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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

2013 JUN -2 AM 10:09

COMMONWEALTH OF PENNSYLVANIA	:	BANKING AND SECURITIES
DEPARTMENT OF BANKING AND	:	
SECURITIES, BUREAU OF COMPLIANCE	:	
AND LICENSING	:	
	:	
v.	:	Docket No. <u>130002</u> (ENF-CO)
	:	
MORTGAGE NOW, INC.	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities (“Department”), Bureau of Examinations has conducted an examination of Mortgage Now, Inc. (“Mortgage Now”) and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance and Licensing (“Bureau”) concluded that Mortgage Now violated the surety bond requirement of the Mortgage Licensing Act, 7 Pa. C.S. § 6131(c)(5). 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. Mortgage Now is a corporation that engages in the mortgage loan business in Pennsylvania as a mortgage lender.

4. Mortgage Now's principal place of business is located at 1161 Broad Street, Suite 216, Shrewsbury, NJ 07702.

5. Mortgage Now maintains a branch office located at 2300 Computer Road, Suite K60, Willow Grove, PA 19090-1743.

6. Mortgage Now is licensed by the Department as a mortgage lender, Nationwide Mortgage Licensing System and Registry Identification No. 117338, Mortgage Lender License No. 27176.

7. On November 28, 2011, an examiner from the Bureau of Examinations commenced a routine compliance examination of Mortgage Now upon which the Bureau's position is based.

8. Mortgage Now fully cooperated with the Department during the examination process.

9. The purpose of this Order is to resolve the surety bond issue resulting from the November 28, 2011 examination, the outstanding examination bill, and the first quarter call report fine.

VIOLATIONS

Surety Bond Coverage

10. The examination revealed that Mortgage Now's surety bond was canceled on January 10, 2011.

11. Section 6131(c)(5) of the Mortgage Licensing Act states that in order to be licensed, the licensee must "maintain a surety bond in an amount that will provide coverage for the mortgage originators employed by the applicant or licensee, in a form acceptable to the

department, prior to the issuance of the license, from a surety company authorized to do business in this Commonwealth". 7 Pa. C.S. § 6131(c)(5).

12. Mortgage Now obtained a replacement surety bond on October 20, 2011.

13. Mortgage Now conducted mortgage loan origination activity without the required surety bond coverage between January 10, 2011 and October 20, 2011.

14. In addition, the examination revealed that in the calendar years 2009 and 2010, Mortgage Now originated mortgage loan volumes in excess of the amount associated with its surety bond coverage. *See generally* 7 Pa. C.S. § 6131(c)(5)(i).

15. Section 6131(c)(5)(i)(A) of the Mortgage Licensing Act states that the amount of the bond shall be "\$100,000 for an applicant or licensee whose mortgage originators will originate or originated less than \$30,000,000 in mortgage loans secured by Pennsylvania real property in a calendar year". 7 Pa. C.S. § 6131(c)(5)(i)(A).

16. Section 6131(c)(5)(i)(B) of the Mortgage Licensing Act states that the amount of the bond shall be "\$200,000 for an applicant or licensee whose mortgage originators will originate or originated \$30,000,000 to \$99,999,999 in mortgage loans secured by Pennsylvania real property in a calendar year". 7 Pa. C.S. § 6131(c)(5)(i)(B).

17. Mortgage Now's surety bond was in the amount of \$100,000.

18. In 2009, Mortgage Now's loan volume was \$53,428,645.

19. In 2010, Mortgage Now's loan volume was \$45,600,192.

20. Mortgage Now obtained the required surety bond effective October 20, 2011, and as of the date of this Order is in compliance with the aforementioned surety bond requirement.

Examination Bill

21. As stated previously, on November 28, 2011, the Bureau of Examinations performed a routine examination.

22. An examination bill in the amount of \$6,253.52 was sent to Mortgage Now on January 24, 2012.

23. The Mortgage Licensing Act and the Department of Banking Code authorize the Department to charge for licensee examinations. *See* 7 Pa. C.S. § 6138(a)(1) and 71 P.S. § 733-204.A.

24. Once a licensee has received notice of the amount lawfully charged to examine its business under the provisions of the Department of Banking Code, the licensee has 60 days in which to remit payment. *See* 71 P.S. § 733-204.B.

25. If a licensee fails to pay an examination invoice, the Department is authorized to impose an additional maximum penalty of \$150.00 following the first 60-day period and for each successive 30-day period. *Id.*

26. Mortgage Now has not paid the January 24, 2012 examination bill.

27. The Department sent dunning notices to Mortgage Now for the examination invoice on April 18, 2012, May 18, 2012 and June 18, 2012.

First Quarter Mortgage Call Report

28. On June 15, 2012, the Department sent Mortgage Now notice that it did not submit its quarterly mortgage call report by the May 15, 2012 deadline.

29. Filing a quarterly call report on time is required under the Mortgage Licensing Act. *See* 7 Pa. C.S. § 6135(a)(5)

30. As a result of failing to file this report, the Department fined Mortgage Now \$250.

31. The Department is authorized to fine licensees a penalty of “\$100 per day for each day after the due date until the report is filed.” 7 Pa. C.S. § 6135(a)(3).

32. Mortgage Now has not paid the fine.

AUTHORITY

33. The Department has authority to issue orders as may be necessary for the proper conduct of the mortgage loan business by licensees and the enforcement of the Mortgage Licensing Act. *See* 7 Pa. C.S. § 6138(a)(4).

34. The Department may fine a person that commits any action which would subject the licensee to suspension, revocation or nonrenewal under Section 6139 up to \$10,000 per offense. *See* 7 Pa. C.S. § 6140(b).

RELIEF

35. Violations Fine. Mortgage Now agrees to pay a fine of ten thousand dollars (\$10,000).

36. First Quarter Mortgage Call Report Fine. Mortgage Now agrees to pay a late filing penalty of two hundred fifty dollars (\$250).

37. Examination Bill. Mortgage Now agrees to pay an examination bill of six thousand two hundred fifty three dollars and fifty-two cents (\$6,253.52).

38. Payment Schedule. Within thirty days (30) of the Effective Date of this Order, Mortgage Now agrees to pay the Department a total amount of sixteen thousand five hundred three dollars and fifty-two cents (\$16,503.52). The Examination Invoice shall be paid first, in two (2) consecutive monthly payments of three thousand one hundred twenty-six dollars and seventy-six cents (\$3,126.76). Upon completion of the payment of the Examination Invoice, the Violations Fine and First Quarter Call Report Fine shall be combined and paid in two (2)

consecutive monthly payments. The first payment shall be in the amount of five thousand two hundred fifty dollars (\$5,250) and the second payment in the amount of five thousand dollars (\$5,000). All payments shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of: Pennsylvania Department of Banking, Non-Depository Institutions, Bureau of Compliance and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

39. Late Payment. If Mortgage Now is late on any payment, the Department has the right to immediately suspend or the option to not renew its license.

40. Corrective Action. Upon the Effective Date of this Order, Mortgage Now shall ensure that proper bond coverage is maintained.

FURTHER PROVISIONS

41. Consent. Mortgage Now 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. Mortgage Now, 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.

42. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking Code. *See* 71 P.S. § 733-302.A.(5).

43. 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 Mortgage Now.

44. Binding Nature. The Department and Mortgage Now intend to be and are legally bound by the terms of this Order.

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

46. Effectiveness. Mortgage Now hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

47. 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 Mortgage Now, in the future regarding all matters not resolved by this Order.

b. Mortgage Now 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.

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

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

50. 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 and Securities, Bureau of Compliance and Licensing and Mortgage Now, Inc. intending to be legally bound, do hereby execute this Consent Agreement and Order.

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

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

Date: 1-2-13

FOR MORTGAGE NOW, INC.

(Officer Signature)

James Marchese

(Print Officer Name)

President + CEO

(Title)

Date: 11.29.12