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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

PA DEPT OF BANKING

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

Docket No. 09 0225 (ENF-CO)

v.

AM MORTGAGE BROKERS, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, Department of Banking (the "Department"), Bureau of Examinations, has conducted an examination of Am Mortgage Brokers, Inc. ("Am Mortgage"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that Am Mortgage operated in violation of the Mortgage Licensing Act, 7 Pa.C.S. § 6101 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's administrative agency authorized and empowered to administer and enforce the Mortgage Licensing Act.
2. The Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department.
3. The Mortgage Licensing Act is the successor statute to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (the "MBBCEPA"), 63 P.S. §

456.301 et seq., and the Secondary Mortgage Loan Act (the "SMLA"), 7 P.S. § 6601 et seq. On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.

4. Am Mortgage was licensed as a First Mortgage Broker, license no. 8782, under the MBBCEPA and as a Secondary Mortgage Broker, license no. 8783, under the SMLA.

5. Am Mortgage was granted a conditional license pursuant to the Mortgage Licensing Act on November 5, 2008 and is currently licensed as a Mortgage Broker, license no. 24742.

6. Am Mortgage maintains a principal place of business at 921 Oak St, Scranton, PA 18508-1235.

7. On December 23, 2008, examiners from the Department initiated an examination of Am Mortgage at the principal place of business (the "Examination").

#### Internal Controls

8. The Examination revealed that Am Mortgage's mortgage loan files had a number of warning indicators representing that a loan originator conveyed false or misleading information to mortgage lenders. The specific warning indicators included borrower signature inconsistencies.

9. During the Examination, the examiner reviewed the policies and procedures that Am Mortgage had in place to internally control and mitigate the dissemination of false or misleading information to first mortgage loan lenders.

10. The examiner's review concluded that Am Mortgage did not have sufficient internal controls in place to control and mitigate the dissemination of false or misleading information to first mortgage loan lenders.

11. Am Mortgage stated that the warning indicators found by the examiner during the Examination were due to loan originator negligence.

12. Three (3) of the mortgage loan files reviewed during the Examination contained signatures on preliminary mortgage loan disclosures that were inconsistent with closed mortgage loan documents and had been materially altered.

13. As a result of the Examination, Am Mortgage agreed that the warning indicators that were found during the Examination were serious issues that were the result of a negligent loan officer.

14. The loan originator in question was subsequently terminated by Am Mortgage.

15. As a result of the Examination findings, Am Mortgage admitted that there was a lack of adequate internal controls to monitor the accuracy of information that was presented by loan originators to mortgage loan lenders.

16. Since Am Mortgage admitted that insufficient internal controls were in place to actively detect, review, and halt the passing of inaccurate or fraudulent information to mortgage loan lenders, Am Mortgage demonstrated negligence and incompetence as provided in Section 6139(a)(10) of the Mortgage Licensing Act, 7 Pa. C.S. § 6139(a)(10) (corresponding to Section 313(a)(14) of the MBBCEPA, 63 P.S. § 456.313(a)(14)).

Authority of the Department

17. Section 6138(a)(4) of the Mortgage Licensing Act (corresponding to Sections 310(a) of the MBBCEPA and 16(1) of the SMLA) grants the Department broad authority to issue orders for the enforcement of the Mortgage Licensing Act, 7 Pa.C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a) and 7 P.S. § 6616(1)).

18. Section 6139(a)(10) of the Mortgage Licensing Act (corresponding to Section 313(a)(14) of the MBBCEPA) provides, in relevant part, that the Department may suspend, revoke or refuse to renew a license issued pursuant to the Mortgage Licensing Act if a licensee or director, officer, partner, employee or owner of a licensee has "[d]emonstrated negligence or incompetence in performing an act for which the licensee is required to hold a license under this chapter." 7 Pa.C.S. § 6139(a)(10) (corresponding to 63 P.S. § 456.313(a)(14)).

19. Section 6140(b) of the Mortgage Licensing Act (corresponding to Section 314(c) of the MBBCEPA and Section 22(b) of the SMLA) provides, in relevant part, that "[a] person licensed under this chapter or director, officer, owner, partner, employee or agent of a licensee who violates a provision of this chapter or who commits any action which would subject the licensee to suspension, revocation or nonrenewal under section 6139 may be fined by the department up to \$10,000 for each offense." 7 Pa.C.S. § 6140(b) (corresponding to 63 P.S. § 456.314(c) and 7 P.S. § 6622(b)).

#### **VIOLATIONS**

20. Am Mortgage is in violation of the Section 6139(a)(10) of the Mortgage Licensing Act (corresponding to Section 313(a)(14) of the MBBCEPA) by allowing fraudulent information to be submitted by a loan originator to lenders, thus demonstrating negligence and incompetence under the Mortgage Licensing Act.

#### **RELIEF**

21. Fine. Am Mortgage agrees to pay a fine of one thousand dollars (\$1,000) which shall be due and payable to the Department within thirty (30) days of the Effective Date of this Order. The fine payment shall be remitted by a company check, certified check or a money order made payable to the Pennsylvania Department of Banking and sent to the attention of

Compliance Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

22. Suspension. Am Mortgage's Mortgage Broker License is hereby suspended from the Effective Date of the Order until such time as Am Mortgage submits an acceptable internal control plan (the "Plan") to the Bureau which discloses how policies and procedures will be implemented to actively detect warning indicators of fraud and/or misrepresentation, review those warning indicators, and mitigate the dissemination of inaccurate or fraudulent information to mortgage loan lenders. The Plan shall provide policies and procedures which include, but are not limited to: compliance with the Mortgage Licensing Act and the training of Am Mortgage's employees and managers in fraud detection.

Am Mortgage shall send the Plan to the attention of Ryan M. Walsh, Administrator, Pennsylvania Department of Banking, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

The Bureau shall review the Plan and approve or refuse to approve the Plan within fifteen (15) days of the submission of the Plan. Approval of the Plan shall not be unreasonably withheld. If the Bureau does not approve the Plan, the Bureau shall provide comments on why the Plan is unacceptable and allow Am Mortgage the opportunity to resubmit the Plan with the appropriate changes. The submission process shall continue unless and until such time as the Bureau approves the Plan.

23. Corrective Measures. Upon the Effective Date of this Order, Am Mortgage and agrees to adhere to the internal control plan as described in paragraph 22.

### FURTHER PROVISIONS

24. Consent. Am Mortgage hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Licensing Act and agree that they understand all of the terms and conditions contained therein. Am Mortgage, 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.

25. 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).

26. 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 Am Mortgage.

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

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

29. Effectiveness. Am Mortgage hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

30. 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 Am Mortgage in the future regarding all matters not resolved by this Order.

b. Am Mortgage 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.

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

32. Counterparts. This Order may be executed in separate counterparts and by facsimile.

33. 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 Department and Am Mortgage 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 24, 2009

FOR AM MORTGAGE BROKERS, INC.

\_\_\_\_\_  
(Officer Signature)

MICHAEL A. CONSTANTINO  
(Print Officer Name)

VP

(Title)

Date: 11/20/09