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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 0201 (ENF-CO)

v.

ROBERT B. ERSKINE.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Compliance, Investigation and Licensing (the "Bureau"), has conducted an investigation into the business practices of Robert B. Erskine d/b/a Erskine Mortgage Co. (hereafter "Erskine"). Based on the results of the investigation, the Bureau believes that Erskine 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Loan Act (the "SMLA"), 7 Pa.C.S. § 6601 *et seq.* On November, 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.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. Erskine Mortgage Co. was licensed by the Department as a first mortgage broker under the MBBCEPA, license no. 3997 with a principal place of business located at 311 Candy Road, Mohnton, PA 19540-8320.

5. Erskine Mortgage Co. failed to renew the license by December 31, 2008 and thus the license was cancelled effective January 1, 2009.

6. According to Department records, Robert B. Erskine was the President and 100% owner of Erskine Mortgage Co.

7. Linwood Corporation was incorporated in the State of Delaware on December 23, 1986.

8. The President of Linwood Corporation was Robert B. Erskine.

9. On August 16, 2006 the Department of Banking initiated a formal investigation of Erskine Mortgage Co. and Owner/President Robert B. Erskine based upon a complaint received from a Pennsylvania licensed appraiser (the "Investigation").

#### DOWN PAYMENT FUNDS

10. The Investigation revealed that Robert B. Erskine was involved in a mortgage check fraud scheme where non-existent company names and non-existent individual names were listed on mortgage settlement statements in order to receive compensation for services that were never rendered.

11. The settlement checks were provided by the closing attorney at settlement and given to Mr. Erskine at the closing table for distribution to the non-existent companies and individuals. The checks were then endorsed over to Linwood Corporation and subsequently deposited into the Linwood Corporation checking account.

12. On numerous purchase money transactions, the cash from the borrower required to close the loan came in the form of a check from Linwood Corporation which was made out to the borrowers at closing and signed over to the closing attorney.

13. Additionally, there was evidence that non-existent realtors, attorneys and home improvement companies (the "non existent entities") received compensation on the HUD-1 Settlement Sheets.

14. The checks to the non existent entities were written from the settlement attorney's account and then deposited into the bank account of the Linwood Corporation.

15. Accepting checks for non existent entities and providing borrowers with required down payment funds at closing is a fraudulent and illegal practice in the mortgage industry which is a violation of the Mortgage Licensing Act. 7 Pa. C.S. § 6139(a)(3) (corresponding to Section 313(a)(5) of the MBBCEPA, 63 P.S. § 456.313(a)(5)).

#### APPRAISALS

16. The Department received a complaint from a Pennsylvania licensed appraiser, that several of her appraisals had been altered and that she or her company, was no longer able to submit appraisals to certain lenders due to claims of unscrupulous activities.

17. The Bureau issued subpoenas for the appraisal reports that had been submitted with the loan packages to the lenders by Erskine Mortgage Co.



20. An appraisal was ordered by an employee of Erskine Mortgage Co., JoAnne Burke, for a property located at . The following is a listing of some of the discrepancies from the original report submitted by and the report submitted to the lender, Option One Mortgage Company, by Erskine Mortgage Co.:

- a. the address is listed as on the fraudulent report,
- b. the sales price decreased on the fraudulent report,
- c. seller concessions decreased on the fraudulent report,
- d. the fraudulent report states that the subject property has been completely remodeled while the original report states that the property is in the process of being completely remodeled,
- e. the dates of sale for all 3 comparable properties have been altered,
- f. the appraisal value is listed as "subject to" improvements on the original report while the fraudulent report value is listed as "as is", and
- g. the signatures of on the fraudulent report are not true and correct.

21. An appraisal was ordered by Robert B. Erskine for a property located at . The following is a listing of some of the discrepancies from the original report submitted by and the report submitted to the lender, by Erskine Mortgage Co.:

- a. the address is listed as on the fraudulent report,

- b. the date of sale for comparable sales no. 1 and no. 2 have been altered on the fraudulent report,
- c. the effective age on all three comparables have been altered on the fraudulent report,
- d. net adjustments on the comparables have been altered on the fraudulent report, and
- e. the signatures of Ms. Brown on the fraudulent report are not true and correct.

22. Ms. Brown explained to investigators that all three appraisal reports would have been mailed directly to Robert B. Erskine due to the fact that the dates of the reports predate her ability to electronically mail the reports.

23. Robert B. Erskine admitted to the Bureau that he altered all three appraisals.

24. The alteration of appraisal reports is a fraudulent and illegal practice in the mortgage industry which is a violation of the Mortgage Licensing Act. 7 Pa. C.S. § 6139(a)(3) (corresponding to Section 313(a)(5) of the MBBCEPA, 63 P.S. § 456.313(a)(5)).

25. Since inadequate internal controls were in place at Erskine Mortgage Co. to actively detect, reviewed, and halted the passing of inaccurate or fraudulent information to mortgage loan lenders, Robert B. Erskine also demonstrated negligence and incompetence as provided in Section 6139(a)(10) of the Mortgage Licensing Act (corresponding to Section 313(a)(14) of the MBBCEPA).

## **UNLICENSED BROKER**

26. The Investigation revealed that Erskine Mortgage was compensating an individual, JoAnne Burke, directly out of the Linwood Corporation checking account for services provided in the origination of mortgage loans.

27. JoAnne Burke could not be considered an employee of Erskine Mortgage due to the fact that she was not compensated on a W-2 basis out of the Erskine Mortgage operating account.

28. JoAnne Burke did not have a license at the time of compensation to originate mortgage loans.

29. Robert B. Erskine employed an unlicensed individual to perform mortgage loan origination services in violation of section 6111(a) of the Mortgage Licensing Act, 7 Pa.C.S. § 6111(a) (corresponding to section 303(a) and 303(b)(11) of the MBBCEPA, 63 P.S. § 303(a) and (b)(11)).

## **AUTHORITY OF THE DEPARTMENT**

30. Section 6138(a)(4) of the Mortgage Licensing Act (corresponding to Sections 310(a) of the MBBCEPA, 63 P.S. § 456.310(a)) 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)).

31. Section 6138(a)(5) of the Mortgage Licensing Act provides the Department with the authority to prohibit or permanently remove a person or licensee responsible for a violation of the Mortgage Licensing Act from working in any capacity related to activities regulated by the department, 7 Pa.C.S. § 6138(a)(5).

### VIOLATIONS

32. Erskine Mortgage Co. and Robert B. Erskine are in violation of the following sections of the Mortgage Licensing Act:

- a. Section 6139(a)(3) by accepting checks for non existent companies and providing borrowers with down payment funds;
- b. Section 6139(a)(3) by altering appraisal reports that were to be submitted to lenders;
- c. Section 6139(a)(10) by allowing fraudulent information to be submitted by to lenders thus demonstrating negligence and incompetence under the Mortgage Licensing Act; and
- d. Section 6111(a) by compensating an unlicensed individual for services provided in the origination of mortgage loans.

### RELIEF

33. Prohibition. Upon the Effective Date of this Order, Robert B. Erskine as a person or as a corporation or as any other form of organization of any kind whatsoever, consents to a lifetime prohibition from working in the mortgage loan business as regulated by the Mortgage Licensing Act as a licensee, owner, officer or employee in any capacity of any kind whatsoever, in any way whatsoever.

### FURTHER PROVISIONS

34. Consent. Robert B. Erskine 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 agrees that he understands all of the terms and conditions contained

therein. Robert B. Erskine, 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.

35. 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).

36. 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 Robert B. Erskine.

37. Binding Nature. The Department and Robert B. Erskine intend to be and are legally bound by the terms of this Order.

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

39. Effectiveness. Robert B. Erskine hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

40. 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 Robert B. Erskine in the future regarding all matters not resolved by this Order.

b. Robert B. Erskine 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.

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

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

43. 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 Robert B. Erskine 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**

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Ryan M. Walsh, Administrator  
Bureau of Compliance, Investigation and Licensing  
Date: October 13, 2009

**FOR ROBERT B. ERSKINE**

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(Signature)

Robert B. Erskine  
(Print Name)

Date: October 12, 2009