

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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Act.

4. Residential Home Funding was licensed as First Mortgage Banker, license no. 18587, pursuant to the MBBCEPA and as a Secondary Mortgage Lender, license no. 18588, pursuant to the SMLA on September 20, 2007.

5. Residential Home Funding was granted a conditional license pursuant to the Mortgage Act on November 5, 2008.

6. Residential Home Funding is currently licensed as a Mortgage Lender, license no. 20875 pursuant to the Mortgage Act.

7. Residential Home Funding currently maintains its principal place of business in Pennsylvania at 693 Route 739, Suite 1, Hawley, PA 18428 (the "Principal Place").

8. Residential Home Funding currently maintains a branch license at the corporate headquarters located at 520 North State Road, Briarcliff Manor, NY 10510 (the "Corporate Office").

9. On July 25, 2008, an examiner from the Department initiated an examination of Residential Home Funding at the Principal Place (the "Examination").

10. At the time of the Examination, the Principal Place and the Corporate Office were the only licensed locations of Residential Home Funding.

Unlicensed Activity

11. The Examination revealed that Residential Home Funding originated twenty-three (23) Pennsylvania first mortgage loans from several unlicensed locations in New York and New Jersey ("unlicensed locations").

12. Specifically, Residential Home Funding provided the examiner with a spreadsheet (the "Spreadsheet") that listed loan officer names and the specific offices that they were assigned to.

13. The Uniform Residential Loan Applications contained the loan officer names and corresponding unlicensed locations in the interviewer's section.

14. The Mortgage Act defines a "branch" as "[a]n office or other place of business, other than the principal place of business, located in this Commonwealth or any other state, where a person engages in the mortgage loan business subject to this chapter." 7 Pa.C.S. § 6102.

15. Section 6131(a)(1)(ii) of the Mortgage Act (corresponding to Section 304(a) of the MBBCEPA and Section 4(a)(5) of the SMLA) provides, in relevant part, that an application for licensure shall include "... the address *or addresses* where the applicant's mortgage loan business is to be conducted." 7 Pa.C.S. § 6131(a)(1)(ii) (emphasis added) (corresponding to 63 P.S. § 456.304(a) and 7 P.S. § 6604(a)(5)).

16. Section 6132(b)(2) of the Mortgage Act (corresponding to Section 305(a) of the MBBCEPA and Section 5 of the SMLA) provides that a licensee must pay a renewal fee for each branch office. 7 Pa.C.S. § 6132(b)(2) (corresponding to 63 P.S. § 456.305(a) and 7 P.S. § 6605)).

17. Thus, based on the foregoing, any office of a licensee where mortgage loan business is conducted under the Mortgage Act must be licensed as a branch pursuant to the Mortgage Act.

18. As of the date of execution of this Order, Residential Home Funding has branch applications pending with the Department.

Loans Originated Prior to Licensure

19. Residential Home Funding was originally licensed as a mortgage banker in Pennsylvania on September 20, 2007.

20. Section 6102 of the Mortgage Act (corresponding to Section 302 of the MBBCEPA defines the Mortgage Loan Business as "[t]he business of advertising, causing to be advertised, soliciting, negotiating or arranging in the ordinary course of business or offering to make or making mortgage loans." 7 Pa.C.S. § 6102

21. Records reviewed during the Examination indicated that from 2006 until the time of licensure on September 20, 2007, Residential Home Funding was engaging in the Mortgage Loan Business in Pennsylvania without a license.

22. Residential Home Funding claims that the loans (the "Loans") were originated and closed through a National Bank (the "Bank") which would be an exempt entity.

23. The loan officers of Residential Home Funding who were originating the mortgage loans were not compensated by the Bank but rather by Residential Home Funding and thus could not be considered employees of the Bank.

24. Section 6112(1) of the Mortgage Act (corresponding to Section 303(b)(1) of the MBBCEPA) provides that "[a] banking institution or a federally chartered or State-chartered credit union, if the primary regulator of the banking institution or federally chartered or State

chartered credit union supervises the banking institution or federally chartered or State chartered credit union" are not required to be licensed under the Mortgage Act in order to conduct the mortgage loan business in Pennsylvania. 7 Pa.C.S. § 6112(1) (corresponding to 63 P.S. § 456.303(b)(1)).

25. In addition to the Bank Loans, records indicate that Residential Home Funding had originated four (4) Pennsylvania first mortgage loans in 2006 and three (3) Pennsylvania first mortgage loans in 2007.

26. Section 302 of the MBBCEPA defined the "first mortgage loan business as "[a] person is deemed to be engaged in the first mortgage loan business in this Commonwealth 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).¹

27. Residential Home Funding was required to be licensed pursuant to the MBBCEPA due to the fact that the entity originated more than two (2) mortgage loans in calendar years 2006 and 2007.

28. The application for licensure states that in 2006 and 2007, Residential Home Funding had not conducted any business in Pennsylvania.

29. By not including the business conducted in Pennsylvania prior to licensure, Residential Home Funding provided a material misstatement on the application for licensure.

Record Keeping

30. The Examination revealed that Residential Home Funding had been maintaining its Pennsylvania records at the Corporate Office without approval from the Department:

¹ At the time Residential Home Funding originated the loans, Chapter 3 of the MBBCEPA was still in effect.

31. Section 6135(a)(2) of the Mortgage Act (corresponding to Sections 308(a)(2) of the MBBCEPA and 10(a)(2) of the SMLA) requires a licensee to maintain records at its principal place of business in Pennsylvania unless the licensee has authorization from the Department to maintain those records elsewhere. 7 Pa.C.S. § 6135(a)(2) (corresponding to 63 P.S. § 456.308(a)(2) and 7 P.S. § 6610(a)(2)).

32. Residential Home Funding did not have authorization from the Department to maintain its Pennsylvania records at any location other than its principal place of business in Pennsylvania.

33. Prior to the conclusion of the Examination, Residential Home Funding returned all records involving Pennsylvania transactions to the Principal Place and applied for, and was granted, approval to maintain records at the Corporate Office.

Authority of the Department

34. Section 6138(a)(4) of the Mortgage Act (corresponding to Section 310(a) of the MBBCEPA and Section 16(1) of the SMLA) provides the Department with authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and the enforcement of the Mortgage Act. 7 Pa. C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a)).

35. Section 6139(a)(1) of the Mortgage Act (corresponding to Section 313(a)(1) of the MBBCEPA) 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 "[m]ade a material misstatement in an application or any report or submission required by this chapter or any department regulation, statement of policy or order." 7 Pa.C.S. § 6139(a)(1) (corresponding to 63 P.S. § 456.313(a)(1)).

36. Section 6140(b) of the Mortgage 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) (63 P.S. § 456.314(c) and 7 P.S. § 6622(b)).

VIOLATIONS

37. Residential Home Funding is in violation of the following sections of the Mortgage Act:

- a. Section 6131(a)(1)(ii) and 6132(b)(2) by conducting mortgage loan business from unlicensed locations;
- b. Section 6139(a)(1) by failing to disclose, on the initial application for licensure, the business conducted prior to the license application submission; and
- c. Section 6135(a)(2) by not maintaining records at its principal place of business in Pennsylvania when Residential Home Funding did not have authorization from the Department to maintain the records elsewhere.

RELIEF

38. ~~Fine.~~ Residential Home Funding agrees to pay a fine of twenty-five thousand dollars (\$25,000) 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 certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of the

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

39. Suspension of Mortgage Lender License. Residential Home Funding agrees to a five (5) day suspension of Mortgage Lender license no. 20875 for the material misstatements provided on the initial application for licensure. The suspension shall commence June 1, 2009 at 12:00 AM and end on June 5, 2009 at 12:00 AM. Residential Home Funding agrees to suspend the negotiation and arrangement of mortgage loan business in Pennsylvania at both the Principal Place and all branch locations. Residential Home Funding may continue to process and complete mortgage loans that were originated prior to June 1, 2009 at 12:00 AM. Residential Home Funding shall provide the Bureau with a current pipeline of loans in process prior to June 1, 2009 at 12:00 AM.

40. Corrective Measures. Upon the Effective Date of this Order, Residential Home Funding shall:

- a. cease and desist from originating Pennsylvania mortgage loans from unlicensed locations;
 - b. provide accurate information on all future submissions to the Department;
- and
- c. maintain all Pennsylvania records in accordance with the Mortgage Act.

41. Abseyance. Should the Bureau find that Residential Home Funding violated this Order, the Bureau may choose to suspend Residential Home Funding's license for thirty (30) days.

FURTHER PROVISIONS

42. Consent. Residential Home Funding hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Act and agrees that it understands all of the terms and conditions contained therein. Residential Home Funding, 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.

43. 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).

44. 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 Residential Home Funding.

45. Binding Nature. The Department and Residential Home Funding intend to be and are legally bound by the terms of this Order.

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

47. Effectiveness. Residential Home Funding hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

48. 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 Residential Home Funding in the future regarding all matters not resolved by this Order.

b. Residential Home Funding 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.

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

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

51. 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 Residential Home Funding 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: May 13, 2009

FOR RESIDENTIAL HOME FUNDING CORP. D/B/A RHF WHOLESALE

(Official Signature)

(Print Officer Name)

Co
(Title)

Date: 5/12/09