

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

PA DEPT OF BANKING

Docket No. 080215 (ENF-CO)

v. ;

U.S. MORTGAGE CORP, D/B/A ;
ICON RESIDENTIAL CAPITAL D/BA/ ;
PENNSYLVANIA U.S. MORTGAGE CORP. ;

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of U.S. Mortgage Corp. d/b/a Icon Residential Capital d/b/a Pennsylvania U.S. Mortgage Corp. ("U.S. Mortgage Corp."). Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that U.S. Mortgage Corp. is in violation of the Mortgage Bankers and Brokers & Equity Consumer Protection Act ("MBBCEPA"), 63 P.S. § 456.101 *et. seq.* and the Secondary Mortgage Loan Act ("SMLA"), 7 P.S. § 6601, *et. seq.* The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order ("Order").

BACKGROUND

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

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

3. U.S. Mortgage Corp. is licensed as a First Mortgage Banker, License No. 1579, and as a Secondary Mortgage Lender, License No. 12204, with a principal place of business located at 2300 Computer Rd. Suite K60, Willow Grove, Pennsylvania, 19090 ("Principal Place").

4. At the time of the examination, U.S. Mortgage Corp. maintained two licensed locations in addition to the Principal Place: 19D Chaplin Road, Pine Brook, NJ and 7900 Sudley Road, Manassas, VA.

Activity From Unlicensed Branch Locations

5. On December 10, 2007, an examiner from the Department initiated an examination of U.S. Mortgage Corp. at the Principal Place.

6. The examination revealed that U.S. Mortgage Corp. originated and/or closed on three (3) first mortgage loans and three (3) secondary mortgage loans, involving property located in Pennsylvania, from five (5) unlicensed locations in Virginia, New York and New Jersey ("Unlicensed Locations").

7. The Uniform Residential Loan Applications for the six (6) loans identified the Unlicensed Locations as the place of origination.

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(a)(iii) (emphasis added).

9. The MBBCEPA provides that persons engaged in the first mortgage loan business in this Commonwealth must be licensed by the Department. 63 P.S. § 456.303(a).

10. Branch locations of licensees must also be licensed by the Department.

11. 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).

12. A person is deemed to be engaged in the “first mortgage loan business” if that person “advertises, causes to be advertised, solicits, *negotiates or arranges in the ordinary course of business*, offers to make or makes more than two first mortgage loans in a calendar year in this Commonwealth, whether directly or by any person acting for his benefit.” 63 P.S. § 456.302 (emphasis added).

13. To obtain a license to engage in the first mortgage loan business, a person must complete an application and the application “shall include the address *or addresses* where the business is to be conducted.” 63 P.S. § 456.304(a) (emphasis added).

14. At the time the application is filed, the applicant shall also “pay to the department . . . an initial license fee for the principal place of business and an *additional license fee for each branch office* . . . [and] [o]n or before July 1 of each year and thereafter, 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).

15. Upon receipt of a license, a licensee shall “[c]onspicuously display its license *at each* licensed place of business.” 63 P.S. § 456.308(a)(1) (emphasis added).

16. Similarly, the SMLA provides that branch locations of licensees that are engaging in the secondary mortgage loan business must be licensed.

17. Specifically, Section 3(a)(1) of the SMLA provides that “no person shall engage in the business of making secondary mortgage loans in this Commonwealth . . . [until] after first obtaining a license from the secretary in accordance with the provisions of this act.” 7 P.S. § 6603(a)(1).

18. A person engages in the secondary mortgage loan business when, in relevant part, “such person advertises, causes to be advertised, solicits, *negotiates or arranges in the ordinary course of business*, offers to make or makes more than two secondary mortgage loans in a calendar year in this Commonwealth” 7 P.S. § 6603(a)(5)(i) (emphasis added).

19. When applying for a license to engage in the secondary mortgage loan business, an applicant must provide the Department with “[t]he address or addresses where the secondary mortgage loan business is to be conducted.” 7 P.S. § 6604(a)(5).

20. Upon receipt of the license, a licensee shall “[c]onspicuously display its license *at each* licensed place of business.” 7 P.S. § 6610(a)(1) (emphasis added).

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

22. Section 22(b) of the SMLA provides 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 . . . shall be subject to a fine of \$2,000 for the first offense, and for each subsequent offense a like fine” 7 P.S. § 6622(b).

23. By originating three first mortgage loans and three secondary mortgage loans involving Pennsylvania property from five Unlicensed Locations, U.S. Mortgage Corp. violated the MBBCEPA and the SMLA.

Absence of Required Language

24. In addition, the examination revealed one (1) instance in which U.S. Mortgage Corp. closed on a secondary loan but the Secondary Mortgage Note did not contain language identifying it as a secondary mortgage subject to the provisions of the SMLA.

25. U.S. Mortgage Corp. had previously been cited by the Department for this violation.

26. Section 13 of the SMLA provides, in relevant part, that “[a]ny loan agreement or promissory note evidencing a secondary mortgage loan shall be identified by use of the words “Secondary Mortgage Loan” printed at the top of the loan agreement or promissory note and the statement “This agreement is subject to the provisions of the Secondary Mortgage Loan Act....” 7 P.S. § 6613.

27. By failing to include the required language in the Secondary Mortgage Note, U.S. Mortgage Corp. violated the SMLA.

VIOLATIONS

28. U.S. Mortgage Corp. violated the MBBCEPA and the SMLA by originating first and secondary mortgage loans involving Pennsylvania property from unlicensed locations in Virginia, New York and New Jersey.

29. U.S. Mortgage Corp. violated Section 13 of the SMLA by failing to include language on a Secondary Mortgage Note required by the SMLA.

RELIEF

30. Fine. Within thirty (30) days of the Effective Date of this Order, U.S. Mortgage Corp. shall pay a fine in the amount of \$4,000. The fine shall be paid by certified check or money order made payable to the Department of Banking and directed to the attention of Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

31. Corrective Measures.

- a. U.S. Mortgage Corp. shall cease and desist from originating and closing first and secondary mortgage loans from unlicensed branch locations in violation of the MBBCEPA and the SMLA.
- b. U.S. Mortgage Corp. shall include the required language on secondary mortgage notes as set forth in the SMLA.

FURTHER PROVISIONS

32. Consent. U.S. Mortgage Corp. 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 herein. U.S. Mortgage Corp., 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.

33. Publication and Release. U.S. Mortgage Corp. consents to the publication and release of this Order.

34. 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 U.S. Mortgage Corp.

35. Binding Nature. The Bureau, U.S. Mortgage Corp., and all officers, owners, directors, employees, heirs and assigns of U.S. Mortgage Corp. intend to be and are legally bound by the terms of this Order.

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

37. Effectiveness. U.S. Mortgage Corp. hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (“Effective Date”).

38. 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 U.S. Mortgage Corp. in the future regarding all matters not resolved by this Order.
- b. U.S. Mortgage Corp. 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.

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

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

41. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Bureau and U.S. Mortgage Corp. 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: August 17, 2008

**FOR U.S. MORTGAGE CORP. D/B/A
ICON RESIDENTIAL CAPITAL D/B/A
PENNSYLVANIA U.S. MORTGAGE CORP.**

(Officer Signature)

(Print Officer Name)

SVP
(Title)

Date: 8/8/08