this Order.

b. NFM 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.

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

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

41. 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 and NFM 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

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Robert E. Knaub, Enforcement Administrator  
Bureau of Compliance, Investigation and Licensing  
Department of Banking

Date: 2/22/12

NFM, INC.

By: \_\_\_\_\_  
M. David Silverman, President of NFM, Inc.

Date: 2/21/2012