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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 0219 (ENF-CO)

v.

BARRON MORTGAGE CORP.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing ("Bureau"), conducted an examination into the business practices of Barron Mortgage Corp. ("Barron Mortgage") and its officers, employees and directors. Based on the results of the examination, the Bureau believes that Barron Mortgage violated the Mortgage Licensing Act ("MLA"), 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 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 MLA.
2. The Bureau is primarily responsible for administering and enforcing the MLA for the Department.
3. The Mortgage 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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Act, which was subsequently amended by the MLA on August 5, 2009.

4. Barron Mortgage was formerly licensed as a First Mortgage Broker under the MBBCEPA, license no. 3069, and as a Secondary Mortgage Broker under the SMLA, license no. 0997, with its principal place of business located at 1388 Freeport Rd, Ste 105, Pittsburgh, PA 15238-3114 ("Principal Place").

5. Barron Mortgage was granted a Mortgage Broker license, license no. 21565, pursuant to the Mortgage Act on February 2, 2009.

Misleading Advertising

6. On or about May 6, 2008, the Department received a complaint from a Pennsylvania consumer about a solicitation that he received in the mail.

7. The Solicitation provided that it is a "Pennsylvania Notification" that "APPLIES TO ALL FANNIE MAE FIXED AND VARIABLE CONFORMING MORTGAGES IN THE STATE OF PENNSYLVANIA."

8. The Solicitation further provides, in relevant part, that:

Due to the recent rapid rise of mortgage rates and ARM expirations, this is an announcement of our **Pennsylvania Refinance Program**. New guidelines for 2008 allow **234,545** selected homeowners in Pennsylvania to achieve a possible 2% rate reduction. Your home located at . . . may be eligible.

This program allows for a low interest rate mortgage that can be used for purchase or refinance. No income limits or expanded credit are available. **Entitled homeowners may significantly reduce their mortgage payments with this new program.**

9. Further, the Solicitation advises its recipients that:

IT IS VERY IMPORTANT THAT YOU RESPOND TO THIS NOTICE IMMEDIATELY. CALL TOLL-FREE 1-800-788-9882 ASK FOR MORE INFORMATION ABOUT THE PENNSYLVANIA REFINANCE PROGRAM.

This program has been locked for only a four week period and will expire in the State of Pennsylvania two weeks following receipt of this notification.

10. Barron Mortgage sent the Solicitation to Pennsylvania consumers from its Principal Place.

11. The Solicitation resembled, in appearance, a document issued by a government agency.

12. Further, the Solicitation's contents appeared to notify consumers of a new program being administered by a government agency that certain Pennsylvania consumers were eligible to participate in to reduce their mortgage payments.

13. Barron Mortgage made the Solicitation resemble, in content and appearance, a document issued by a government agency to induce consumers to call the number in the Solicitation to inquire about the program being offered, that they would otherwise not inquire into, if it was clear that the Solicitation came from Barron Mortgage.

14. On May 29, 2008, the Department sent Barron Mortgage a letter requesting that it voluntarily stop sending this Solicitation.

15. The President and Owner of Barron Mortgage agreed to stop sending this Solicitation to Pennsylvania consumers.

16. On October 22, 2008, the Department commenced an examination of Barron Mortgage's Principal Place to follow up on the company's representation that it would cease sending the Solicitation

17. The examination revealed that from May 2, 2008 through October 24, 2008, Barron Mortgage mailed 45,000 solicitations to Pennsylvania consumers.

18. Since the Department's receipt of the consumer complaint and notification to Barron Mortgage that the Solicitation was a problem, Barron Mortgage had modified the Solicitation twice to clarify that the refinance loans were not underwritten by the Commonwealth of Pennsylvania and to provide that Barron Mortgage is not a governmental entity.

19. Despite these modifications to the Solicitation, the Solicitation still resembled, in appearance, a document issued by a government agency.

20. After the examination, the Department billed Barron Mortgage \$8,258.99 for the examination costs.

21. Section 6123(3) of the MLA (corresponding to Section 11(4)(ii) of the SMLA) provides that:

A licensee engaging in the mortgage loan business shall not: . . .

(3) Advertise, cause to be advertised or otherwise solicit whether orally, in writing, by telecast, by broadcast *or in any other manner any statement or representation which is false, misleading or deceptive.*

See 7 Pa. C.S. § 6123(3) (emphasis added) (corresponding to 7 P.S. § 6611(4)(ii)).

22. Further, Section 6139(a)(3) of the MLA (corresponding to Section 313(a)(5) of the MBBCEPA) provides that a licensee shall not engage in "dishonest, fraudulent or illegal practices or conduct in a business or unfair or unethical practices or conduct in connection with the mortgage loan business." *See 7 Pa. C.S. § 6139(a)(3) (corresponding to 63 P.S. § 456.313(a)(5)).*

23. Barron Mortgage Corp. violated the MLA by sending a Solicitation to Pennsylvania consumers that was deceptive and misleading as to its source, content, and purpose

because it appeared to be issued by a government agency notifying consumers about a refinance program when, in actuality, it was a solicitation for business by Barron Mortgage.

Authority of the Department

24. Section 6138(a)(4) of the MLA (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 MLA. 7 Pa. C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a) and 7 P.S. § 6616(1)).

25. Section 6140(b) of the MLA (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.

See 7 Pa. C.S. § 6140(b) (corresponding to 63 P.S. § 456.314(c) and 7 P.S. § 6622(b)).

26. Section 6138(a)(1) of the MLA (corresponding to Section 308(a)(4) of the MBBCEPA and Section 10(b)(3) of the SMLA) provides that:

The department shall have the authority to:

(1) Examine any instrument, document, account, book, record or file of a licensee or any person having a connection to the licensee or make other investigation as may be necessary to administer the provisions of this chapter. . . *The costs of the examination shall be borne by the licensee or the entity subject to the examination.*

See 7 Pa. C.S. § 6138(a)(1)(emphasis added) (corresponding to 63 P.S. § 456.308(a)(4) and 7 P.S. § 6610(b)(3)).

VIOLATIONS

27. Barron Mortgage violated Sections 6123(3) and 6139(a)(3) of the MLA (corresponding to Section 313(a)(5) of the MBBCEPA and Section 11(4)(ii) of the SMLA) by sending a solicitation to Pennsylvania consumers that was misleading and deceptive as to its source, content and purpose. *See* 7 Pa. C.S. §§ 6123(3), 6139(a)(3) (corresponding to 63 P.S. § 456.313(a)(5), 7 P.S. § 6611(4)(ii)).

RELIEF

28. Corrective Action. Barron Mortgage will cease and desist from using any advertisement or solicitation that is misleading or deceptive or appears on its face to be issued by a government agency. Further, Barron Mortgage will pay the costs of the examination conducted by the Department to ensure compliance with the MLA.

29. Fine. Upon Execution of this Order, Barron Mortgage will pay to the Department a fine in the amount of \$2,000 for its violation of the MLA and pay the outstanding examination invoice of \$8,258.99. The fine and examination bill shall be payable in 24 monthly payments with the first payment being \$427.45 due within 30 days of the date of execution of this Order and each subsequent payment of \$427.45 due by the first day of the following month thereafter.

30. Suspension. Upon Execution of this Order, Barron Mortgage will serve a 7 day suspension. The suspension will commence 30 days from the date of this executed Order and Barron Mortgage will be suspended from engaging in the mortgage loan business for 7 consecutive business days.

31. Abeyance. If the Department finds that Barron Mortgage violates this Order, Barron Mortgage's license shall be subject to an immediate 30 day suspension plus any

additional fines or penalties that the Department may seek pursuant to its authority under the MLA or other applicable statute and/or regulations.

FURTHER PROVISIONS

32. Consent. Barron Mortgage hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the MLA and agrees that it understands all of the terms and conditions contained herein. Barron 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.

33. 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).

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 Barron Mortgage.

35. Binding Nature. The Department and Barron Mortgage 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. Barron Mortgage 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 Barron Mortgage in the future regarding all matters not resolved by this Order.

b. Barron 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.

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 and by facsimile.

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 Department and Barron 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

John P. Talalai, Administrator
Department of Banking,
Bureau of Compliance, Investigation and Licensing

Date: 11/18/09

FOR BARRON MORTGAGE CORP.

(Officer Signature)

Print Officer Name

(Title)

Date: 11/6/09