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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:	Docket No. 08	<u>0292</u>	(ENF-CO)
DEPARTMENT OF BANKING, BUREAU	:			
OF COMPLIANCE, INVESTIGATION	:			
AND LICENSING	:			
	:			
v.	:			
	:			
WALL STREET MORTGAGE BANKERS,	:			
LTD. d/b/a POWER EXPRESS MORTGAGE	:			
BANKERS	:			

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations, has conducted an examination of Wall Street Mortgage Bankers, Ltd. d/b/a Power Express Mortgage Bankers ("Power Express") and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that Power Express is in violation of the Mortgage Bankers and Brokers & Consumer Equity Protection Act (the "MBBCEPA"), 63 P.S. §456.101 et. seq. and the Secondary Mortgage Loan Act (the "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 the settlement of the above-captioned matter and, intending to be legally bound, hereby agreed to the terms of this Consent Agreement and Order (the "Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania administrative agency authorized and empowered to administer and enforce the MBBCEPA and the SMLA.

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

3. Power Express is licensed as a First Mortgage Banker, license no. 13784, and as a Secondary Mortgage Lender, license no. 17574, with its principal place of business located at 14 Trinity Ct, Dingmans Ferry, PA 18328-9588 (the "Principal Place") and a licensed branch office located at 1111 Marcus Ave, Ste 300, New Hyde Park, NY 11042-1034 (the "Corporate Branch Location").

4. The Corporate Branch Location is the corporate headquarters for Power Express.

5. On March 13, 2008, an examiner from the Department completed an examination of Power Express at the Principal Place (the "Principal Place").

Unlicensed Activity

6. The Examination revealed that Power Express originated twenty-one (21) first mortgage loans and two (2) secondary mortgage loans, involving property located in Pennsylvania, from nine (9) separate unlicensed locations in New York and New Jersey (the "Unlicensed Locations").

7. Specifically, Power Express provided the examiner with a spreadsheet listing all of the locations from which first and secondary mortgage loans were originated including the Unlicensed Locations and which the examiner compared with the Uniform Residential Loan Applications.

8. The MBBCEPA applies to, *inter alia*, "[a]ny mortgage loan which is . . . notwithstanding the place of execution, secured by real property located in this Commonwealth." 63 P.S. § 456.318(1)(iii) (emphasis added).

9. Section 302 of the MBBCEPA defines a "branch" as "[a]n office or other place of business located in this Commonwealth or any other state, other than the principal place of business, where a person engages in the first mortgage loan business which falls under the scope of this chapter." 63 P.S. § 456.302 (emphasis added).

10. Section 304(a) of the MBBCEPA, provides, in relevant part, that "[e]ach application shall include the address or addresses where business is to be conducted . . ." 63 P.S. § 456.304(a) (emphasis added).

11. Section 305(a) of the MBBCEPA provides, in relevant part, that "[a] mortgage banker, mortgage broker or applicant shall pay to the department at the time an application is filed an initial license fee for the principal place of business and an additional license fee for each branch office . . ." 63 P.S. § 456.305(a) (emphasis added). Additionally, Section 305(a) of the MBBCEPA provides, in relevant part, that ". . . a licensee shall pay a license renewal fee for the principal place of business and an additional license renewal fee for each branch office . . ." 63 P.S. § 456.305(a) (emphasis added).

12. Thus, based upon the foregoing, any office of a licensee where first mortgage loan business is conducted under the MBBCEPA must be licensed as a branch under Sections 304(a) and 305(a) of the MBBCEPA.

13. Section 4(a)(5) of the SMLA requires an application for a secondary mortgage loan license to contain "[t]he address or addresses where the secondary mortgage loan business is to be conducted." 7 P.S. § 6604(a)(5).

14. Thus, any of a licensee's branch offices where business under the SMLA is conducted must be licensed as branch offices under the SMLA.

15. Power Express contends that the violations were unintentional.

Record Keeping/Staffing

16. Prior to the Examination, the examiner requested access to all Power Express files for the loans originated during the past two years which involved Pennsylvania property.

17. The examiner was advised by a representative of Power Express that all Pennsylvania first and secondary mortgage loan files were currently being maintained at the company's Corporate Branch Location.

18. Section 308(a)(2) of the MBBCEPA requires a licensee to maintain records at its principal place of business in Pennsylvania unless the licensee has authorization from the Department to maintain those records elsewhere. 63 P.S. §456.308(a)(2) (emphasis added).

19. Section 10(a)(2) of the SMLA requires a licensee to maintain records at its principal place of business in Pennsylvania unless the licensee has authorization from the Department to maintain those records elsewhere. 7 P.S. § 6610(a)(2).

20. Power Express does not have authorization from the Department to maintain its Pennsylvania first and secondary mortgage loan files at any location other than its principal place of business in Pennsylvania.

21. Prior to the conclusion of the examination, Power Express returned all Pennsylvania first and secondary mortgage loan files to the Principal Place.

22. In addition to returning the records to the Principal Place, Power Express has applied with the Department for alternate site record keeping approval, which, if approved, would allow Power Express to maintain the records at the Corporate Branch Location.

23. The Examination also revealed that Power Express was not staffing the Principal Place on a full time by a knowledgeable W-2 employee.

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24. Section 302 of the MBBCEPA defines a principal place of business as “[t]he primary office of the licensee located in this Commonwealth which is *staffed on a full-time basis* and at which books, records, accounts and documents are to be maintained.” 63 P.S. § 456.302 (emphasis added).

25. Power Express contends that the violations were unintentional.

Authority of the Department

26. Section 310(a) of the MBBCEPA grants the Department broad authority to issue orders for the enforcement of the MBBCEPA. 63 P.S. § 456.310(a).

27. Section 314(c) of 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 shall be subject to a fine levied by the department of up to \$2,000 for each offense.” 63 P.S. § 456.314(c).

28. Section 16(1) of the SMLA grants the Department with broad authority to issue orders as may be necessary for the enforcement of the SMLA. 7 P.S. § 6616(1).

29. Section 22(b) of 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).

VIOLATIONS

30. Power Express violated Sections 304(a) and 305(a) of the MBBCEPA and Section 4(a)(5) of the SMLA by originating first and second mortgage loans from unlicensed locations.

31. Power Express violated Section 308(a)(2) of the MBBCEPA and Section 10(a)(2) of the SMLA by not maintaining records at its principal place of business in Pennsylvania when Power Express did not have authorization from the Department to maintain the records elsewhere.

RELIEF

32. Fine. Power Express agrees to pay the Department a fine in the amount of \$12,000 payable in two (2) payments of \$6,000. The first payment shall be due and payable within thirty (30) days of the Effective Date of this Order. The second payment shall be due within sixty (60) days of the Effective Date of this Order. The payments shall be remitted by certified check or money order made payable to the Department of Banking, and will be sent to the Attention of the Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

33. Corrective Measures.

a. Unlicensed Activity. Upon the Effective Date of this Order, Power Express shall cease and desist from originating and/or closing first and second mortgage loans from unlicensed locations.

b. Recordkeeping. Upon the Effective Date of this Order, Power Express shall maintain all Pennsylvania first and secondary residential mortgage loan records at its principal place of business Pennsylvania unless the Department authorizes otherwise.

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c. Staffing. Within thirty (30) days of the Effective Date of this Order, Power Express shall staff its principal place of business in Pennsylvania on a full-time basis. i.e. Power Express shall have a knowledgeable W-2 employee who meets the continuing education requirements of the MBBCEPA, the Mortgage Bankers and Brokers & Consumer Protection Act Regulations, 10 Pa. Code § 44.1 et seq., and the SMLA and who is physically located at the principal place of business during regular business hours. Knowledgeable is defined as having the capability to conduct the business of Power Express, including being able to directly contact consumers to present, negotiate or provide advice regarding loan terms.

FURTHER PROVISIONS

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

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

36. 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 Power Express.

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

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

39. Effectiveness. Power Express hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

40. 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 Power Express in the future regarding all matters not resolved by this Order.

b. Power Express 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.

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

42. Counterparts. This Order may be executed in separate counterparts and via facsimile.

43. 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.

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WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department and Power Express 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**

Ryan M. Walsh, Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: November 4 2008

**FOR WALL STREET MORTGAGE BANKERS, LTD.
d/b/a POWER EXPRESS MORTGAGE BANKERS**

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 11/24/08