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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. <u>100113</u> (ENF-CO)
	:	
v.	:	
	:	
FRANK J. WEAVER INC. DBA	:	
ATLANTIC HOME EQUITY	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing ("Bureau"), conducted a review of the business practices of Frank J. Weaver Inc. d/b/a Atlantic Home Equity ("Atlantic Home Equity") and its officers, employees and directors. Based on the results of the review, the Bureau believes that Atlantic Home Equity violated the Mortgage Licensing Act ("MLA"), 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 ("Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the MLA.
2. The Bureau is primarily responsible for administering and enforcing the MLA for the Department.

3. Atlantic Home Equity is currently licensed as a Mortgage Correspondent, license no. 21657, Nationwide Mortgage Licensing System and Registry ID# 126333 with a principal place of business located at 170 Lakefront Drive, Hunt Valley, MD 21030 ("Principal Place").

Misleading Advertising

4. On or about March 22, 2010, the Department received a complaint from a Pennsylvania consumer about a solicitation (the "Solicitation") that was received in the mail.

5. The Solicitation provided that "Your home loan with Sewickley Savings Bank has gone under review. This recent review may enable your last monthly payment to fall on March 1, 2010."

6. The Solicitation further provides, in relevant part, that:

As an additional bonus to loans that are restructured in the month of March, may also qualify for **additional cash with no payments.**

Please call 1-888-347-8495 and reference the customer number above to begin the restructure process.

7. The Solicitation was sent by a marketing company on behalf of Atlantic Home Equity.

8. The Solicitation's contents appeared to notify consumers of an issue with their current mortgage and they would need to call Atlantic Home Loans to begin the restructure process.

9. Section 6123(3) of the MLA provides that:

A licensee engaging in the mortgage loan business shall not: . . .

(3) Advertise, cause to be advertised or otherwise solicit whether orally, in writing, by telecast, by broadcast or in any other manner any statement or representation which is false, misleading or deceptive.

See 7 Pa. C.S. § 6123(3) (emphasis added).

10. Atlantic Home Equity Corp. violated the MLA by sending a Solicitation to Pennsylvania consumers that could be considered misleading as to its content and purpose because it appeared to be notifying the consumer of a problem with their current mortgage whereas in reality, it was a solicitation for business by Atlantic Home Equity.

11. Atlantic Home Equity contends that the Solicitation was not approved by management and was sent in error by the marketing company.

Authority of the Department

12. Section 6138(a)(4) of the MLA grants the Department broad authority to issue orders for the enforcement of the MLA. 7 Pa. C.S. § 6138(a)(4).

13. Section 6140(b) of the MLA 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.

See 7 Pa. C.S. § 6140(b).

VIOLATIONS

14. Atlantic Home Equity violated Sections 6123(3) of the MLA by sending a solicitation to Pennsylvania consumers that could be considered misleading as to its content and purpose. *See* 7 Pa. C.S. §§ 6123(3).

RELIEF

15. Corrective Action. Upon the Effective Date of this Order, Atlantic Home Equity will cease and desist from using any advertisement or solicitation that is misleading or deceptive.

16. Fine. Atlantic Home Equity will pay to the Department a fine in the amount of \$500 which shall be due within 30 days of the date of the Effective Date of this Order. The

payment shall be made by certified check or money order made payable 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.

FURTHER PROVISIONS

17. Consent. Atlantic Home Equity hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the MLA and agrees that it understands all of the terms and conditions contained herein. Atlantic Home Equity, 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.

18. 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).

19. 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 Atlantic Home Equity.

20. Binding Nature. The Department and Atlantic Home Equity intend to be and are legally bound by the terms of this Order.

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

22. Effectiveness. Atlantic Home Equity hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

23. 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 Atlantic Home Equity in the future regarding all matters not resolved by this Order.

b. Atlantic Home Equity 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.

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

25. Counterparts. This Order may be executed in separate counterparts, by facsimile and PDF.

26. 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 Atlantic Home Equity, 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
Department of Banking,
Bureau of Compliance, Investigation and Licensing

Date: April 16, 2010

FOR FRANK J. WEAVER INC. DBA ATLANTIC HOME EQUITY

(Officer Signature)

Print Officer Name

President
(Title)

Date: 4/16/10