COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

Commonwealth of Pennsylvania Department of Banking, Bureau of Compliance, Investigation and Licensing,	:	**Docket No.: 070017 (OSC)**
Petitioner,	:	**Docket No.: 070027 (OSC)**
	:	**Docket No.: 070028 (OSC)**
v.	:	**Docket No.: 070029 (OSC)**
	:	**Docket No.: 070033 (OSC)**
NorthStar Mortgage, L.L.C., Paul Fenelle, Leonardo D'Elia, Owners, Keith Douglas Buchanan, Kimberly Friedman, Duane Beers. Michael Gilbert and Jenique Chang,	:	**Docket No.: 070035 (OSC)**
Respondents.	:	

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PA DEPT OF BANKING

FINAL ORDER

AND NOW, this 3rd day of July, 2008, upon consideration of the Motion to Suspend License Pending Full Hearing on License Revocation and Motion to Refuse to Renew (the "Motion") filed by the Department of Banking, Bureau of Compliance, Investigation and Licensing (the "Bureau"), the response filed by NorthStar Mortgage, L.L.C. ("NorthStar"), the hearing held on the Motion, the post-hearing briefs filed, the uncontested Proposed Report of May 19, 2008, prepared by Hearing Officer Jackie Wiest Lutz, Esquire, and the recommendations set forth therein, it is hereby

ORDERED and **DECREED** that:

1. The Bureau's Motion is **GRANTED;**

2. The Hearing Officer's Proposed Report and the findings of fact and conclusions of law contained therein are **ADOPTED** in their entirety;

3. NorthStar's first mortgage broker's license, license no. 3419, and its corresponding branch office license, license no. 3419.001 (the "Licenses"), are **SUSPENDED**;

4. The Department shall **REFUSE TO RENEW** the Licenses at the end of the Licenses' current effective dates; and,

5. Nothing contained in this Order shall be deemed to preclude or prohibit the continuation of these proceedings on the Bureau's remaining claims for relief against NorthStar.

By:

STEVEN KAPLAN
SECRETARY OF BANKING [1]

Date of Mailing: 7/3/08

[1] Subsequent to Secretary Kaplan's confirmation as the Secretary of Banking, Craig Herrold's appointment as adjudicator by Victoria A. Reider, Acting Secretary of Banking at the time, was rescinded by Secretary Kaplan.

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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

Commonwealth of Pennsylvania, Department of Banking, Bureau of Compliance, Investigation And Licensing, Petitioner	:	Docket No. 070017 (OSC)
vs.	:	Docket No. 070027 (OSC)
	:	Docket No. 070028 (OSC)
	:	Docket No. 070029 (OSC)
NorthStar Mortgage, L.L.C., Paul Fenelle and Leonardo D'Elia, Owners, Keith Douglas Buchanan, Kimberly Friedman, Duane Beers, Michael Gilbert and Jenique Chang, Respondents	:	Docket No. 070033 (OSC)
	:	Docket No. 070035 (OSC)

PROPOSED REPORT

Dates of Hearing: January 4, 2008
January 24, 2008
January 25, 2008

Hearing Officer: Jackie Wiest Lutz, Esquire

HISTORY

This matter is before Craig E. Herrold, Adjudicator for the Secretary of Banking,[1] on a Motion to Suspend License Pending Full Hearing on License Revocation and Motion to Refuse to Renew ("Motion to Suspend and Refuse to Renew") that was filed by the Department of Banking ("Department") on November 6, 2007 against NorthStar Mortgage, L.L.C. ("Respondent NorthStar").

The Motion to Suspend and Refuse to Renew was filed by the Department subsequent to the issuance of separate Orders to Show Cause against Respondent NorthStar and the other individually named respondents captioned to this matter, for purposes of expediting a decision, following notice and an opportunity to be heard, on whether or not sufficient evidence exists for the Department to refuse to renew and/or suspend Respondent NorthStar's mortgage broker's license, pending a full hearing and final decision on the allegations contained within the Orders to Show Cause.

Following the filing of the Department's Motion to Suspend and Refuse to Renew, an Order was issued by Hearing Officer, Jackie Wiest Lutz, Esquire,[2] scheduling

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[1] On February 13, 2007, then Acting Secretary of Banking, Victoria A. Reider, designated Craig E. Herrold, Director, Bureau of Examinations, to act as the adjudicator of the administrative action commenced by the Department against Respondents NorthStar Mortgage, L.L.C., Paul Fenelle and Leonardo D'Elia, Owners (Docket No. 070017 (OSC)). Subsequently, on April 3, 2007, Mr. Herrold was also designated by Acting Secretary of Banking, Victoria A. Reider, to act as the adjudicator of the administrative actions commenced by the Department against Respondents Keith Douglas Buchanan (Docket No. 070027 (OSC)); Kimberly Friedman (Docket No. 070028 (OSC)); Duane Beers (Docket No. 070029 (OSC)); Michael Gilbert (Docket No. 070033(OSC)); and Jenique Chang (Docket No. 070035 (OSC)).

[2] On March 29, 2007, Jackie Wiest Lutz, Esquire was designated by Craig E. Herrold, Adjudicator, to act as the presiding officer for the Department in the NorthStar Mortgage, L.L. C., Paul Fenelle and Leonardo D'Elia, Owners matter (Docket No. 070017 (OSC)). Subsequently, on April 6, 2007, Mr. Herrold also designated Ms. Lutz to act as the presiding officer for the Department in the following matters: Keith Douglas Buchanan (Docket No. 070027 (OSC)); Kimberly Friedman (Docket No. 070028 (OSC)); Duane Beers (Docket No. 070029 (OSC)); Michael Gilbert (Docket No. 070033(OSC)); and Jenique Chang (Docket No. 070035 (OSC)).

a hearing on the Department's Motion to Suspend and Refuse to Renew for January 4, 2008, commencing at 9:00 a.m., 3rd Floor Conference Room, 901 N. 7th Street, 3rd Floor North, Harrisburg, PA 17102.

On January 4, 2008, the hearing was held as scheduled before the designated Hearing Officer. Paul Fenelle and Leonardo D'Elia, Owners of Respondent NorthStar, were present on behalf of Respondent NorthStar and were represented by John E. Lucian, Esquire, of BLANK ROME, LLP, One Logan Square, Philadelphia, PA 19103. Linda Carroll, Esquire and Lauren Sassani, Esquire, represented the Department.

Following the close of testimony on January 4, 2008, an Order was issued by the Hearing Officer on January 7, 2008, scheduling two additional days, i.e., January 24, 2008 and January 25, 2008, for hearing.

The hearing resumed as scheduled on January 24, 2008 and concluded on January 25, 2008.

On January 28, 2008, an Order Establishing Briefing Schedule was issued by the Hearing Officer. Under the terms of the Order, the Department's initial brief was due by March 7, 2008; Respondent NorthStar's responsive brief was due April 7, 2008; and a reply brief was due by the Department no later than April 22, 2008.

The Department's initial brief was timely filed on March 7, 2008.

On April 9, 2008, Respondent NorthStar, through counsel, filed a request for a one-week extension of time to file its responsive brief. The Department filed an Answer opposing the request on the same date. On April 10, 2008, an Order was issued by the Hearing Officer, granting Respondent NorthStar's request for an extension of time to file

its brief. Under the terms of the Order, NorthStar was granted until April 16, 2008 to file its responsive brief; the Department was granted until April 30, 2008 to file a reply brief.

On April 11, 2008, two days after requesting an extension of time to file a brief, Attorney Lucian filed a withdrawal of appearance of counsel on behalf of Respondent NorthStar.

On April 16, 2008, Messrs. D'Elia and Fenelle, on behalf of Respondent NorthStar, filed a *pro se* Post Trial Submission of NorthStar Mortgage LLC with the Hearing Officer; however, a copy of the submission was not officially filed with the Department until several days later. Because of Respondent NorthStar's new *pro se* status, the Hearing Officer accepted Respondent NorthStar's late filing as timely, but granted the Department an extension of time until May 2, 2008 within which to file its Reply Brief.

The Department's Reply Brief was timely filed on May 2, 2008. This matter is now ready for appropriate disposition.

PROPOSED FINDINGS OF FACT[3]

1. At all times relevant to this proceeding, NorthStar Mortgage, L.L.C. ("Respondent NorthStar") was licensed by the Department as a first mortgage broker, holding license number 3419, with a principal place of business at 1236 Main Street, Hellertown, PA, and a branch office location at 1140 Lincoln Highway, Coatesville, PA, under mortgage broker license number 3419.001. (Official Notice- Department records; N.T. 01/25/08, p. 179)

2. A mortgage broker is a person who directly or indirectly negotiates or places mortgage loans for others in the primary market for consideration; a mortgage broker is generally the licensed entity at the state level that provides services to consumers, primarily by taking applications and working on behalf of the consumer as an advocate and intermediary with a lending institution or a mortgage banker, to facilitate the transaction. (Official Notice – 63 P.S. §456.302; N.T. 01/04/08, pgs. 80, 85)

3. Mortgage broker licenses are renewable annually on July 1 "upon payment of the annual renewal fee and after a determination that the licensee is conducting business in accordance with the provisions of [Mortgage Bankers and Brokers and Consumer Equity Protection Act ("MBBCEPA")] is made by the department." (Official Notice - 63 P.S. §456.307 (1))

4. Respondent NorthStar's license as a mortgage broker expires on June 30, 2008. (Official Notice – Department records)

5. Paul Fenelle ("Mr. Fenelle") and Leonardo D'Elia ("Mr. D'Elia") are the owners of Respondent NorthStar. (N.T. 01/25/08, pgs. 176, 365)

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[3] References to notes of testimony from the January 4, 2008 hearing will be referred to as "N.T. 01/04/08", followed by the transcript page number; references to notes of testimony from the January 24-25, 2008 hearings, will similarly refer first to the hearing date, followed by the transcript page number.

6. As the licensed entity, Respondent NorthStar is responsible for the actions of its employees. (N.T. 01/25/08. p. 197)

7. At all relevant and material times, Keith Douglas Buchanan ("Buchanan") was employed by Respondent NorthStar as a loan officer; Buchanan joined the company in early 2002. (N.T. 01/25/08, p. 195)

8. At all relevant and material times, Kimberly Friedman ("Friedman") was employed by Respondent NorthStar as a loan processor; Friedman joined the company shortly after Buchanan, in 2002. (N.T. 01/25/08, p. 196)

9. The difference between a loan officer and a loan processor is that the loan officer is generally the person taking the information from the consumer for purposes of the loan; the loan processor aids the loan officer by compiling the loan application and information and providing that in a package that is then sent to a lender. (N.T. 01/04/2008, pgs. 157-158)

(A) Background -(Buchanan - Kelly and David Nau):

10. In or around 2001, the Pocono, PA region began experiencing a major filing of mortgage foreclosures and consumer complaints regarding mortgage brokers, builders and lenders. (N.T. 01/04/2008, p. 70)

11. Eric James Kerchner ("Kerchner") was hired as a subcontractor and special investigator with the Monroe County District Attorney's Office to investigate these complaints. (N.T. 01/04/08, pgs. 45, 70)

12. In or around December of 2002 or January 2003, Buchanan met with Mr. D'Elia to explain that he was having a problem with a client whose loan he had closed;

Buchanan admitted to Mr. D'Elia that he had altered some documents on the file and that the client was about to make a complaint against him. (N.T. 01/25/08, p. 367)

13. The "client" to whom Buchanan was referring was Kelly and David Nau (the "Naus"); in 2002, the Naus purchased a newly constructed home in the Pocono, PA region through Kal-Tac, Inc., a company affiliated with the builder, Blue Ridge Homes. The Naus applied for a loan with Respondent NorthStar through Buchanan. (N.T. 01/04/08, pgs. 64-65; PDB Exhibit 1052)

14. In 2003, Kerchner conducted an investigation concerning Buchanan's involvement in the loan transaction involving the Naus. (N.T. 01/04/08, pgs. 45-46)

15. The investigation revealed that Buchanan fabricated a gift letter in support of the loan which purported to be from one Thomas Pagliaro to the Naus in the amount of $36,000. (N.T. 01/04/08, pgs. 46-48; PDB 1055)

16. The investigation revealed that Thomas Pagliaro never signed a gift letter and did not know the Naus. (N.T. 01/04/08, p. 48)

17. Buchanan admitted to Kerchner that he came up with the name, Thomas Pagliaro, from another NorthStar file in which Thomas Pagliaro was the consumer; Thomas Pagliaro's M&T Bank statement was used by Buchanan to perpetrate the fraud of the gift to the Naus. (N.T. 01/04/08, p. 49-50; PDB Exhibit 1056)

18. The investigation further revealed that in the course of processing the Nau's loan, Buchanan also altered a bank check from yet another NorthStar consumer file regarding Irena and Steve Ault, and presented the altered check to the Nau's Mortgage lender as proof that Thomas Pagliaro was giving a $36,000 gift to the Naus. (N.T. 01/04/08, pgs. 49-56; PDB Exhibits 1025-1026 and PDB 1056)

19. As a result of Kerchner's investigation, criminal charges were brought against Buchanan and Buchanan subsequently pled guilty to one felony count of forgery. (N.T. 01/04/08, pgs. 56-57)

20. Neither Messrs. D'Elia nor Fenelle, as owners of Respondent NorthStar, took any action to terminate Buchanan's employment with Respondent NorthStar following their knowledge of the Buchanan's forgery conviction in connection with the Nau loan transaction. (N.T. 01/25/08, pgs. 298-299, 365-370)

21. At all relevant and material times, Brian Crossland (Crossland) was a senior investigator for the Department. (N.T. 01/24/08, p. 49)

22. Crossland began an investigation regarding Respondent NorthStar in April of 2004 as a result of the outcome of the Nau investigation, which led to Buchanan's conviction. (N.T. 01/24/2008, p. 51-55)

23. At that time, Crossland, accompanied by two Department investigators, met with Messrs. Fenelle and D'Elia at Respondent NorthStar's office; from the outset, Crossland questioned Messrs. Fenelle and D'Elia why Buchanan was still working for NorthStar. (N.T. 01/24/2008, pgs. 56-58)

24. Crossland was told that Buchanan was a good guy; he's a family man; he's good with the customers, so they retained him. (N.T. 01/24/2008, pgs. 56)

25. During this meeting, Crossland and the two Department investigators began to review NorthStar's files. (N.T. 01/24/2008, p. 58)

26. The first file that Crossland opened was the Walker/McClain file; in that file was a Certificate of Authorization that contained a signature for Mrs. Walker that had been taped over what appeared to be another signature for Mrs. Walker that had been mis-

spelled; the tape was still there. The correctly spelled signature had been cut out of another document in the file. (N.T. 01/24/2008, pgs. 58-59)

27. Crossland spoke with Mr. Fenelle about the file, but, Mr. Fenelle had no response as to what had occurred. (N.T. 01/24/2008, p. 59)

28. After finding the Walker/McClain file, Crossland and the two Department investigators proceeded to load boxes of NorthStar's files to take back to their office to review. (N.T. 01/24/08, p. 62)

29. Approximately 20 loan files were contained within each box that was taken by the Department; the Department took approximately 400 files over a two-day period. (N.T. 01/25/08, p. 192)

30. Because of the findings in connection with the Nau investigation that Buchanan had altered a bank check from the *Irena and Steven Ault* file to make it appear as though Thomas Pagliaro was giving a $36,000 gift to the Naus, Crossland was particularly interested in reviewing the Ault file. (N.T. 01/24/08. p. 54)

(B) <u>Buchanan and Friedman – Steven and Irena Ault:</u>

31. Steven and Irena Ault (the "Aults") lived in the Garfield, New Jersey area until shortly after September 11, 2001, when they decided they wanted to leave the city and move to a safer community. (N.T. 01-04-08, pgs. 235-236, 289-290)

32. In or around February of 2002, the Aults made an appointment with Blue Ridge Homes to see a home that was already under construction and available for purchase. (N.T. 01-04-08, pgs. 239-240, 291)

33. The Aults agreed to purchase a home on Lot 18 on Lower Valley Drive in Pleasant Valley Estates, Polk Township, Monroe County, PA for a purchase price of

$128,900; an Agreement for the Sale of Real Estate ("Agreement of Sale") was executed by Steven Ault on March 10, 2002. (N.T. 01-04-08, pgs. 240, 243-244, 293-296; PDB Exhibit 601)

34. After completing the "paperwork" for the purchase of their home on March 10, 2002, the Aults provided the builder with a down payment check in the amount of $1,000 and were told that someone from Blue Ridge Homes' brokerage department would be contacting them to assist them in obtaining a mortgage. (N.T. 01-04-08, pgs. 240, 247-248; PDE Exhibits 599 and 600)

35. On or around April 15, 2002, Irena Ault received a telephone call from Friedman and Buchanan at NorthStar Mortgage, who explained that they were going to work with the Aults to find a mortgage to suit their needs; Buchanan completed a Uniform Residential Loan Application on behalf of the Aults via telephone on that date. (N.T. 01/04/08, pgs. 241-242; PDE Exhibit 523)

36. Prior to closing, Friedman faxed a Gift Letter form to Irena Ault to have completed by her father, Ivan Mrvica, and returned; Mrs. Ault's father completed the form and Mrs. Ault faxed it back to Buchanan and Friedman. (N.T. 01/04/08, pgs. 248-249; PDB Exhibits 596 and 597 and PDB Exhibit 357)

37. The amount of the gift that was made by Ivan Mrvica to the Aults for purposes of their loan was $30,000. (PDB Exhibit 357)

38. A mortgage for the Aults was ultimately obtained for them by Buchanan and Friedman through Long Beach Mortgage, a subsidiary of Washington Mutual (hereinafter, "Washington Mutual"). (N.T. 01/25/08, p. 71-72)

39. Closing on the Ault's loan was held on May 30, 2002. (N.T. 01/24/08, pgs. 84)

40. As part of Crossland's investigation, Crossland reviewed *NorthStar's file* pertaining to the Aults and obtained the following documents from the file:

- *A gift letter from Ivan & Katica Mrvica in the amount of $10,000 to Steven &* Irena Ault (PDB Exhibit 356);
- A gift letter from Ivan & Katica Mrvica in the amount of $30,000 to Steven & Irena Ault (PDB Exhibit 357);
- An unsigned Uniform Residential Loan Application for Steven Ault indicating that Ault is *unmarried;* that the amount to be borrowed is *"$120,000"* (with a number that is whited-out appearing underneath it; and, that the purchase price of the property is *$150,000*. (N.T. 71-73; PDB Exhibit 523);
- An underwriting and Transmittal Summary showing the sales price of the Ault property to *be $150,000*; and the original loan amount to be *$127,500* at a fixed 9.99% rate of interest (PDB Exhibit 524);
- An unsigned and undated Truth In Lending Disclosure Statement regarding Steven Ault, showing an annual percentage rate of 10.479 and no variable rate feature (PDB Exhibit 525);
- A Long Beach Mortgage Company Mortgage Document Order Request Form completed by Kimberly Friedman, dated May 30, 2002, which represents that Steven Ault is "unmarried" and requesting a *2Yr Fix/adj loan* in the amount of $120,000 over a 30-year amortization period (PDB Exhibit 526);
- An Underwriting Approval Sheet from Washington Mutual showing a loan amount of $120,000, a sales price of $150,000 and a down payment of $30,000 (PDB Exhibit 527);
- A Fax transmittal sheet from Kim Friedman to Mrs. Ault indicating that a Gift Form is Enclosed (PDB Exhibit 596);
- A Borrower's Certification and Authorization form containing a signature for Steven R. Ault and dated 4/16/02 (PDE Exhibit 1084); and,
- A copy of a Form 8453 U.S. Individual Income Tax Declaration form for the year 2000 indicating that the Aults are married (PDE Exhibit 1085)

(N.T. 01/24/2008, p. 63)

41. Washington Mutual relied upon the two gift letters appearing in its file (PDB Exhibits 1041 and 1041) to close the Ault's loan; the loan was approved at 80% loan-to-value, which meant that the Aults needed to bring funds to close. The total amount of gift money that Washington Mutual was taking into account when they were reviewing the Ault's loan was $40,000. (N.T. 1/25/08, p. 78)

42. Upon his review of the documentation that was contained within NorthStar's file pertaining to the Aults, Crossland noticed that some of the documentation, including one of two gift letters in the file that were signed by Ivan Mrvica, appeared to contain photocopied signatures. (N.T. 01/24/08, p. 111-112; PDB Exhibits 356 and 357)

43. The gift letter in the amount of $30,000 that the Irena Ault faxed back to Buchanan and Friedman (PDB Exhibit 357) contains a fax header of 5/22/02 which originated with NorthStar, along with a second fax header of 5/26/02 showing when Irena Ault faxed the document back to NorthStar; in contrast, the gift letter in the amount of $10,000 that was recovered from Washington Mutual's file (PDB Exhibit 1041) and from NorthStar's file (PDB Exhibit 356) does not reflect the Ault's fax header either at the top or the bottom of the document. (PDB Exhibits 356, 357 and 1041)

44. Crossland spoke with Mrs. Ault and learned that only one gift of $30,000 was given by her parents; there was not an additional gift of $10,000 as reflected in NorthStar's file. (N.T. 01/24/08, pgs. 111-112; N.T. 01/04/08, pgs. 250, 300-302)

45. Crossland forwarded the two gift letters that were found within NorthStar's file pertaining to the Aults to the Pennsylvania State Police for purposes of corroborating the similarity of the signatures appearing on the gift letters; both gift letters contained the signature Ivan Mrvica. (N.T. 01/24/08, p. 64; PDB Exhibits 356 and 357)

46. At all relevant and material times Trooper Sandra Miller (Miller) was a questioned documents examiner in the Pennsylvania State Police Crime Lab in Harrisburg, PA; Respondent NorthStar, through counsel, stipulated to Miller's qualifications as an expert in forensic document examination. (N.T. 01/25/08, pgs. 8-10)

47. Miller received the two gift letters that were forwarded to her from Crossland (PDB Exhibits 356 and 357) and examined the signatures appearing on the documents to determine if they were identical signatures. (N.T. 01/25/08, pgs. 11-13)

48. One of the premises of handwriting examination and identification is that no person can write the same way twice; thus, if an individual were to write his/her signature 100 times, a transparent overlay would never match up exactly and identically. (N.T. 1/25/08, p. 15)

49. Upon completion of an examination and comparison of the signatures appearing on PDB Exhibits 356 and 357, using a transparent overlay, Miller was able to determine that the signatures match up exactly and identically; because the signatures matched up exactly and because nobody writes the same way twice, Miller concluded that the signatures appearing on PDB Exhibits 356 and 357 originated from a common source signature, not necessarily one from the other, but it could have originated from a third document. (N.T. 01/25/08, pgs. 15-18; PDB Exhibit 954)

(C) Dexroy Millings /Fiona Clayton Reynolds and Simone Clayton:

50. On August 28, 2005, Mr. Fenelle, on behalf of Respondent NorthStar, executed a Broker Agreement with American Home Bank. (PDB Exhibit 1098)

51. Under the terms of the Broker Agreement, the responsibility to ensure that accurate information is submitted to the lender is on the broker. The Broker Agreement provides, in pertinent part:

> 13. Loan Fraud. Broker acknowledges and understands that it shall be deemed responsible under this Agreement for all actions performed by its' principals, employees, agents, designees and licensees hereunder. Pursuant to this Agreement, Broker is responsible and shall be required to repurchase a Loan for any fraud by Broker or by persons for whom Broker is responsible, which

> occurs in the origination of any Loan. . . . Examples of such fraudulent actions include, but are not limited to:
>
> a. Submission of inaccurate information, including false statements on an Application and/or falsification of documents purporting to substantiate credit, employment, deposit and asset information or personal information including but not limited to identity, citizenship, or ownership/non-ownership or real property;
>
> b. Forgery or misrepresentation of partially or predominantly accurate information;
>
> c. Inaccurate representations of current occupancy status or intent to maintain required occupancy as agreed in the Application, Mortgage and/or other loan documents;
>
> d. Lack of due diligence or concern by Broker, including but not limited to its loan officers, interviewers or processors. . . .
>
> e. Acceptance of information or documentation which is known or in the exercise of reasonable due diligence should be known by Broker to be inaccurate or acceptance of information which is known or in the exercise of reasonable due diligence should be known to be inaccurate . . . . (PDB Exhibit 1098)

52. In or around August 2005 Dexroy Millings (Millings) and Fiona Reynolds (Reynolds) applied for a construction to permanent loan with American Home Bank N.A. (hereinafter, "American Home Bank") through Buchanan at Respondent NorthStar. (N.T. 01/24/2008, p. 33, 46; 01/04/2008, pgs. 118-120; PDB Exhibits 537, 571, 576)

53. A construction to permanent loan is generally a single source loan, which funds the construction of a new home through a disbursement schedule as the home is being built and then becomes a permanent mortgage at the end of the construction phase and upon occupancy of the home. (N.T. 01/04/2008, pgs. 103-104)

54. Documentation that was submitted to American Home Bank by Respondent NorthStar through Buchanan in support of the Millings loan included, *inter alia*, a note from one Luckson Etienne stating that he gave his nephew Dexroy Millings gifts in the

amounts of $11,300.00 as a downpayment for his home, and a copy of Etienne's financial statement to serve as evidence that Etienne had the financial capacity to provide those funds to Dexroy Millings. (N.T. 01/04/2008, p. 125; PDB Exhibits 536 and 569)

55. Settlement on the Millings/Reynolds construction to permanent loan occurred on November 14, 2005. (N.T. 01/04/2008, pgs. 116-118; PDB Exhibit 570)

56. American Home Bank performs monthly audits on all new loan applications and all closed loans; American Home Bank's policy is to do monthly audits on a minimum of ten percent (10%) of all new loan transactions. (N.T. 01/04/2008, p. 120-121)

57. At all relevant and material times TenA Companies Incorporated (hereinafter, "TenA") was an outside auditing company that American Home Bank used to perform auditing services on American Home Bank's mortgage loan transactions. (N.T. 01/04/2008, p. 120)

58. The Millings/Reynolds loan file was audited by TenA on behalf of American Home Bank. (N.T. 01/04/121; PDB Exhibit 582)

59. As part of its audit, TenA sent a letter on February 15, 2006 to Luckson Etienne of Great Meadows, New Jersey requesting that Mr. Etienne confirm the accuracy of information pertaining to the gift letter that was provided to American Home Bank on behalf of Dexroy Millings from Mr. Etienne. Specifically, Mr. Etienne was asked if the information in the gift letter was accurate as of the date it was completed, and if the individual who signed the document was authorized to do so. (PDB Exhibits 536, 583)

60. A gift letter is typically provided to a lending institution by a family member and represents to the institution that the family member is going to support the loan transaction by giving a gift amount to the recipient. (N.T. 01/04/2008, p. 105)

61. A Su-Su account is an investment account that is created by a group of individuals collectively getting together and making an investment on a recurring basis into a fund, which is then available to contributing members to draw from on a periodic basis consistent with the rules of the Su-Su account. (N.T. 01/04/2008, p. 106)

62. On or about March 6, 2006, the gift letter verification for Dexroy Millings was returned by Luckson Etienne to TenA indicating that the information in the gift letter was not accurate as of the date it was completed; that the individual who signed it was not authorized to do so; and, that Luckson Etienne did not make a gift to this person, i.e., Dexroy Millings. (PDB Exhibits 582-584)

63. By letter dated March 15, 2006 TenA notified American Home Bank of the gift letter discrepancy in connection with the Dexroy Millings loan. (N.T. 01/04/2008, p. 121; PDB Exhibit 582)

64. American Home Bank received TenA's notification on March 22, 2006 and immediately began an investigation of its own; at the same time, American Home Bank suspended all future construction advances on the Millings construction loan until further notice. (N.T. 01/04/2008, pgs. 121-140, 154, 161; PDB Exhibits 536, 538, 564, 566, 567, 569, 584, 585, 1047)

65. American Home Bank learned through its investigation that:

- Luckson Etienne does not know Dexroy Millings and did not authorize any gift funds to anyone;
- Dexroy Millings does not know Luckson Etienne; Dexroy Millings obtained his monies from his sister-in-law and from a Su-Su account; and,
- The information that was provided by Respondent NorthStar was fraudulent as it related to the gift letter and the bank statement.

(N.T. 01/04/2008, pgs. 121-124, 126, 131-132, 134; N.T. 01/24/2008, pgs. 37-38, 41; PDB Exhibits 564, 566, 567, 584, 585)

66. As a result of the fraudulent gift letter that was used in connection with the Millings/Reynolds loan transaction, American Home Bank refused to release its last payment to the builder; the construction of Millings' home was put on hold; and, Millings was required to obtain another loan. (N.T. 01/24/2008, p. 39)

67. American Home Bank's Chief Credit Policy Officer, determined upon her review of American Home Bank's file documents for the Millings/Reynolds transaction that Paul Fenelle, Buchanan and Kiara Beier were involved in the Millings/Reynolds loan transaction; Buchanan's name appeared on the Uniform Residential Loan Application as the "Interviewer; Kiara Beier signed a "Processors Memo" in connection with the loan on behalf of Respondent NorthStar; and, Paul Fenelle was involved in communications with Karen Bender, an underwriter at American Home Bank, concerning questions that Bender had during her evaluation of the loan application package. (N.T. 01/04/2008, pgs. 144-146, 158-161; PDB Exhibits 537, 573-575)

68. American Home Bank's Chief Credit Policy Officer reported this matter to the Department. (N.T. 01/04/2008, p. 165)

69. As a result of the Millings/Reynolds matter, the broker relationship between American Home Bank and Respondent NorthStar was terminated. (N.T. 01/04/2008, p. 154)

70. Consistent with Paragraph 13 of American Home Bank's Broker Agreement with Respondent NorthStar, NorthStar was required to repurchase the Millings loan. (N.T. 01-04-2008, pgs. 147-149; PDB Exhibits 578, 579, 581)

(D) Ronnie Jackson – Buchanan and Friedman:

71. The Ronnie Jackson ("Jackson") file was one of the approximately 400 files that Crossland and the two Department investigators obtained from Respondent NorthStar's files in April of 2004 to take back to their office to review. (N.T. 01/24/08, pgs. 62, 140-146)

72. On or about June 1, 2002, Jackson entered into an Agreement for the Sale of Real Estate with Kal/Tac Inc. for the purchase of property consisting of Lot 1314 in Stone Crest Park, Monroe County, PA. (PDB Exhibits 279, 279-1, 280, 280-1)

73. Jackson applied for a mortgage loan with Irwin Mortgage through Respondent NorthStar; Buchanan was the loan officer and Friedman was the loan processor. (N.T. 01/25/2008, pgs. 141, 241-242; PDB Exhibits 278, 545, 1022)

74. The Uniform Residential Loan Application that was prepared on behalf of Jackson and submitted to Irwin Mortgage by Respondent NorthStar indicates that the information appearing on the form was obtained by Buchanan as "Interviewer." (PDB Exhibit 545)

75. The Uniform Residential Loan Application represents that Jackson was employed as a manager at 800 Flowers in New York, with a gross monthly income of $3,563.00 and that Jackson's source of "Down Payment, Settlement Charges and/or Subordinate Financing" was his checking/savings in a credit union account in which he had $25,000 of available funds. (PDB Exhibits 545)

76. During his review of the Jackson file that was obtained from Respondent NorthStar, Crossland found two sets of pay stubs for Jackson purporting to be from 1-800

Flowers. One set showed an hourly rate for Jackson of $8.37; an altered set showed an hourly rate for Jackson of $20.56. (N.T. 01/24/2008, p. 146-147; PDB Exhibits 281-284)

77. Two sets of W-2s were also found in Respondent NorthStar's file. One set showed that Jackson's total wages were $11,264.41 at the $8.37 hourly rate; an altered set showed Jackson's total wages to be $41,837.49 at the $20.56 hourly rate. (N.T. 01/24/2008, p. 146-147; PDB Exhibits 285-286)

78. Friedman completed a telephone certification of employment in connection with the processing of Jackson's loan certifying that Jackson was a manager for 800 Flowers. (N. T. 01/24/2008, pgs. 147-148; PDB Exhibit 1022)

79. Jackson's wages in 2001 and 2002 were only $11,363.12 and $15,822.27, respectively; Jackson was employed in the capacity of a forklift operator for 800 Flowers – not as a manager. (PDB Exhibit 1048)

80. In furtherance of his investigation, Crossland obtained and compared documents contained within the Irwin Mortgage file for Jackson against the documents contained within Respondent NorthStar's file for Jackson; Irwin Mortgage's file contained only the altered pay stubs for Jackson showing an hourly pay rate of $20.56, and the altered W-2 for the year 2001, showing Jackson's total wages as $41,837.49. (N.T. 01/24/2008, p. 140; PDB Exhibits 541-543)

81. Irwin Mortgage's file contained a Request for Verification of Deposit from Friedman at Respondent NorthStar to Local 804 Federal Credit Union in Long Island City, NY 11101, which purports to verify that Jackson had a current balance in his savings account of $26,968; Jackson never had an account with Local 804 Federal Credit Union in Long Island City, New York. (PDB Exhibits 1020, 1024)

82. Irwin Mortgage provided a loan to Jackson in the amount of $140,000 based, in part, upon false information provided by Respondent NorthStar that Jackson's annual income was $41,837.49, as opposed to $11,363.12, and that Jackson had money available in a credit union account totaling $26,968, when, in fact, he had no such account. (PDB Exhibits 540-543, 1020. 1022, 1024, 1048)

83. Upon discovering the disparities in Respondent NorthStar's file for Jackson and Irwin Mortgage's file for Jackson, Crossland met with Messrs. Fenelle and D'Elia at Respondent NorthStar and showed them the falsified documents. (N.T. 01/25/2008, p. 241-242)

84. Messrs. Fenelle and D'Elia discussed the Jackson file with Buchanan and Friedman; Friedman did not admit that she falsified the documents in the file, but, she did admit that she collected the documents; Buchanan denied any involvement with the file, despite having prepared and signed the Uniform Residential Loan Application as the "Interviewer." (N.T. 01/25/2008, p. 243; PDB Exhibit 545)

85. Messrs. Fenelle and D'Elia fired Friedman but did not fire Buchanan for two reasons: (1) Buchanan denied processing the file; and, (2) Buchanan had already "been through an ordeal" and Mr. Fenelle found it "hard to believe" that Buchanan would be involved again because Buchanan knew that if he engaged in "any improprieties, he might wind up in jail." (N.T. 01/25/2008, pgs. 243-245)

(E) <u>Kevin Nolte/Douglas and Kari Payne:</u>

86. Kevin Nolte ("Nolte") currently resides at 786 Canister Road, Highland Lakes, New Jersey, where he has resided since June of 2001. (N.T. 01/24/2008, p. 230)

87. The Nolte file was one of the approximately 400 files that Crossland and the two Department investigators obtained from Respondent NorthStar's files in April of 2004 to take back to their office to review. (N.T. 01/24/08, pgs. 62, 119-120)

88. The following documents were found in Respondent NorthStar's file pertaining to Nolte:

- Page 2 of 2 of a Mortgage loan disclosure, containing a purported signature of Nolte, dated 6/3/02 (PDB Exhibit 361);
- Good Faith Estimate prepared May 8, 2002 by Respondent NorthStar, containing a purported signature of Nolte (PDB Exhibit 362);
- Truth in Lending Disclosure Statement from Respondent NorthStar to Nolte, containing a purported signature of Nolte (PDB Exhibit 363);
- An Agreement for the Sale of Real Estate dated March 20, 2002 between Kal-Tac, Inc. and Nolte for property known as Lot #209 of Pleasant Valley Estates, Monroe County, PA at a purchase price of $165,000, containing a purported signature of Nolte; the pertinent information contained within this Agreement is written in by hand (PDB Exhibit 364);
- Another Agreement for the Sale of Real Estate dated March 20, 2002 between Kal-Tac, Inc. and Nolte for property known as Lot #209 of Pleasant Valley Estates, Monroe County, PA at a purchase price of $165,000, containing a purported signature of Nolte; the information contained within this Agreement is typed (PDB Exhibit 365);
- A commitment letter dated May 24, 2002 from Buchanan at NorthStar to Nolte (PDB Exhibit 498);
- A Residential Lease Agreement dated June 15, 2002 between Nolte (Landlord) and Havisha D. Ramoo (Tenant) for leased premises situated at 786 Canister Road, Highland Lakes, New Jersey (PDB Exhibit 1032);
- A letter dated July 18, 2002 from Friedman to "Whom it May Concern" re: Kevin Nolte – 209 Hemlock Lane, Kunkletown, PA 18058 - stating: "NorthStar Mortgage hereby assigns all rights and interests in the appraisal of the above captioned property to Homestar Mortgage Services" (PDB Exhibit 1033);
- A front copy of a check dated 3/19/02 from Nolte Logistics LLC, payable to Kal-Tac, Inc. in the amount of $3,000 signed by Kevin L. Nolte (PDB Exhibit 1034);
- A front copy of a check dated 4/1/02 from Nolte Logistics LLC, payable to Kal-Tac, Inc. in the amount of $2,000 signed by Kevin L. Nolte (PDB Exhibit 1035);
- A copy of the cancelled back of a check (PDB Exhibit 1036);
- A copy of a check from Gateway Abstract to the order of Northstar in the amount of $7,775.00, representing NorthStar's fee income in the Nolte transaction (PDB Exhibit 1071); and,
- Underwriting Decision/Condition Letter from CountryWide Home Loans, Inc. regarding Nolte (PDB Exhibit 1075).

(N.T. 01/24/2008, pgs. 119-125)

89. Nolte signed a Borrower Signature Authorization with Respondent NorthStar to allow Respondent NorthStar to run his credit history because Nolte had agreed to co-sign a mortgage for Douglas and Kari Payne; the Paynes were friends of Nolte who had the money to pay a mortgage but who were going through difficult times and did not have sufficient credit to obtain a mortgage. (N.T. 01/24/2008, pgs. 235-236)

90. Nolte dealt with Buchanan at Respondent NorthStar who he came to know through the Paynes. (N.T. 01/24/2008, p. 237)

91. Nolte faxed bank statements and other documents, as requested, to Respondent NorthStar to verify assets and income for the purpose of being a co-borrower. (N.T. 01/24/2008, p. 256)

92. The property that Nolte had agreed to co-sign the mortgage on was 209 Hemlock Lane in Kunkletown, PA. (N.T. 01/24/2008, p. 236)

93. Prior to the hearing in this matter, Nolte had never seen the Residential Lease Agreement dated June 15, 2002 between Nolte and Havisha D. Ramoo for leased premises situated at 786 Canister Road, Highland Lakes, New Jersey that was found in Respondent NorthStar's file (PDB Exhibit 1032); Nolte does not know anyone by the name of Havisha D. Ramoo and has never leased his home at 786 Canistear Road, Highland Lake to anyone. (N.T. 01/24/2008, pgs. 231-233)

94. Nolte never entered into an agreement to build a house with Kal-Tac; Nolte is not familiar with the Agreements for the Sale of Real Estate between Kal-Tac and himself that were found in Respondent NorthStar's file. (PDB Exhibits 364-365)

95. Douglas and Kari Payne were supposed to be on the mortgage; however, Nolte found out at closing that they were not going to be on the mortgage. (N.T. 01/24/2008, p. 238)

96. When Nolte got to the closing, Buchanan explained to Nolte that only his name would appear on the mortgage but that the same "deal" is going to happen: after a year, Nolte would just transfer the house out of his name into the Paynes and he would be "done with it." (N.T. 01/24/2008, pgs. 239-240)

97. At closing, Buchanan asked Nolte to write out two checks "corresponding with Doug and Kari" for Buchanan to photocopy and then give back to Nolte to void and tear up. (N.T. 01/ 24/ 2008, pgs. 237-238, 247; PDB Exhibits 1034-1035)

98. The Paynes were present at the closing because they were under the impression that the mortgage was going to be in their names; upon getting there, they, too, were informed that the mortgage was only going to be in Nolte's name. (N.T. 01/24/2008, p. 243)

99. The first time that Nolte met the gentleman from Kal-Tac was at closing; Nolte was under the impression that if he did not sign the paperwork he would be sued by the builder because they had gone all the way to closing. (N.T. 01/24/2008, p. 240)

100. The 209 Hemlock Lane property went into foreclosure; as a result of the transaction, Nolte's credit is destroyed and he had to obtain a second mortgage. (N.T. 01/24/2008, pgs. 243-244)

101. At all relevant and material times Steve Gatter was a branch manager for Countrywide Home Loans ("Countrywide); Countrywide is a lender. (N.T. 01/04/2008, pgs. 357-359)

102. Countrywide has a written agreement with all brokers with whom it does business; Countrywide will only receive documents from a broker with whom it does business. (N.T. 01/04/2008, pgs. 359, 362)

103. Two Uniform Residential Loan Applications were submitted by Respondent NorthStar to Countrywide in connection with the Nolte loan transaction (PDB Exhibits 1073 and 1074). PDB Exhibit 1073 represents that the "interviewer" was Buchanan; PDB 1074 represents that the "interviewer" was Friedman. Both loan applications identify Nolte as the borrower. (N.T. 01/04/2008, pgs. 376-378)

104. The significance of a residential lease to Countrywide means that a borrower might be renting a place where they live or they may own investment properties and have tenants living in those investment properties; if tenants are living in investment properties, the residential leases would affect the income calculation. (N.T. 01/04/2008, p. 362)

105. The significance of having a copy of the deposit check for a purchase money transaction in a mortgage transaction file is that it verifies to the lender that the borrower's deposit money as reflected on the agreement of sale was actually paid. (N.T. 01/04/2008, pgs. 370-371)

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction over the Respondent NorthStar in this matter. (Findings of Fact No. 1-4)

2. Respondent NorthStar was served with a copy of the Department's "Motion to Suspend License Pending Full Hearing on License Revocation and Motion to Refuse to Renew" and was granted an opportunity to be heard in accordance with the Administrative Agency Law, 2 Pa. C.S. §504. (Record and Transcript, *passim*)

3. The Department is authorized under sections 313(a) of the Mortgage Bankers and Brokers and Consumer Equity Protection Act, 63 P.S. §456.314(a), to suspend, revoke or refuse to renew any license issued pursuant to the Act after giving 30 days' written notice to the license, stating the contemplated action and the reason therefore, if the Department shall find, after the licensee has had an opportunity to be heard, that the licensee has, *inter alia,* engaged in unethical practices or conduct in connection with the mortgage business. 63 P.S. §456.314(a)(5).

4. The record of this case is replete with evidence that Respondent NorthStar through its owners, agents and/or employees engaged in unethical practices and conduct in connection with the mortgage business. (Findings of Fact Nos. 1-105)

5. The Department has demonstrated through credible, competent and significantly compelling evidence that the Department has just cause to refuse to renew Respondent NorthStar's first mortgage broker's license, license number 3419, and its corresponding branch office license, license number 3419.001. (Findings of Fact Nos. 1-105)

6. The Department has demonstrated through credible, competent and significantly compelling evidence that Respondent NorthStar's first mortgage broker's license, license number 3419, and its corresponding branch office license, license number 3419.001 should be suspended indefinitely. (Findings of Fact Nos. 1-105)

DISCUSSION

This sole issue before the Secretary of Banking in this bifurcated proceeding is whether sufficient evidence exists to support the Department's "Motion to Suspend License Pending Full Hearing on License Revocation and Motion to Refuse to Renew" (hereinafter "Motion to Suspend and Refuse to Renew").

The Department derives its authority to suspend a license or to refuse to renew a license from section 313 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act, 63 P.S. §456.314(a) ("Act"), which provides, in pertinent part:

> §456.313. **Suspension, revocation or refusal**
>
> (a) **Departmental action.** The department may suspend, revoke or refuse to renew any license issued pursuant to this chapter after giving 30 days' written notice forwarded to the licensee's principal place of business, . . . stating the contemplated action and the reason therefore, if the department shall find, after the licensee has had an opportunity to be heard, that the licensee has:
>
> . . .
>
> (5) Engaged in dishonest, fraudulent or illegal practices or conduct in any business or unfair or unethical practices or conduct in connection with the mortgage business.
>
> . . .
>
> (14) Demonstrated negligence or incompetence in performing any act for which the licensee is required to hold a license under this chapter.[4]
>
> . . .

As the procedural history of this case reveals, the Department's Motion to Suspend and Refuse to Renew is part of a larger consolidated proceeding that involves additional named Respondents. However, because of the gravity of the allegations in the consolidated proceeding and the time involved to ensure that each named Respondent is

[4] Subsection (b) of this section authorizes the Department to subsequently reinstate a license which has been suspended or to renew a license which has previously been refused for renewal if the condition which warranted the original action has been corrected and the department has reason to believe that such condition is not likely to occur again. 63 P.S. §456.313(b).

provided a due process hearing to defend against those charges, the instant matter, which addresses only five consumer loan files, was bifurcated from that proceeding so that appropriate action can be taken by the Department against the licensed mortgage broker now, if necessary, to protect the public interest.

The alleged conduct that is at issue in this proceeding is set forth in Paragraph 23 of the Department's Motion to Suspend and to Refuse Renewal, and is limited to the following matters:

> a. The alteration of a down-payment check in the matter of the Aults to defraud the lender into believe that $40,000 was available to the Aults for purpose of a $30,000 downpayment with funds still available for closing costs;
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> b. The alteration of the down-payment check of the Ault's for purposes of simulating a down-payment by an unrelated person in an unrelated transaction (Nau);
>
> c. The alteration of the bank statement of Luckson Etienne for the purpose of supporting a gift to Dexroy Millings, a person unknown to Luckson Etienne.
>
> d. The fabrication of a gift letter and forgery of the signature of Luckson Etienne for the purpose of defrauding the lender into providing a loan to Dexroy Millings by giving the appearance that he had sufficient funds for a down-payment;
>
> e. The falsification by alteration of a credit union account statement by placing the name of Ronnie Jackson on an account that belonged to a person unrelated and unknown to Mr. Jackson, and unrelated to the mortgage transaction, for the purpose of defrauding the lender that Mr. Jackson had funds available for a down-payment and closing costs;
>
> f. The falsification by alteration of the W-2 income documents of Ronnie Jackson for the purpose of defrauding the lender that Mr. Jackson had the income to support the repayment of the mortgage loan;
>
> g. The creation of false information regarding a property that was contracted to be built, purchased and occupied by Douglas and Kari

> Payne by providing the front of two dummy checks written by Kevin Nolte, an individual that had offered to co-sign for the Payne's mortgage, which checks were never cashed. At the same time, copies of the cancellation marks on the back of checks actually written by the Paynes for their downpayments were provided to the lender. The fraud was further perpetrated by providing a fake residential lease agreement for the real home of Kevin Nolte so that Mr. Nolte could qualify for the mortgage on the home to be occupied by the Payne's.

The preceding Findings of Fact encapsulates the evidence that was presented by the Department during the three-day hearing on the matters addressed in its Motion to Suspend and Refuse to Renew.[5] Whether the evidence is weighed individually by consumer loan file, or collectively, it comprehensively supports the Department's desired result because *any one of these allegations*, if supported by competent, credible evidence, substantiates a finding of negligence and unethical practices or conduct in connection with the mortgage business and is grounds upon which the Department may suspend and/or refuse to renew the license of any licensee under section 313 of the Act. 63 P.S. § 456.314(a). The evidence presented is competent, credible and substantial in all respects.

The record establishes that the Department's investigation of Respondent NorthStar originated in April of 2004 as a result of the conviction of Keith Douglas Buchanan, one of Respondent NorthStar's employees. Buchanan admitted to having forged a $36,000 gift letter, which purported to be from one Thomas Pagliaro,[6] in support of the Kelly and David Nau loan transaction. The criminal investigation revealed that Pagliaro's personal M&T Bank statement was used by Buchanan to perpetrate the fraud

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[5] Although the evidence presented during the three-day hearing included testimony and documentary evidence on matters beyond that which is the subject of the Motion to Suspend and Refuse to Renew, the additional evidence was presented, upon agreement of the parties, in the interest of judicial economy, so that the same witnesses would not have to be re-called during the subsequent hearing on the consolidated matters addressed in the Department's Orders to Show Cause. Only evidence that is pertinent to the Motion to Suspend or Refuse to Renew was considered for purposes of this determination.

[6] Pagliaro was a consumer that used Respondent NorthStar's services previously.

of the gift to the Naus. In addition, a First Union check in the amount of $36,000 payable to Gateway Abstract bearing account number 102000979 which purported to represent downpayment money in the Nau transaction (PDB Exhibit 1025) was alleged, during the Nau criminal investigation, to be a forgery.

Crossland testified that the Department began its investigation of Respondent NorthStar by meeting with Messrs. D'Elia and Fenelle at NorthStar's principal place of business at 1236 Main Street, Hellertown, PA and going through NorthStar's files. (Despite Buchanan's earlier conviction, Buchanan was still employed by Respondent NorthStar at this time).

According to Crossland, the first file that he opened, the Walker/McClain file, contained a Certificate of Authorization that bore a signature for Mrs. Walker *that had been cut out of another document in the file and taped over* what appeared to be another signature for Mrs. Walker that had been spelled incorrectly; the tape was still there. Crossland spoke with Mr. Fenelle about the file, but, *Mr. Fenelle had no response as to what had occurred*. (N.T. 01/24/2008, pgs. 58-59)

Crossland testified that as a result of this finding, the Department's investigators seized approximately 400 loan files from NorthStar and took the files back to their offices to review. The Ault, Jackson and Nolte files, which are the subject of this proceeding, were all collected as a result of that meeting. The Millings/Reynolds matter independently was brought to the attention of the Department by the Chief Credit Policy Officer for American Home Bank after an audit of that lender file discovered that a fraudulent gift letter had been submitted by Respondent NorthStar in support of that loan.

As the evidence imparts, each of these loan files contains the indicia of deliberate, artful deception.

Steven and Irena Ault:

The Ault file was of particular interest to the Department's investigators because an official check drawn on First Union (PDB Exhibit 1026) that contained the same check number and the same account number as the check that was thought to be a forgery in the Larry Nau transaction was found in the Ault file. Upon closer scrutiny of this file, Department investigators discovered *other irregularities*.

Pertinent to this proceeding, Crossland noticed that some of the file documents, including two gift letters, appeared to contain photocopied, i.e., identical signatures. One gift letter was in the amount of $30,000; the other gift letter was in the amount of $10,000. As the evidence reveals, only one gift of $30,000 was given to the Aults by Mrs. Ault's parents; as in the *Nau* matter, the second gift letter in the amount of $10,000 had been fabricated.[7] Doug Buchanan, along with Kim Friedman, were responsible for this loan file. Unfortunately, the lender, Washington Mutual, relied upon the existence of both of these gift letters to close the loan.

Respondent NorthStar argues that the Ault transaction "is a classic case of "buyer's remorse" in which a buyer purchases a home that he later determines he cannot afford.[8] Rather than take financial responsibility for his contractual obligations, he seeks

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[7] The Pennsylvania State Police Crime Lab subsequently confirmed that the signatures appearing on the two gift letters matched up exactly and therefore originated from a common source signature.

[8] Respondent NorthStar also generally defends against the Department's actions as a whole on the basis that NorthStar and its employees and ex-employees were served with subpoenas starting in December of 2006 which disclosed that the Department's investigation revealed many violations of the PA Banking Code, as well as criminal acts. According to Respondent NorthStar, the Department's investigation violated section 302 of the Banking Code which prohibits the Department through its employees from publishing or divulging to anyone any information contained in or ascertained from any examination or investigation

to blame the lender and/or the broker for his financial woes." (Post Trial Submission of NorthStar Mortgage, unnumbered pages 3 and 4). Although Messrs. D'Elia and Fenelle concede that the gift letter was "fabricated presumably by Doug Buchanan and/or Kim Friedman," they claim that it contained no "cut or pastes" or "white-outs" that would have alerted Messrs. Fenelle or D'Elia to suspicious conduct. (Post Trial Submission of NorthStar Mortgage, unnumbered page 4) In addition, Respondent NorthStar argues that the gift was either verified or accepted by the lender or the gift was not used at all because it was not necessary to consummate the transaction. (Post Trial Submission of NorthStar Mortgage, unnumbered page 10).[9] This defense is disingenuous and meritless.

Dexroy Millings/Fiona Clayton Reynolds and Simone Clayton:

Similar to *Nau* and *Ault*, the Millings/Reynolds transaction also involved a fraudulent gift letter, as well as an altered bank statement.

The evidence reveals that following its own internal investigation, American Home Bank determined that the gift letter and accompanying bank statement that were submitted by Respondent NorthStar in support of this loan were false. The purported donor of the gift (Luckson Etienne) did not know Millings and did not authorize any gift funds to anyone; Millings did not know Mr. Etienne.

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made by the Department. However, as the Department responds, the Department is the regulatory arm of the Commonwealth with respect to its licensees. As such, the Department is authorized to issue subpoenas for the production of documents and information of any kind upon officers and employees of any corporation, including any licensee. 71 P.S. §733-401.F. A licensee of the Department who is a suspect in alleged wrongful activity and who is served with a subpoena needs to be informed of the serious nature of the matter for which he/she is being requested to provide information in order to respond to the subpoena.

[9] Respondent NorthStar spends considerable time discussing other evidence regarding the Ault transaction pertaining to Good Faith Estimates, Truth in Lending and other Disclosures and the Agreement for the Sale of Real Estate; however, these matters are not at issue in this bifurcated proceeding. The Department's Motion to Suspend and Refuse to Renew is limited to the matters specifically enumerated in the motion.

Messrs. D'Elia and Fenelle do not deny the existence of the fraudulent gift letter that was created and submitted to American Home Bank as part of the Millings/Reynolds loan transaction. However, similar to their defense in *Ault*, they blame this deception on *Kim Friedman*, who they claim was the original processor for this loan. Messrs. D'Elia and Fenelle claim that, they, as owners, would not have processed this loan or submitted documents on the loan.[10] They further claim that even though the bank statements of Luckson Etienne were used without his permission to assist Mr. Millings in obtaining and qualifying for financing, the bank statements were not obtained by NorthStar.[11] Lastly, Messrs. D'Elia and Fenelle argue that they took appropriate steps when they learned of this matter by firing Friedman in September of 2005.

Ronnie Jackson:

The Jackson file was one of the approximately 400 files that the Department investigators obtained from Respondent NorthStar's office in April of 2004. This file contained two *different* sets of pay stubs for Jackson purporting to be from 1-800 Flowers and two sets of W-2s. One set of pay stubs and corresponding W-2s showed an hourly rate for Jackson of $8.37 and total wages in the amount of $11,264.41; the other set

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[10] However, the loan documents submitted to American Home Bank in support of this loan reveal that Mr. Fenelle was involved in communications with an underwriter at American Home Bank, concerning questions that she had during her evaluation of the loan application package. (PDB Exhibits 574-575) Buchanan – not Friedman - was the "Interviewer" for the Uniform Residential Loan Application (PDB Exhibit 537); Kiara Beier, another NorthStar employee at the time was a Processor (PDB Exhibit 573); and, prior to the closing of this transaction, Notwithstanding Buchanan's previous forgery conviction in connection with a fraudulent gift letter, and Buchanan's apparent involvement with the file as evidenced by the Uniform Residential Loan Application, only *Friedman* was terminated.

[11] Respondent NorthStar seeks to place blame on Mr. Millings *himself* for this submission. According to Respondent NorthStar, "Mr. Millings' telephonic testimony, during which he was improperly speaking with one or more unidentified individuals in the room with him, makes it just as probable that Mr. Millings or one of his accomplices obtained Mr. Etienne's financial information through improper means." (The Post Trial Submission of Respondent NorthStar is not paginated; however, this particular quote appears on page 22 of its submission).

showed an hourly rate for Jackson of $20.56 and total wages in the amount of $41,837.49.

The evidence reveals that the Uniform Residential Loan Application in this matter was submitted by Respondent NorthStar through Buchanan to Irwin Mortgage. The loan application represents that Jackson was a manager at 800 Flowers, with a gross monthly income of $3,563.00 and that his source of funding for his down payment/settlement charges included $25,000.00 of available funds in his checking/savings credit union account. In reality, Jackson had no credit union account; he was employed by 800 Flowers as a forklift operator – not as a manager – and, his wages in 2001 and 2002 were only $11,363.12 and $15,822.27, respectively. Unfortunately, Irwin Mortgage provided a loan to Jackson in the amount of $140,000.00 based, in part, on false information provided by Respondent NorthStar that Jackson's annual income was $41,837.49 – not $11,363.12, and that Jackson had available funds in his credit union account when, in fact, no such account existed.

Similar to its defense in relation to the *Ault* and *Millings/Reynolds* matters, Respondent NorthStar argues:

> . . .the fabricated payroll information for Mr. Jackson was not, and would not have been, readily apparent to Mr. Fenelle or any other seasoned mortgage broker upon a routine audit of the file. Neither Mr. Fenelle nor Mr. D'Elia are handwriting experts, and as the state police witness admitted at trial, many of the suspect documents required sophisticated lab equipment and extensive training by a handwriting expert to determine whether or not these and other documents had been altered. Thus, while sanctions against Mr. Buchanan and/or Ms. Friedman may be appropriate, attempts to penalize NorthStar and its owners without any evidence of knowledge or participation in these isolated events occurring several years ago is entirely inappropriate.
> (Post Trial Submission of NorthStar, last page)

Kevin Nolte/Douglas and Kari Payne:

The alleged misconduct at issue with respect to the Nolte matter relates to two dummy checks that were allegedly provided to the lender in support of a loan for property situate at 209 Hemlock Lane, Kunkletown, PA that was to be purchased and occupied by the Paynes, and a fake residential lease agreement that was allegedly provided to the lender so that Nolte, who had agreed to co-sign the mortgage with the Paynes, could qualify for the mortgage.

Kevin Nolte testified that the Paynes were friends of his who had money to pay a mortgage but did not have sufficient credit to obtain a mortgage. Nolte testified that he agreed to co-sign a mortgage for the Paynes and dealt with Buchanan at Respondent NorthStar throughout the process. According to Nolte, he faxed bank statements and other documents, as requested, to Buchanan to verify his assets and income for the purpose of being a co-borrower.

The first time that Nolte saw the Residential Lease Agreement that was submitted to the lender in support of this loan was at the hearing on January 24, 2008. When shown the Agreement, he was clearly surprised. Nolte testified that he has never leased his home to anyone and does not know anyone by the name of Havisha D. Ramoo (the named Tenant on the Residential Lease Agreement). His testimony was credible.

According to Nolte, prior to closing both he and the Paynes understood that the Paynes would be on the mortgage; however, at closing, all three learned differently. When Nolte got to the closing, Buchanan approached him and explained to him that only

his name would appear on the mortgage.[12] At this same time Buchanan asked Nolte to write out two checks "corresponding with Doug and Kari" for Buchanan to photocopy and then give back to Nolte to void and tear up. According to Nolte, the closing was "a big rush to get everything signed." (N.T. 01/24/2008, p. 240) Nolte went through with the closing and signed documents that he was instructed to sign because he thought he would be sued if he did not consummate the transaction at the time of closing. (N.T. 01/24/2008, p. 240)[13]

Predictably, Respondent NorthStar blames Nolte for the wrongs that occurred in connection with his loan closing. According to Respondent NorthStar, Nolte should not have signed false down payment checks when he did not make any such down payment. Indeed, the common theme throughout Respondent NorthStar's defense is that any *wrongdoing* in connection with the loan files at issue was done either by Buchanan or Friedman or by someone other than Messrs. D'Elia or Fenelle. According to Respondent NorthStar:

> For nearly three years, the Department. . . has embarked on an unprecedented 'scorched earth' prosecution to connect the principals of Northstar, Messrs. Paul Fenelle and Leonardo D'Elia, as well as several other employees, to isolated improprieties committed solely by Doug Buchanan and Kim Friedman.[14]

Respondent NorthStar further argues:

> . . . it is clear from the evidence at the three day trial that Northstar's principals, Messrs. D'Elia and Fenelle, had absolutely no

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[12] According to Nolte, Buchanan told him that the same "deal" would transpired. After a year, Nolte would just transfer the house out of his name into the Paynes and he would be "done with it." (N.T. 01/24/2008, pgs. 239-240)

[13] Unfortunately, as the record reflects, the 209 Hemlock Lane property subsequently went into foreclosure; Nolte's credit has been destroyed.

[14] Post Trial Submission of NorthStar, un-numbered page 1.

> involvement with any of the four loan files or interacted in any way with Doug Buchanan or Kim Friedman concerning these files, prior to closing. It is also clear that, while neither Mr. Fenelle nor Mr. D'Elia reviewed or audited any of the four files prior to closing, there is no legal requirement imposed on them as principals of the company to do so.[15]

Unfortunately, whether Messrs. D'Elia and Fenelle actively participated in the fraud and deceit of their employees or had no knowledge of it at all is immaterial. Regardless of their knowledge or participation, the longstanding and time-honored rule of law in this Commonwealth and elsewhere is that they *are* responsible based upon the following tenet:

> a principal is liable to innocent third parties for the frauds, deceits, concealments, misrepresentations, torts, negligences and other malfeasances or misfeasances of his agent committed in the course of his employment, although the principal did not authorize, justify or participate in, or indeed know of, such misconduct, or even if he forbade the acts or disapproved of them.

Aiello v. Ed Saxe Real Estate, Inc. 508 Pa. 553, 499 A.2d 282 (1985).[16]

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[15] Id.

[16] In *Aiello*, our Supreme Court referenced a body of case law in Pennsylvania and sister jurisdictions spanning nearly 200 years that support this well-defined rule. Pennsylvania cases on point include the following: *Bachman v. Monte*, 326 Pa. 289, 192 A.2d 485 (1937); *Freedman v. Providence Washington Ins. Co.*, 182 Pa. 64, 37 A. 909 (1897); *DeTruck v. Matz*, 180 Pa. 347, 36 A. 861 (1897); *McNeile v. Cridland*, 168 Pa. 16, 31 A. 939 (1895); *Independent Bldg. & Loan Assn. v. Real Estate Title Ins. & Trust Co.*, 156 Pa. 181, 27 A. 62 (1893); *Griswold v. Gebbie*, 126 Pa. 353, 17 A. 673 (1889); *Brooke v. New York, L.E. & W.R.R.*, 108 Pa. 529, 1 A. 206 (1885); *Erie City Iron Works v. Barber and Co.*, 106 Pa. 125 (1884); *Custar v. Titusville Gas & Insurance Co.*, 63 Pa. 381 (1869); *Shelhamer v. Thomas*, 7 Serg. & R 106 (1821); *Phoenix Insurance Co. v. Pratt*, 2 Binn. 308 (1810). *Aiello* at 559, 499 A.2d at 285.

Cases from sister states which stand for the proposition that principals are responsible for their agent's misrepresentations that are made within the scope of employment include: Alabama: *Brennen v. Kent*, 206 Ala. 561, 90 So. 790 (1921); Arkansas: *Vaught v. Paddock*, 98 Ark. 10, 135 S.W. 331 (1911); Connecticut: *Kiss v. Kahn*, 132 Conn. 593, 46 A.2d 337 (1946); Delaware: *Webster v. Palm Beach Ocean Realty Co.*, 16 Del. Ch. 15, 139 A. 457 (1927); Florida: *Phifer v. Steenburg*, 66 Fla. 555, 64 So. 265 (1914); Georgia: *Puckett v. Reese*, 203 Ga. 716, 48 S.E. 2d 297 (1948); Hawaii: *Wong Chan v. Ah Yong*, 9 Haw. 346 (1893); Idaho: *Oregon Mortgage Co. v. Renner*, 96 F. 2d 429 (1938) (CA 9th)Idaho; Kentucky: *Railer v. Roberts*, 33 Ky. L.R. 221, 109 S.W. 903 (1908); Minnesota, *Lang v. Merwach*, 96 Minn. 431, 105 N.W. 415 (1905); Mississippi, *Alexander v. Meek*, 132 Miss. 298, 96 So. 101 (1923); Montana: *McCarty v. Lincoln Green, Inc.*, 620 P. 2d 1221 (1980, Mont.); Nebraska: *Hoock v. Bowman*, 42 Neb. 80, 60 N.W. 389 (1894); Nevada: *Bank of Nevada v. Butler Aviation*, 96 Nev. 763, 616 P. (2d 398 (1980); New Jersey: *Chapin v. Kreps*, N.J.L. 424, 147 A. 398 (1929); North Carolina: *Ebbs v. St. Louis Union Trust Co.*, 199 N.C. 242, 153 S.E. 858 (1930); Oklahoma: *Howe v. Martin*, 23 Okla. 561, 102 P. 128 (1909); Tennessee:

The rationale behind this rule is based upon public policy considerations. As the *Aiello* Court explained:

> This rule of liability is not based upon any presumed authority in the agent to do the acts, but on the ground of public policy, that it is more reasonable that when one of two innocent persons must suffer from the wrongful act of a third person, that the principal who has placed the agent in the position of trust and confidence should suffer, rather than an innocent stranger. . .
>
> This result can be reached similarly on the familiar ground that when an agent exceeds his authority, his principal cannot benefit of his act and at the same time repudiate his authority. He must take the benefit to be derived from the transaction subject to his agent's fraud.

Aiello at 559-560, 499 A. 2d at 285-286 (citations omitted).

Here, it was, in fact, Messrs. D'Elia and Fenelle's *lack of knowledge and lack of supervisory oversight of their employees'* activities which contributed largely to the wrongful and unethical practices that were allowed to be perpetrated by NorthStar, through its employees, upon the public. Messrs. D'Elia and Fenelle had a *duty* to inform themselves of their employees' activities. Indeed. that duty became heightened the moment that Messrs. D'Elia and Fenelle chose to allow Buchanan to continue in his

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Caughron v. Stinespring, 132 Tenn. 636, 179 S.W. 152 (1915); Utah: *Dugan v. Jones*, 615 P.2d 1239 (1980); Vermont: *Greenough v. U.S. Life Ins. Co. of City of New York*, 96 Vt. 47, 117 A. 332 (1921); West Virginia: *Johnson v. Norfolk and W. Ry. Co.*, 82 W. Va. 692, 97 S.E. 189 (1918); Wyoming, *Wilson v. Rogers*, 1 Wyo. 51 (1872). *Aiello* at 562, FN 5, 499 A.2d at 287, FN 5.

Similar to Pennsylvania, the following cases from other jurisdictions hold that a principal is responsible for misrepresentations of his agent regardless of the principal's knowledge that the statements had been made: California: *NewComb v. Title Guarantee & Trust Co.*, 131 Cal. App. 329, 21 P. 2d 456 (1933); Illinois: *Handelman v. Arquilla*, 407 Ill. 552, 95 N.E. 2d 910 (1950); Kansas: *Rush v. Leavitt*, 99 Kan. 498, 162 P. 310 (1917); Louisiana: *Henderson v. Western Marine & Fire Ins. Co.*, 10 Rob. 164 (1845)(LA): Maryland: *Tome v. Parkersburg Branch R. Co.*, 39 Md. 36 (1873); Massachusetts: *Howe v. Johnson*, 236 Mass. 379, 128 N.E. 634 (1920); Michigan: *People v. Genther*, 218 Mich. 289, 187 N.W. 241 (1922); Missouri: *Laird v. Keithley*, 201 S.W. 1138 (Mo.)(1918); New Mexico: *Thrams v. Block*, 43 N.M. 117, 86 P. 2d 938 (1938); Ohio: *McMahon v. Spitzer*, 29 Ohio App. 44, 163 N.E. 37 (1928); Oregon: *Copeland v. Tweedle*, 61 Or. 303. 122 P. 302 (1912); South Dakota: *Rasmussen v. Reedy*, 14 S.D. 15, 84 N.W. 205 (1900); Texas: *Stowe v. Wooten*, 62 S.W. 67 (Tex. Com. App.) (1933); Virginia: *Jefferson Standard Life Ins. Co. v. Hedrick*, 181 Va. 824, 27 S.E. 198 (1943); Wisconsin, *Law v. Grant*, 37 Wis. 548 (1875). *Aiello* at 562, 499 A.2d at 287.

employment and to represent NorthStar after he pled guilty to forgery in connection with the *Nau* transaction.

Frances Bedekovic, the Chief Credit Policy Officer for American Home Bank, one of the lenders that was negatively affected by these wrongs aptly explained the consequences of such fraudulent activity on the mortgage industry:

> The harm involved in these types of situations of falsification of documentation, falsification of information, affects everybody involved in the transaction. It simply touches the consumer, it touches the individual companies involved, it touches the lender, it touches the end investor, it touches the end holders of the mortgage backed securities; in this case, from the consumer perspective, the. . . folks involved in the Millings' transaction, we stopped funding the loan. They could not complete under American Home Bank the construction of the property. . . From the overall lender community, the cost and expense to investigate and the cost to prosecute. The integrity of the overall industry. When a lender sells a loan to another company their reputation is on the line of providing good services and the right practices, and that is a good asset to be sold. It's packaged up with other assets and a certain expectation of performance of the portfolio occurs. You've got. . . retirement funds being invested in those mortgage backed securities. That's for the long-term protection of retirees. You've got . . . countries; you've got other people investing in those products - individual investors with expectations of a certain performance. It sounds like only one transaction, but the ripple effect and the culture to accept this type of behavior has got to stop in the industry. It just just has to stop.

(N.T. 01/04/2008, pgs. 167-168)

Here, the improprieties that occurred in connection with the loan transaction files at issue were not, as Respondent NorthStar claims, "isolated improprieties." On the contrary, a pattern of debauched trickery at the cost of innocent parties, the public and the industry at large was ongoing under the much neglectful eye of NorthStar's principals.

Unfortunately, the testimony of Messrs. D'Elia and Fenelle in defense of their actions is telling of the poor judgment and lack of due diligence exhibited by them in the

aftermath of Buchanan's conviction and lends support to the relief sought by the Department in its Motion to Suspend and Refuse to Renew:

> Question: So in terms of taking a look at the files after Mr. Buchanan's conviction, would that have been your responsibility?
> By Mr. D'Elia: Actually, I think Paul might have done it more. I'm not sure I actually looked at the loans. (N.T. 01/25/2008, p. 393-394)
> Question: Did you make a concerted effort to determine if there were any issues with any of the other files in your office? (N.T. 01/25/2008, pgs. 394-395)
> By Mr. D'Elia: Yes. (N.T. 01/25/2008, p. 395)
> Question: And what were those efforts? (N.T. 01/25/2008, p. 395)
> By Mr. D'Elia: Well, no. That's something you would have to ask Mr. Fenelle. (N.T. 01/25/2008, p. 395).
> Question: Well, I was asking you if you made a concerted effort? (N.T. 01/25/2008, p. 395)
> By Mr. D'Elia: No, I did not. . . I did not get involved in looking at files so much. (N.T. 01/25/2008, p. 395)

Similarly, when Mr. Fenelle was questioned why Buchanan was not terminated along with Friedman when the false pay stubs and W-2s were discovered in the Ronnie Jackson file *after Buchanan had already pled guilty to forgery in connection with the Nau matter*, Mr. Fenelle responded: "[Doug] denied processing of the file; it was Kim Friedman who was involved in processing of the file." (N.T. 01/24/2008, pgs. 243-244) When further questioned about other reasons that Mr. Fenelle did not fire Mr. Buchanan after learning of the Ronnie Jackson file, Mr. Fenelle responded:

> Well. . . he had already been through an ordeal [the forgery conviction]. I would find it hard to believe he was - - - he was on probation. He knew that any improprieties, he might wind up in jail or some type of severe sanction against him. . . . We weighed the options. Kim did admit to processing the loan. Her response was much less definitive than Doug's. And we decided Kim had to go. (N.T. 01/25/2008, p. 245)

As the foregoing illustrates, despite Buchanan's conviction, Messrs. D'Elia and Fenelle chose to cast a blind eye to the sea of files worked on by Buchanan and gave him

carte blanche authority to do as he chose. The integrity of the loan files initiated and worked on by Buchanan was not even questioned.

The Department is charged by law with responsibility for regulating mortgage brokers, such as Respondent NorthStar. Unfortunately, under current law, there are no educational requirements as a prerequisite to becoming licensed as a mortgage broker; all that is required of an individual or a company that seeks to become licensed as a mortgage broker is to pay the license application fee and meet minimal other requirements. Similarly, in order to renew a license, all that is required is the payment of a fee.[17]

Fortunately, the legislature has determined that in instances where the Department has determined, following a due process hearing, that a licensee has engaged in unethical practices or conduct in connection with the mortgage business, or has demonstrated negligence in performing an act for which a license is required, the Department may refuse to renew and suspend that license. That is the relief the Department now seeks.

Under the facts presented, the Department would be remiss in its responsibility to the public and the regulated community to allow Respondent NorthStar to continue to be entrusted to hold a first mortgage broker's license in this Commonwealth at this time.

Accordingly, the following Order is recommended:

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[17] Under current law, the Department is also prohibited from making certain information, such as investigations and enforcement actions public information until a final decision or a consent order is issued. 71 P.S. §733-302.A(2). Thus, even in instances where the Department knows otherwise, the Department cannot disclose information to the public to protect consumers or the regulated industry at large from wrongful actions by a licensee.

FILED

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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

Commonwealth of Pennsylvania,	:	
Department of Banking,	:	
Bureau of Compliance, Investigation	:	
And Licensing,	:	Docket No. 070017 (OSC)
Petitioner	:	Docket No. 070027 (OSC)
vs.	:	Docket No. 070028 (OSC)
	:	Docket No. 070029 (OSC)
NorthStar Mortgage, L.L.C.,	:	Docket No. 070033 (OSC)
Paul Fenelle and Leonardo D'Elia,	:	Docket No. 070035 (OSC)
Owners, Keith Douglas Buchanan,	:	
Kimberly Friedman, Duane Beers,	:	
Michael Gilbert and Jenique Chang,	:	
Respondents		

PROPOSED FINAL ORDER

AND NOW, this 19th day of May 2008, based upon the foregoing Findings of Fact, Conclusions of Law and Discussion, it is recommended that the Department shall REFUSE TO RENEW the first mortgage broker's license, license number 3419, and its corresponding branch office license, license number 3419.001 held by NorthStar Mortgage, upon expiration of the license on June 30, 2008; it is further recommended that the first mortgage broker's license, license number 3419, and its corresponding branch office license, license number 3419.001 held by NorthStar Mortgage, shall be SUSPENDED INDEFINITELY.

Jackie Wiest Lutz
Hearing Officer