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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

2009 SEP 18 AM 10:18

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

PA DEPT OF BANKING

DOCKET No. 09 0155 (ENF-CO)

v.

NORTH AMERICAN LENDING GROUP, INC.

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations, has conducted an examination of North American Lending Group, Inc. ("North American Lending"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that North American Lending is in violation of 7 Pa. C. S. § 6101 et seq. (the "Mortgage Act"). 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 Act.
2. The Bureau is primarily responsible for administering and enforcing the Mortgage Act 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. On November 5, 2008, Chapter 3 of the MBBCEPA was repealed by operation of law and replaced by the Mortgage Act.

4. North American Lending was formerly licensed under the MBBCEPA as a First Mortgage Broker, license no. 18619.

5. North American Lending was granted a conditional license pursuant to the Mortgage Act on November 5, 2008.

6. North American Lending maintains a principal place of business in Pennsylvania at 301 Grant St, Ste 4326, Pittsburgh, PA 15219 (the "Principal Place") and a branch location at the corporate location of 13500 Pearl Rd, Ste 125, Strongsville, OH 44136-3428 (the "Corporate Office").

7. On November 17, 2008, an examination of North American Lending was initiated at its principal place of business.

Unlicensed Loan Originators

8. During the examination, the examiner noted that North American Lending reported earnings for two loan originators on IRS form 1099, the form used for independent contractors, rather than on IRS form W-2 used for employees.

9. These loan originators brokered six (6) first mortgage loans on behalf of North American Lending.

10. Because these loan originators were treated as 1099 independent contractors for tax purposes, they cannot be employees of North American Lending for licensing purposes.

11. Under the MBBCEPA, employees of licensed mortgage brokers were not required to obtain a license, however, independent contractors were not exempt from the licensing requirements. 63 P.S. § 456.303(b)(11).

12. The loan originators that closed the loans for North American Lending were not licensed pursuant to the MBBCEPA as required.

13. By accepting the mortgage loans from these loan originators who were not licensed to engage in the mortgage business in Pennsylvania, North American Lending was in violation of the Mortgage Act.

14. North American Lending began reporting the compensation of the loan originators on IRS form W-2 in January, 2008.

Authority of the Department

15. Section 6111(a) of the Mortgage Act (corresponding to Section 303(a) of the MBBCEPA) provides, in relevant part, that "no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a mortgage broker, mortgage lender, mortgage loan correspondent or mortgagee originator as provided under this chapter. . . ." 7 Pa. C.S. § 6111(a) (corresponding to 63 P.S. § 456.303(a)).

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

17. Section 6140(b) of the Mortgage Act (corresponding to Section 314(c) of the MBBCEPA) 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)).

#### VOLATIONS

18. North American Lending violated Section 6111(a) of the Mortgage Act (corresponding to Section 303(a) of the MBBCEPA) on at least six occasions by accepting mortgage loan applications for Pennsylvania property from loan originators who were not licensed to do business in Pennsylvania.

#### RELIEF

19. Fine. North American Lending agrees to pay the Department a fine in the amount of \$2,000 payable in five (5) payments of \$400. The first payment shall be due and payable within thirty (30) days of the Effective Date of this Order and additional payments shall be due every thirty (30) days thereafter until paid in full. Payments shall be remitted by certified checks or money orders 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.

20. Corrective Action.

- a. North American Lending shall cease and desist from accepting mortgage loan applications from unlicensed persons.
- b. North American Lending shall report the compensations paid to any loan originators or persons engaging in the mortgage loan business on its behalf in Pennsylvania and for loans involving Pennsylvania property and/or Pennsylvania consumers on IRS form W-2.

#### FURTHER PROVISIONS

21. Consent. North American Lending hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order and agrees that it understands all of the terms and conditions contained herein. North American Lending, 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.

22. 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).

23. 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 North American Lending.

24. Binding Nature. The Department, North American Lending, and all officers, owners, directors, employees, heirs and assigns of North American Lending intend to be and are legally bound by the terms of this Order.

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

26. Effectiveness. North American Lending hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

27. 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 North American Lending in the future regarding all matters not resolved by this Order.

b. North American Lending 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.

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

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

30. 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 North American Lending 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: September 17, 2009

**FOR NORTH AMERICAN LENDING GROUP, INC.**

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(Print Officer Name)

President  
(Title)

Date: 9/10/09