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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.: 090145(ENF-OSC)

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HOME CONSULTANTS, INC. D/B/A :
HCI MORTGAGE and :
RICHARD A. HARSCHKE, individually. :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations, has conducted an examination of Home Consultants, Inc. d/b/a HCI Mortgage ("Home Consultants") and its officers, employees and directors, including Richard A. Harsche. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") alleges that Home Consultants 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 agree 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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.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. Home Consultants was licensed by the Department as a first mortgage banker under the MBBCEPA, license no. 1379, and as a secondary mortgage lender under the SMLA, license no. 0457, with a principal place of business located at 473 Easton Turnpike, Ste A, Lake Ariel, PA 18436-4796 (the "Principal Place").

5. Richard A. Harsche is the Chief Executive Officer and 100% owner of Home Consultants.

6. Home Consultants was granted a conditional license by operation of law on November 4, 2008, pursuant to the Mortgage Licensing Act.

7. Home Consultants timely submitted an application for re-licensure under the Mortgage Licensing Act through the Nationwide Mortgage Licensing System and a conditional license was granted to Home Consultants on December 30, 2008.

8. On March 13, 2009, the Department initiated an examination of Home Consultants at the Principal Place (the "Examination").

Natty Mac Complaint

9. On or around March 4, 2009, the Department's Compliance Division received a complaint from William Dentinger, Chief Credit Officer for Natty Mac Capital, LLC ("Natty Mac") against Home Consultants.

10. On or around June 12, 2008, Home Consultants entered into an Amended and Restated Master Loan Purchase and Sale Agreement (the "Agreement") with Natty Mac whereby Home Consultants agreed to sell certain mortgages to Natty Mac.

11. Based on the Agreement, Natty Mac was the owner of any loan that Home Consultants sold to Natty Mac.

12. On August 15, 2008, _____ entered into a mortgage agreement (the "Mortgage") and used Home Consultants as his lender.

13. On or about August 15, 2008 Home Consultants delivered to Natty Mac the aforesaid Mortgage pursuant to the Agreement.

14. The MIN Summary shows Natty Mac as the funder, servicer and investor of the Mortgage and Home Consultants as the originating organization.

15. Pursuant to the Agreement, Natty Mac should have been the owner of the Mortgage.

16. On October 6, 2008, _____ obtained a refinance loan through NBT Bank (the "Refinance").

17. NBT made the payoff proceeds checks out in the name of Home Consultants.

18. The payoff of the Mortgage by NBT Bank was made to HCI (Home Consultants) and not Natty Mac.

19. The Refinance occurred without the knowledge or consent of Natty Mac.

20. The Mortgage was to be paid off and satisfied from the proceeds of the Refinance.

21. Home Consultants provided the Refinance payoff information and a mortgage satisfaction piece to the closing agent naming Home Consultants as the holder of the Mortgage and not Natty Mac as evidence by the Satisfaction.

22. Natty Mac suspended the Agreement with Home Consultants on December 5, 2008.

23. The Bureau alleges that the funds on the Refinance were diverted into an operating account of Home Consultants to cover various expenses of Home Consultants, including payroll.

24. On January 23, 2009, Home Consultants remitted the Refinance funds to Natty Mac to cover the Mortgage.

25. Home Consultants remitted the Refinance proceeds on or around January 23, 2009.

26. By misappropriating the proceeds of the Refinance for its own use, the Bureau alleges that Home Consultants engaged in negligent business practices in the mortgage industry in violation of the Mortgage Licensing Act.

Discriminatory Business Practices

27. On January 5, 2009, Home Consultants entered into an Assurance of Discontinuance (the "Assurance") with the New York State Attorney General based on alleged discriminatory lending practices toward African American and Latino customers. The Assurance called for Home Consultants to pay a fine, make restitution and develop certain policies and procedures.

28. On April 9, 2009, the New York Attorney General's Office filed a petition filed with the Supreme Court of New York to have the Assurance of Discontinuance enforced.

29. Home Consultants contends that it could not comply with the terms of the Assurance because of the financial condition of the company and because the company went out of business.

30. The Bureau alleges that by not complying with the terms of the Assurance, Home Consultants has displayed negligence and incompetence in the mortgage industry in violation of the Mortgage Licensing Act.

31. It is noted that the Assurance contains language that Home Consultants denied the allegations of discrimination.

Net Worth Requirement

32. On September 1, 2007, Home Consultants entered into a Share Exchange Agreement and Plan of Reorganization to be acquired by CDBanc, LLC.

33. There is currently a dispute between CDBanc, LLC and Home Consultants regarding ownership of certain assets.

34. Because of the dispute, the assets of Home Consultants are unclear.

35. Section 6131(c)(3) of the Mortgage Licensing Act (corresponding to Section 304(b)(3) of the MBBCEPA, 63 P.S. § 456.304(b)(3)) provides that licensees must maintain a minimum tangible net worth of \$250,000. 7 Pa. C.S. § 6131(c)(3).

36. At the time of the Examination and currently, Home Consultants cannot accurately prove its assets so that it meets the minimum tangible net worth requirement of the Mortgage Licensing Act.

Felony Tax Evasion

37. On April 1, 2009, the United States Attorneys Office filed an Information (CASE#: 3:09-cr-00118-EMK-1) against Richard A. Harsche charging him with two (2) felony counts of Income Tax Evasion in violation of Title 26, United States Code, Section 7201, 26 U.S.C. § 7201 in the United States District Court for the Middle District of Pennsylvania.

38. On April 14, 2009 Richard A. Harsche pled guilty to the Information.

Order to Show Cause

39. On July 24, 2009 the Bureau issued an Order to Show Cause, docket no. 090145(ENF-OSC), against Home Consultants and Richard A. Harsche for the above-stated violations.

40. This Order is being entered into in resolution of the Order to Show Cause, docket no. 090145 (ENF-OSC) issued by the Bureau that was timely appealed by Home Consultants.

Authority of the Department

41. Section 6138(a)(4) of the Mortgage Licensing Act (corresponding to Sections 310(a) of the MBBCEPA, 63 P.S. § 456.310(a) and Section 16(1) of the SMLA, 7 P.S. § 6616(1)) 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)).

42. Section 6138(a)(5) of the Mortgage Licensing Act provides the Department with the authority to “[p]rohibit or permanently remove a person or licensee responsible for a violation of this chapter from working in the present capacity or in any other capacity of the person or licensee related to activities regulated by the department.” 7 Pa.C.S. § 6138(a)(5).

43. Section 6139(a)(4) of the Mortgage Licensing Act (corresponding to Section 313(a)(5) of the MBBCEPA, 63 P.S. § 456.313(a)(6)) provides that the Department may

suspend, revoke or refuse to renew a license if a licensee or director, officer, partner, employee or owner of a licensee has "[b]een convicted of or pleaded guilty or nolo contendere to a crime of moral turpitude or felony." 7 Pa. C.S. § 6139(a)(4).

44. Section 6139(a)(10) of the Mortgage Licensing Act (corresponding to Section 313(a)(14) of the MBBCEPA, 63 P.S. § 456.313(a)(10)) provides that the Department may suspend, revoke or refuse to renew a license 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).

RELIEF

45. Revocation of Mortgage Lender License. Home Consultants agrees to the revocation of the Mortgage Lender license effective immediately upon the Effective Date of this Order.

46. Prohibition.

a. Upon the Effective Date of this Order, Richard A. Harsche shall be prohibited from engaging in the business of a mortgage broker, lender or loan correspondent as pursuant to Section 6138(a)(5) of the Mortgage Licensing Act, for the remainder of his natural life.

b. Upon the Effective Date of this Order, Richard A. Harsche shall be prohibited from engaging in the business of a mortgage originator pursuant to Section 6138(a)(5) of the Mortgage Licensing Act for a period of seven years from the date of his felony tax evasion conviction. After seven years from the date of his felony tax evasion conviction, Richard A. Harsche may apply to the Department to be a mortgage originator pursuant to the Mortgage Licensing Act or the governing mortgage statute at the time of application as regulated by the

Department. Mr. Harsche must meet all licensing requirements at the time of application in order for the mortgage originator's license to be granted.

FURTHER PROVISIONS

47. Consent. Home Consultants and Richard A. Harsche hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Licensing Act and agrees that they understand all of the terms and conditions contained therein. Home Consultants and Richard A. Harsche, by voluntarily entering into this Order, waive any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

48. 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).

49. 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, Home Consultants and Richard A. Harsche.

50. Binding Nature. The Department, Home Consultants and Richard A. Harsche intend to be and are legally bound by the terms of this Order.

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

52. Effectiveness. Home Consultants and Richard A. Harsche hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

53. 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 Home Consultants and Richard A. Harsche in the future regarding all matters not resolved by this Order.

b. Home Consultants and Richard A. Harsche acknowledge and agree 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.

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

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

56. 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, Home Consultants and Richard A. Harsche, 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: December 28 2009

FOR HOME CONSULTANTS, INC. D/B/A HCI MORTGAGE

(Officer Signature)
Richard A. Harsche
(Print Officer Name)

Shareholder
(Title)

Date: 12/20/09

FOR RICHARD A. HARSCHIE

(Signature)
Richard A. Harsche
(Print Name)

Date: 12/29/09