



Business promulgated under the Mortgage Licensing Act (the "Proper Conduct Reg"), 10 Pa. Code § 46.1 et seq.

2. The Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act the Proper Conduct Reg 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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.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. The Proper Conduct Reg was enacted on December 20, 2008, by virtue of publication in the *Pennsylvania Bulletin* (Vol. 38, No. 51).
5. Statewide Commercial was licensed as a First Mortgage Broker, license no. 18917, pursuant to the MBBCEPA and as a Secondary Mortgage Broker, license no. 18918, pursuant to the SMLA.
6. Statewide Commercial was granted a conditional license as a Mortgage Broker pursuant to the Mortgage Licensing Act on November 5, 2008.
7. Statewide Commercial is currently licensed as a Mortgage Broker, license no. 25121, pursuant to the Mortgage Licensing Act.
8. Statewide Commercial's principal place of business is located at 3 Interplex Dr, Ste 301, Office #33, Trevoise, PA 19053-6962 ("Principal Place").

### Annual Reports

9. Statewide Commercial failed to file the 2008 First Mortgage Broker Companies Annual Report or the 2008 Secondary Mortgage Broker Companies Annual Report (collectively "2008 annual reports") prior to March 31, 2009 as required by the Department.

10. Section 308(a)(3) of the former MBBCEPA stated that licensees shall "[a]nnually, before May 1, file a report with the department or commission which shall set forth such information as the department or commission shall require concerning the business conducted as a licensee during the preceding calendar year. The report shall be in writing, under oath, and on a form provided by the department." 63 P.S. § 456.308(a)(3).

11. Section 10(a)(3) of the former SMLA stated that licensees shall "[a]nnually, before May 1, file a report with the secretary which shall set forth such information as the secretary shall require concerning the business conducted as a licensee during the preceding calendar year. The report shall be in writing, under oath and on a form provided by the secretary." 7 P.S. § 6610(a)(3).

12. As a result, on July 10, 2009, the Department sent Statewide Commercial a Notice of Fine in which the Department assessed a fine in the amount of \$2,000 for failing to file the 2008 annual reports on time and required Statewide Commercial to file its 2008 annual reports immediately, if it had not already done so.

13. Further, the Notice of Fine provided that if Statewide Commercial sought to contest the Department's imposition of the fine, it had thirty (30) days to file a petition requesting a hearing on the matter.

14. Statewide Commercial did not request a hearing on the matter, and to date, has not paid the fine. The fine remains due and payable to the Department.

15. Section 6135(a)(3) of the Mortgage Licensing Act provides that mortgage licensees must "file periodically as determined by the department, a report with the department setting forth such information as the department shall require concerning the first or secondary mortgage loan business conducted by the licensee during the preceding calendar year. The report shall be on a form provided by the department and shall be filed with the Nationwide Mortgage Licensing System and Registry. Licensees who fail to file the required report at the date required by the department may be subject to a penalty of \$100 for each day after the due date until the report is filed." 7 Pa. C.S. § 6135(a)(3).

16. To date, neither the 2002 nor 2003 annual reports have been filed; nor have the fines assessed for the untimely filings been paid.

#### Ability to Repay

17. On December 22, 2008, the Secretary of Banking issued a letter to all mortgage lenders, mortgage loan correspondents and mortgage broker licensees announcing the enactment of the Proper Conduct Reg.

18. The December 22, 2008, letter provided a summary of Section 46.2(g) of the Proper Conduct Reg which requires that an ability to repay analysis be conducted for each mortgage loan. *See* 10 Pa. Code § 46.2(g).

19. The December 22, 2008, letter also informed all licensees that Section 46.2(g) of the Proper Conduct Reg would be effective as of March 20, 2009.

20. On or around February 3, 2009, the Department's Bureau of Non-Depository Examinations emailed a letter to all mortgage lenders, mortgage loan correspondents and mortgage broker licensees (the "Licensees") requesting the submission of a detailed internal policies and procedures plan (the "Policy") that would address how the Licensees will perform

an ability to repay analysis for mortgage loan applicants as required by Section 46.2(g) of the Proper Conduct Reg.

21. The letter emailed on February 3, 2009 stated that the Policy was to be submitted to the Department no later than February 28, 2009.

22. On or around March 11, 2009, the Bureau of Non-Depository Examinations sent a second letter via email to all Licensees who failed to submit the Policy to the Department by the February 28, 2009, deadline. The letter emailed on March 11, 2009, provided that Licensees must submit the Policy to the Department by March 18, 2009.

23. On or around May 12, 2009, the Bureau of Non-Depository Examinations mailed a letter through the United States Postal Service to all Licensees who failed to submit the Policy by the March 18, 2009 extended deadline.

24. The May 12, 2009, letter gave an additional extension to provide the Policy to the Department no later than May 19, 2009.

25. The May 12, 2009, letter stated that failure to provide the Policy to the Department could result in administrative action.

26. On September 22, 2009, the Bureau issued an Administrative Order to Statewide Commercial, Docket No. 090194(ENF-ORD) for failing to provide the Policy to the Bureau.

27. The terms of the Administrative Order included that upon the effective date of the Order, Statewide Commercial's license would be suspended and would be assessed a fine of \$10,000 for failing to provide the Policy.

28. The Administrative Order became final on October 22, 2009.

29. Statewide Commercial provided the Department with the requested policy on October 26, 2009.

Authority of the Department

30. Section 6138(a)(1) of the Mortgage Licensing Act provides the Department with the authority to examine any instrument, document, account, book, record or file of licensees. 7 Pa. C.S. § 6138(a)(1).

31. Section 6138(a)(3) of the Mortgage Licensing Act provides the Department with the authority to “[r]equest and receive information or records of any kind” from a licensee. 7 Pa. C.S. § 6138(a)(3).

32. Section 6138(a)(4) of the Mortgage Licensing 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 Licensing Act. 7 Pa. C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a) and 7 P.S. § 6616(1)).

33. Section 6139(a)(2) of the Mortgage Licensing Act (corresponding to Section 313(a)(2) of the MBBCEPA) provides, in relevant part, that the Department may suspend, revoke or refuse to renew a license issued pursuant to the Mortgage Licensing Act if a licensee or director, officer, partner, employee or owner of a licensee has “[f]ailed to comply with or violated any provision of this chapter or any rule, regulation or order promulgated by the department pursuant to this chapter.” 7 Pa. C.S. § 6139(a)(2) (corresponding to 63 P.S. § 456.313(a)(2)).

34. Section 6139(a)(8) of the Mortgage Licensing Act provides, in relevant part, that the Department may suspend, revoke or refuse to renew a license issued pursuant to the Mortgage Licensing Act if a licensee or director, officer, partner, employee or owner of a licensee has “[f]ailed to comply with the requirements of this chapter to make and keep records

prescribed by regulation, statement of policy or order of the department, to produce records required by the department or to file financial reports or other information that the department by regulation, statement of policy or order may require." 7 Pa C.S. § 6139(a)(8) (corresponding to 63 P.S. § 456.308(a)(3)).

35. Section 6140(b) of the Mortgage Licensing 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) (corresponding to 63 P.S. § 456.314(c) and 7 P.S. § 6622(b)).

#### **VIOLATIONS**

36. By failing to file its 2008 annual reports prior to March 31, 2009, Statewide Commercial was in violation of Sections 6139(a)(3) and 6139(a)(8) of the Mortgage Licensing Act.

37. By failing to provide the Policy requested by the Department, Statewide Commercial was in violation of Sections 6138(a)(1) and 6138(a)(3) of the Mortgage Licensing Act.

#### **RELIEF**

38. Fine. Statewide Commercial agrees to pay a fine of four thousand dollars (\$4,000) to the Department. The fine shall be payable in four monthly installments of one thousand dollars (\$1,000) with the first payment due within 30 days of the Effective Date of this Order and subsequent payments due 30 days thereafter until paid in full. Payments shall be

made by certified check or money order to the "Department of Banking" and shall be sent to the attention of the Department of Banking, Bureau of Compliance, Investigation and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

39. Corrective Measures.

- a. Within thirty (30) days of the Effective Date of this Order, Statewide Commercial shall file its 2008 annual reports with the Department if it has not already done so. The annual reports shall be sent to the attention of Theresa Jones, Compliance Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.
- b. Upon the Effective Date of this Order, Statewide Commercial shall timely file all financial reports as required by the Mortgage Licensing Act.

**FURTHER PROVISIONS**

40. Consent. Statewide Commercial 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 it understands all of the terms and conditions contained therein. Statewide Commercial, 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.

41. 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).

42. 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 Statewide Commercial.

43. Binding Nature. The Department and Statewide Commercial intend to be and are legally bound by the terms of this Order.

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

45. Effectiveness. Statewide Commercial hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

46. 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 Statewide Commercial in the future regarding all matters not resolved by this Order.

b. Statewide Commercial 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.

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

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

49. 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 Statewide Commercial, 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  
Department of Banking

Date: November 13, 2009

**FOR STATEWIDE COMMERCIAL & HOME LOANS, INCORPORATED**

(Title) \_\_\_\_\_

\_\_\_\_\_  
(Print Officer Name)

Baker  
(Title)

Date: 11/12/09.