

FILED

2012 APR -3 PM 3:37

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING, BUREAU	:	
OF COMPLIANCE AND LICENSING	:	
	:	
v.	:	Docket No.: 110177 (ENF-ORD)
	:	
ALLIED HOME MORTGAGE	:	
CORPORATION, ALLIED HOME	:	
MORTGAGE CAPITAL CORPORATION and	:	
JAMES C. HODGE, individually	:	
	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania Department of Banking (“Department”), Bureau of Compliance and Licensing (“Bureau”), has conducted a review of certain aspects of the business of Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and their officers, employees and directors including James C. Hodge (collectively, “Allied Home”). Based on the results of its review, the Bureau concluded that Allied Home violated the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.*, and the Regulation for the Proper Conduct of Lending and Brokering in the Mortgage Loan Business (“Proper Conduct Regulation”), 10 Pa. Code § 46.1 *et seq.* The parties to the above-captioned matter, in lieu of litigation, 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 and the Proper Conduct Regulation.

2. The Bureau is responsible for administering and enforcing the Mortgage Licensing Act and the Proper Conduct Regulation for the Department.

3. Allied Home Mortgage Corporation was licensed by the Department as a mortgage lender, license no. 31922, with the Nationwide Mortgage Licensing System and Registry (“NMLS”) ID no. 2268.

4. Allied Home Mortgage Corporation’s Pennsylvania license was not renewed as of December 31, 2011.

5. Allied Home Mortgage Corporation maintains a corporate office located at 6110 Pinemont Drive, Suite 215, Houston, Texas 77092 and had previously maintained several Pennsylvania licensed locations.

6. Allied Home Mortgage Capital Corporation was licensed by the Department as a mortgage lender, license no. 21211, with the Department NMLS ID no. 4169.

7. Allied Home Mortgage Capital Corporation surrendered its license with the Department effective April 12, 2011, and maintains a corporate office located at 6110 Pinemont Drive, Suite 215, Houston, Texas 77092 and had previously maintained several Pennsylvania licensed locations.

8. James C. Hodge is President, CEO and partial owner of Allied Home Mortgage Corporation and Allied Home Mortgage Capital Corporation.

Cessation of Business

9. On November 1, 2011, the United States Department of Housing and Urban Development (“HUD”) issued a press release, stating that it had suspended Allied Home Mortgage Corporation and James C. Hodge, “...from originating and underwriting new mortgages insured by the Federal Housing Administration (FHA).”

10. The HUD press release also stated that Government National Mortgage Association (“Ginnie Mae”) was suspending Allied Home’s ability to issue securities in Ginnie Mae’s mortgage-backed securities program.

11. As a result of these suspensions, on November 2, 2011, all the independent warehouse lenders with whom Allied Home maintained a borrowing relationship unilaterally suspended Allied Home.

12. The suspension of the warehouse lines of credit curtailed Allied Home’s ability to fund any mortgage loans.

13. Allied Home filed a matter in the United States District Court for the Southern District of Texas (“District Court”) seeking a temporary restraining order to enjoin HUD’s suspension of Allied Home. *See Allied Home Mortgage Corporation, et al v. Shaun Donovan, Secretary, United States Department of Housing and Urban Development, et al*, Civil Action no. H-11-3864.

14. In the District Court matter, Allied Home contends that HUD’s suspension was “arbitrary and capricious and effected without due process of law in violation of the Fifth Amendment.” *Id.* at p.2.

15. On November 15, 2011, the District Court issued an order enjoining HUD from enforcing HUD’s suspensions of Allied Home.

16. Final disposition of this preliminary injunctive relief is still pending.

17. As of November 9, 2011, Allied Home’s website, www.alliedhome.com, stated that “This Website Is Currently Offline” and “We apologize for any inconvenience but this website is temporarily unavailable.”

18. Allied Home also posted a letter on the website for its customers regarding the status of loans with Allied Home Mortgage Capital Corporation.

Cease and Desist Order

19. On November 9, 2011, pursuant to its order authority under the Mortgage Licensing Act the Bureau issued a Cease and Desist Order naming Allied Home as Respondent.

20. Upon the issuance of the Cease and Desist Order, Allied Home cooperated with the Order despite its contention that such action was unnecessary.

21. As of the date of the Cease and Desist Order, Allied Home stopped accepting applications for mortgage loan financing from Pennsylvania residents and has not resumed accepting applications.

22. The Cease and Desist Order contained allegations against Allied Home similar to the matters and facts set forth in this Consent Order.

23. This Consent Order resolves the Cease and Desist Order.

24. Allied Home's execution of this Consent Order and Agreement and adherence to the terms contained therein is not an admission of wrongdoing by Allied Home.

Unfunded Loans

25. As of November 3, 2011, there were approximately ninety-one (91) Pennsylvania consumers with mortgage loan applications at various stages of processing and approval with Allied Home.

26. These various stages included, but were not limited to, closed not funded, cleared to close and processing.

27. At the time of the issuance of the Cease and Desist Order, there were numerous consumers nationwide, including Pennsylvania consumers, whose mortgage loans are in a “closed not funded” status with Allied Home.

28. Section 46.2(k)(1) of the Proper Conduct Regulation provides that “[a] licensee lender may not refuse or fail to fund a consummated loan. . . .” 10 Pa. Code § 46.2(k)(1).

29. Because of the actions by HUD, Allied Home does not currently have access to warehouse lines of credit through which loans can be funded.

30. Allied Home indicated to the Bureau it was unable to fund the “closed not funded” status loans in its pipeline despite its prior commitment to close these loans.

31. The Bureau is aware of at least four (4) Pennsylvania consumers whose mortgage loans were in a closed, but unfunded status with Allied Home after the time for funding had passed.

32. By not funding mortgage loans in the pipeline that Allied Home had already closed, Allied Home violated the Proper Conduct Regulation.

33. By violating the Proper Conduct Regulation, Allied Home has also violated the Mortgage Licensing Act. 10 Pa. Code § 46.3(a).

34. Allied Home violated the Mortgage Licensing Act by failing to complete and/or fund loans in its pipeline that it had committed to close and/or had closed. 7 Pa. C.S. § 6139(a)(2).

James C. Hodge, individually

35. As owner, President and CEO, James C. Hodge was responsible for establishing Allied Homes’ policies and procedures and for ensuring that as a licensee of the Department,

Allied Home complied with all state and federal mortgage laws and regulations. 7 Pa. C.S. § 6121.

Authority of the Department

36. Section 46.3(a) of the Proper Conduct Regulation provides that a violation of the Proper Conduct Regulation is a violation of the Mortgage Licensing Act. 10 Pa. Code § 46.3(a).

37. Section 6138(a)(4) of the Mortgage Licensing Act provides the Department with authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and for the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

38. Section 6139(a)(2) of the Mortgage Licensing Act authorizes the Department to suspend, revoke or refuse to renew a license issued under the Mortgage Licensing Act if the licensee has “[f]ailed to comply with or violated any provision of this chapter or any regulation or order promulgated or issued by the department under this chapter.” 7 Pa. C.S. § 6139(a)(2).

39. Section 6140(a) of the Mortgage Licensing Act provides, in relevant part, that “[a] person subject to the provisions of this chapter and not licensed by the department who violates any provision of this chapter or who commits any action which would subject a license to suspension, revocation or nonrenewal under section 6139 (relating to suspension, revocation or refusal) may be fined by the department up to \$10,000 for each offense.” 7 Pa. C.S. § 6140(a).

40. 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

41. Loan Origination. Upon the Effective Date of this Order as provided in Paragraph 50 below, James C. Hodge, Allied Home and any and all officers, members, managers, employees, independent contractors, or agents, operating on behalf of Allied Home and their successors or assigns, shall continue to cease and desist from accepting mortgage loan applications, soliciting and/or advertising for its consumer home mortgage loan origination businesses in Pennsylvania or to Pennsylvania consumers.

42. Fine. Upon the Effective Date of this Order, Allied Home and James C. Hodge, jointly and severally, shall pay a fine of \$10,000. The fine shall be paid by certified check or money order and sent to the attention of Ryan Walsh, Chief of Compliance, Department of Banking, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

43. Liens. Upon the Effective Date of this Order, Allied Home shall release any liens filed naming Allied Home, or any successor in interest to Allied Home, as the secured party/lender, which purports to secure a mortgage loan originated by Allied Home that was not funded.

44. Recordkeeping. Upon the Effective Date of this Order, Allied Home shall maintain all required records at its Corporate Office, and allow the Department free access to examine the records as required under Section 6135(a)(2) of the Mortgage Licensing Act.

FURTHER PROVISIONS

45. Consent. Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and James C. Hodge hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Licensing Act and agree that they understand all of the terms and conditions contained therein.

Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and James C. Hodge, 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.

46. 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).

47. 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, Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and James C. Hodge.

48. Binding Nature. The Department, Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and James C. Hodge intend to be and are legally bound by the terms of this Order.

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

50. Effectiveness. Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and James C. Hodge hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

51. 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 Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and James C. Hodge, in the future regarding all matters not resolved by this Order.

b. Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and James C. Hodge 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.

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

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

54. 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 Allied Home Mortgage Corporation, Allied Home Mortgage Capital Corporation and James C. Hodge 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 Walsh, Chief of Compliance
Bureau of Compliance and Licensing
Department of Banking

Date: April 3, 2012

ALLIED HOME MORTGAGE CORPORATION

JAMES C. HODGE

By: _____
(Officer Signature)

(Signature)

(Print Officer Name)

President

(Title)

(Print Name)

Date: 4/2/2012

Date: 4/2/2012

ALLIED HOME MORTGAGE CAPITAL CORPORATION

By: _____
(Officer Signature)

(Print Officer Name)

President

(Title)

Date: 4/2/2012
