

3. GMAC Mortgage was formerly licensed as a First Mortgage Banker, license no. 16663, pursuant to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (“MBBCEPA”), 63 P.S. § 456.301 et. seq., and as a Secondary Mortgage Lender, license no. 16683 pursuant to the Secondary Mortgage Loan Act (“SMLA”), 7 P.S. § 6601 et. seq.

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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.

5. GMAC Mortgage is currently licensed under the Mortgage Licensing Act as a Mortgage Lender with the Nationwide Mortgage Licensing System Registry (“NMLSR”) identification number of 1045.

6. GMAC Mortgage maintains its principal place of business at 1100 Virginia Drive Fort Washington, PA 19034 (“Principal Place”).

7. GMAC Mortgage operates multiple licensed branch offices.

8. On or around March 5, 2009, a Department examiner initiated an examination (“Examination”) of GMAC Mortgage at the Principal Place. The Examination was intended to determine the level of GMAC Mortgage’s compliance with applicable law during the period beginning September 19, 2006 and ending October 31, 2008.

Unlicensed Branch Locations

9. The Examination revealed that GMAC Mortgage originated 109 mortgage loans involving Pennsylvania real property (“Pennsylvania Loans”) from two unlicensed locations in Manchester, New Hampshire and Winston-Salem, North Carolina (“Unlicensed Locations”).

10. The Mortgage Licensing Act defines a “branch” as “[a]n office or other place of business, other than the principal place of business, where a person engages in the mortgage loan business subject to this chapter.” 7 Pa. C.S. § 6102.

11. The Residential Mortgage Loan Applications for the Pennsylvania Loans reflected employee names and phone numbers associated with the Unlicensed Locations.

12. The Mortgage Licensing Act requires a mortgage loan business applicant to disclose in their application for licensure all *addresses* where they will be conducting mortgage loan business. 7 Pa. C.S. § 6131(a)(1)(ii)(emphasis added).

13. The Mortgage Licensing Act defines mortgage loan business as “the 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 (corresponding to 63 P.S. § 456.302).

14. GMAC Mortgage explained to the Department that the Unlicensed Locations occurred due to miscommunications with employees in the field.

15. GMAC Mortgage explained that the violations were in no way deliberate and took place unintentionally while the company dealt with internal changes.

16. Because the Winston-Salem, North Carolina and Manchester, New Hampshire branches of GMAC Mortgage were unlicensed, any mortgage loan origination activity at these branches, secured by real property located in Pennsylvania, constituted unlicensed activity under the Mortgage Licensing Act.

Unlicensed Loan Originators

17. The Examination revealed that of the 160 GMAC Mortgage mortgage loan originators reviewed, three (3) individuals (“Unlicensed Individuals”) were not licensed as mortgage loan originators under the Mortgage Licensing Act.

18. GMAC Mortgage accepted ten (10) Pennsylvania residential mortgage applications from these Unlicensed Individuals.

19. As of January 1, 2009, individuals acting as mortgage loan originators were required to be licensed as mortgage originators pursuant to Section 6111(a) of the Mortgage Licensing Act. *See* Section 13 of H.B. 1654 (2009).

20. The Unlicensed Individuals submitted loan originator applications to the Department during the transitional period.

21. The Unlicensed Individuals did not receive conditional licenses from the Department because information contained in their applications required further investigation.

22. The Unlicensed Individuals originated the Pennsylvania residential mortgage applications subsequent to January 1, 2009.

23. The Mortgage Licensing Act prohibited the Unlicensed Individuals from engaging in the mortgage business in Pennsylvania subsequent to January 1, 2009 until they obtained the proper licenses. 7 Pa. C.S. § 6111(a).

24. GMAC Mortgage explained that the Unlicensed Individuals incorrectly assumed that their Pennsylvania license applications had been approved and did not realize their activity constituted a violation.

25. GMAC Mortgage explained to the Bureau that upon learning of the Unlicensed Individuals, it promptly reassigned these loans to Pennsylvania licensed loan officers and the Unlicensed Individuals received no commissions in relation to these loans.

26. GMAC Mortgage explained to the Bureau that the violations were unintentional and in no way deliberate.

27. Because the Unlicensed Individuals conducted mortgage activity secured by real property located in Pennsylvania without a license, any Pennsylvania mortgage loan origination by the Unlicensed Individuals constituted unlicensed activity under the Mortgage Licensing Act.

Authority of the Department

28. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department broad authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

29. Section 6139(a)(14) 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 “a mortgage broker, mortgage lender or mortgage loan correspondent, conducted *the mortgage loan business through an unlicensed mortgage originator.*” (*emphasis added*) 7 Pa. C.S. § 6139(a)(14).

30. 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).

VIOLATIONS

31. GMAC Mortgage is in violation of Sections 6139(a)(14) of the Mortgage Licensing Act by accepting mortgage loans from unlicensed loan originators.

32. GMAC Mortgage violated Sections 6131(a)(1)(ii) and 6132(b)(2) of the Mortgage Licensing Act by originating mortgage loans involving Pennsylvania property from unlicensed branch locations.

RELIEF

33. Fine. GMAC Mortgage agrees to pay a fine of forty-three thousand dollars (\$43,000) 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 company check, certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of Compliance Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

34. Voluntary Restitution. GMAC Mortgage refunded approximately \$63,000 in reserve amounts it collected from consumers at closing from July 1, 2008 to May 1, 2009. Upon the Effective Date of this Order, GMAC shall not charge Mortgage Insurance Premiums in excess of the reserve calculation. GMAC Mortgage has also agreed to promptly implement corrective measures so that its origination system will disregard Mortgage Insurance Premiums when calculating escrow reserves. GMAC Mortgage agreed to take these steps despite disagreeing with the Bureau regarding an interpretation of RESPA.

35. Corrective Measures. Upon the Effective Date of this Order, GMAC Mortgage shall immediately cease and desist from:

- a. accepting Pennsylvania residential mortgage applications from individuals who are not properly licensed under the Mortgage Licensing Act,
- b. originating loans from unlicensed locations, and
- c. including MIP in the cushion for the escrow reserve accounts of consumers.

FURTHER PROVISIONS

36. Consent. GMAC Mortgage 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 herein. GMAC Mortgage, 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.

37. 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).

38. 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 GMAC Mortgage.

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

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

41. Effectiveness. GMAC Mortgage hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

42. 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 GMAC Mortgage in the future regarding all matters not resolved by this Order.

b. GMAC Mortgage 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.

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

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

45. 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 GMAC Mortgage 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: August 24, 2010

FOR GMAC MORTGAGE, LLC d/b/a DITECH

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 08/18/2010