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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	:
	:
v.	: Docket No. 10 <u>0285</u> (ENF-CO)
	:
AMERICAN MORTGAGE FINANCE, INC.	:
	:

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, through the Department of Banking's (the "Department") Bureau of Compliance, Investigation and Licensing (the "Bureau"), based on information obtained through its investigation, believes that American Mortgage Finance, Inc. ("AMF"), operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* AMF enters into this agreement and order to resolve this matter without litigation, but without admitting guilt or wrongdoing. Accordingly, the parties, 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. AMF is licensed as a mortgage lender under the Mortgage Licensing Act with license number 21850 and a National Mortgage Licensing System (NMLS) identification number of 18811.

4. AMF maintains its principal place of business at 3003 Babcock Boulevard Suite 102, Pittsburgh, Pennsylvania 15237-2715.

5. AMF cooperated fully with the investigation and provided all the necessary information requested in a timely fashion to the Department.

Unlicensed and Suspended Mortgage Originator

6. The Mortgage Licensing Act provides, in relevant part, that “. . . on and after the effective date of this section [November 5, 2008], no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a . . . mortgage originator as provided under this chapter. A mortgage originator may not engage in the mortgage loan business unless the mortgage originator is employed and supervised by a licensed mortgage broker, mortgage lender or mortgage loan correspondent. . .” 7 Pa. C. S. § 6111(a).

7. Mortgage Licensing Act provides that a mortgage originator applicant must pass a qualified written test developed by the Nationwide Mortgage Licensing System and Registry. 7 Pa. C. S. § 6131.1(c).

8. Beginning on October 10, 2010 the Bureau conducted an investigation of AMF leading it to conclude that AMF originated 143 mortgages in violation of the Mortgage Licensing Act.

9. The Bureau believes that AMF originated 122 loans through a single originator at a time she was unlicensed, and an additional 21 loans through the same originator while her

license was under order of suspension for the period beginning November 5, 2008 through October 27, 2010 based on a loan log obtained from AMF pursuant to the Bureau's investigation.

10. It is the conclusion of the Bureau that the mortgage loan applications originated by AMF through an originator while unlicensed or while under order of suspension are in violation of the Mortgage Licensing Act.

11. The Bureau believes that AMF attempted to conceal the fact that the employee had originated a total of 143 loans while unlicensed or under license suspension by having a properly licensed individual sign the mortgage applications as the originator.

12. It is the conclusion of the Bureau that concealing the fact that an originator is unlicensed or under suspension by having another person sign the mortgage loan applications is a dishonest and unethical practice in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6139(a)(3).

13. AMF is required to directly supervise, control and maintain responsibility for the acts and omissions of the mortgage originators it employs. 7 Pa. C.S. § 6131(f)(1).

14. It is the conclusion of the Bureau that AMF failed to employ only licensed mortgage loan originators, and failed to directly supervise, control and maintain responsibility for the acts and omission of the mortgage originators it employed as required by the Mortgage Licensing Act.

Authority of the Department

15. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department broad authority to issue orders for the proper conduct of the mortgage licensing business and the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

16. Section 6139 of the Mortgage Licensing Act provides that the Department may suspend, revoke or refuse to renew a license issued under the Mortgage Licensing Act if an owner has "failed to comply with or violated any provision of this chapter or any regulation or order promulgated or issued by the department. . . ." and if "a mortgage broker, mortgage lender or mortgage loan correspondent, conducted the mortgage loan business through an unlicensed mortgage originator." 7 Pa. C.S. § 6139(a)(2) and (a)(14).

17. Section 6139 of the Mortgage Licensing Act provides that the Department may suspend, revoke or refuse to renew a license issued under the Mortgage Licensing Act if an owner has "[e]ngaged in dishonest, fraudulent or illegal practices or conduct in a business or unfair or unethical practices or conduct in connection with the mortgage loan business." 7 Pa. C.S. § 6139(a)(3).

18. Section 6140(b) of the Mortgage Licensing Act 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).

ALLEGED VIOLATIONS

19. The Bureau believes AMF violated the Mortgage Licensing Act and an order of the Department when it conducted the mortgage loan business through a mortgage originator that was unlicensed or was under order of suspension by the Department, and when it failed to properly control and supervise its employee in accordance with the requirements of the Mortgage Licensing Act. 7 Pa. C.S. § 6111(a); 7 Pa. C.S. § 6131(f)(1); 7 Pa. C.S. § 6139(a)(2).

RELIEF

20. Fine. AMF, to avoid litigation and without admitting wrongdoing, agrees to pay a fine of \$40,750.00 which shall be due and payable to the Department in nine installments as defined as follows. The first installment of \$23,750.00 shall be due and payable to the Department on or before January 1, 2011. Installments two through nine of \$2,125.00 each shall be due and payable to the Department on the first of each month starting February 1, 2011 and ending September 1, 2011. 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 Licensing Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

21. Corrective Measures. Upon the effective date of this Order, AMF shall cease and desist from conducting the mortgage loan business through unlicensed mortgage originators or originators under order of suspension, and shall cease and desist from failing to properly control and supervise its employees in accordance with the requirements of the Mortgage Licensing Act.

FURTHER PROVISIONS

22. Consent. AMF hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order issued pursuant to the Bureau's order authority under the Mortgage Licensing Act and agrees that it understands all of the terms and conditions contained herein. AMF, 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.

23. 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)

24. 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 AMF.

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

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

27. Effectiveness. AMF hereby stipulates and agrees that the Order shall become effective on the date the Bureau executes the Order.

28. 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 AMF, in the future regarding all matters not resolved by this Order.

b. AMF acknowledges and agrees that this Order is only binding upon the Department and not other local, state or federal agency, department or office regarding matters within this Order.

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

30. Counterparts. This order may be executed in separate counterparts and by facsimile or electronic mail in portable document format "pdf."

31. 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 AMF 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**

Robert E. Knaub, Enforcement Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking
Date: 12/2/10

~~FOR AMERICAN MORTGAGE FINANCE, INC.~~

(Officer Signature)

(Print Officer Name)

(Title)

Date: 12/2/2010