

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

FILED

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MONIQUE TATE
D/B/A APPLIED MORTGAGES,
PETITIONER

v.

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

Docket No. 080102 (ENF-FIN)

PA DEPT OF BANKING

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking, ("Department") Bureau of Compliance, Investigation and Licensing ("Bureau") has reviewed the business practices of Monique Tate d/b/a Applied Mortgages ("Applied Mortgages"), and its officers, employees and directors. Based on the results of its review, the Bureau believes that Applied Mortgages is in violation of the Mortgage Bankers and Brokers and Consumer Equity Protection Act ("MBBCEPA"), 63 P.S. § 456.101 *et. seq.* and the Secondary Mortgage Loan Act ("SMLA"), 7 P.S. § 6601 *et. seq.* The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in 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 MBBCEPA and SMLA.

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

3. Applied Mortgages is licensed as a First Mortgage Broker, license number 17391, and as a Secondary Mortgage Broker, license number 17390, with its principal place of business located at 379 W. Uwchlan Ave Ste 200 Downingtown, PA 19335-3168.

4. Section 308(a)(3) of the MBBCEPA and Section 10(b)(2) of the SMLA require licensees with the Department to do the following:

[a]nnually, before May 1, file a report with the department or commission which shall set forth such information as the department or commission shall require concerning the business conducted as a licensee during the preceding calendar year. The report shall be in writing, under oath, and on a form provided by the department.

See 63 P.S. § 456.308(a)(3)(emphasis added); see also 7 P.S. § 6610(b)(2).

5. The MBBCEPA and the SMLA gives the Department the authority to fine a licensee for failure to file its annual reports in a timely manner.

6. Specifically, the MBBCEPA provides, in relevant part, that

[a]ny person licensed under the provisions of this chapter or any director, officer, employee or agent of a licensee who shall violate the provisions of this chapter or shall direct or consent to such violations shall be subject to a fine levied by the department of up to \$2,000 for each offense.

63 P.S. § 456.314(c).

7. Similarly, the SMLA provides, in relevant part, that

a corporation licensed under the provisions of this act or any director, officer, employee or agent who shall violate any provision of this act or shall direct or consent to such violations, shall be subject to a fine of \$2,000 for the first offense, and for each subsequent offense a like fine and/or suspension of license.

7 P.S. § 6622(b).

8. Applied Mortgages did not file with the Department, before May 1, 2008, the required 2007 First Mortgage Broker Companies Annual Report or the 2007 Secondary Mortgage Broker Annual Report (collectively "2007 annual reports").

9. As a result, on May 23, 2008, the Department sent Applied Mortgages a Notice of Fine in which the Department assessed Applied Mortgages a fine in the amount of \$500 for failing to file the 2007 annual reports on time and required Applied Mortgages to file its 2007 annual reports immediately, if it had not already done so.

10. Further, the Notice of Fine provided that if Applied Mortgages sought to contest the Department's imposition of the fine, it had thirty (30) days to file a petition requesting a hearing on the matter.

11. On June 18, 2008, Applied Mortgages filed a request for hearing to contest the imposition of the fine.

12. Shortly thereafter, on June 23, 2008, Applied Mortgages filed its 2007 annual reports with the Department.

13. In accordance with Applied Mortgages' request, a hearing was scheduled on the appropriateness of the fine for August 22, 2008 at 1:30 p.m.

14. However, prior to the hearing, Applied Mortgages agreed to pay the Department the \$500 fine.

15. Because Applied Mortgages has filed its 2007 annual reports and has agreed to pay the \$500 fine, a hearing in this matter is no longer necessary.

VIOLATIONS

16. By failing to file its 2007 First Mortgage Broker Companies Annual Report before May 1, 2008, Applied Mortgages violated Section 308(a)(3) of the MBBCEPA, 63 P.S. § 456.308(a)(3).

17. By failing to file its Secondary Mortgage Broker Annual Report before May 1, 2008, Applied Mortgages violated Section 10(b)(2) of the SMLA, 7 P.S. § 6610(b)(2).

RELIEF

18. Fine. Applied Mortgages shall pay to the Department a \$500 fine. The fine is payable in five monthly installments of \$100 each with the first payment due within 30 days of the execution of this Order. Second and subsequent payments are due the first day of each following month until the fine is paid in full. Payments shall be made by certified check or money order to the "Department of Banking" and shall be sent to the attention of the Department of Banking, Bureau of Compliance, Investigation and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

19. Corrective Measures. Applied Mortgages shall file its annual reports by no later than May 1st of each year as required by the MBBCEPA and the SMLA.

FURTHER PROVISIONS

20. Resolution of Litigation. This Order resolves the matter entitled *Monique Tate d/b/a Applied Mortgages, Petitioner v. Commonwealth of Pennsylvania, Department of Banking, Bureau of Compliance, Investigation and Licensing, Respondent*, at Docket No. 080102 (ENF-FIN). By entering into this Order, Applied Mortgages agrees that a hearing is no longer

necessary on the Department's imposition of the fine, *withdraws its request for a hearing on the imposition of the fine, and agrees that the case is closed as of the Effective Date of this Order.*

21. Consent. Applied Mortgages hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the MBBCEPA and the SMLA and agrees that it understands all of the terms and conditions contained herein. Applied Mortgages, 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.

22. Publication and Release. Applied Mortgages consents to the publication and release of this Order.

23. 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.*

24. Binding Nature. The Bureau, Applied Mortgages, and all officers, owners, directors, employees of Applied Mortgages intend to be and are legally bound by the terms of this Order.

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

26. Effectiveness. Applied Mortgages hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

27. 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 Applied Mortgages in the future regarding all matters not resolved by this Order.

(b) Applied Mortgages 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.

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

29. Counterparts. This Order may be executed in separate counterparts.

30. 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 Bureau and Applied Mortgages intending to be legally bound, do hereby execute this Consent Agreement and Order.

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

Jack Wataiai, Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 9-17-08

FOR MONIQUE TATF ~~ES~~ APPLIED MORTGAGES

(Officer Name) U
Owner
(Title)

Date: 9-9-2008