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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING, BUREAU	:	Docket No. 10 <u>0175</u> (ENF-CO)
OF COMPLIANCE, INVESTIGATION	:	
AND LICENSING	:	
	:	
	:	
v.	:	
	:	
GUARANTEED MORTGAGE COMPANY	:	
	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, conducted an examination of Guaranteed Mortgage Company ("Guaranteed Mortgage"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Guaranteed Mortgage 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 ("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. Guaranteed Mortgage was formerly licensed as a First Mortgage Broker, license no. 4667, pursuant to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (the "MBBCEPA") and as a Secondary Mortgage Broker, license no. 2084, pursuant to the Secondary Mortgage Loan Act (the "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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.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. The Department granted Guaranteed Mortgage a conditional license pursuant to the Mortgage Licensing Act on November 5, 2008.

6. Guaranteed Mortgage is currently licensed under the Mortgage Licensing Act as a mortgage lender, with the Nationwide Mortgage Licensing System Registry identification number of 22291.

7. On or around October 30, 2009, an examination of Guaranteed Mortgage commenced at its then principal place of business at 3608 Saint Lawrence Avenue, Suite 102, Reading, Pennsylvania 19606-2356.

Unlicensed Location

8. The Examination revealed that a licensed mortgage originator employed by Guaranteed Mortgage originated seven (7) first mortgage loans for Guaranteed Mortgage from an address in Landenberg, Pennsylvania.

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

10. The Mortgage Licensing Act defines the mortgage loan business as “[t]he 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.

11. Guaranteed Mortgage maintains three (3) branch offices in Pennsylvania located in Allentown, Natrona Heights and Harrisburg.

12. The Landenberg, Pennsylvania address was not a licensed branch of Guaranteed Mortgage.

13. 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).

14. Because Guaranteed Mortgage accepted seven first mortgage loans from a licensed mortgage originator at an unlicensed location, Guaranteed Mortgage violated the Mortgage Licensing Act by operating in the mortgage loan business from an unlicensed branch.

Authority of the Department

15. 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).

16. 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

17. Guaranteed Mortgage violated Section § 6131(a)(1)(ii) of the Mortgage Licensing Act because it accepted seven first mortgage loans from a licensed mortgage originator at an unlicensed branch.

RELIEF

18. Fine. Guaranteed Mortgage agrees to pay a fine of three thousand dollars (\$3,000) 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: Department of Banking, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

19. Corrective Measures. Upon the Effective Date of the Order, Guaranteed Mortgage shall immediately cease and desist from originating mortgage loans at unlicensed locations.

FURTHER PROVISIONS

20. Consent. Guaranteed 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. Guaranteed 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.

21. 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).

22. 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 Guaranteed Mortgage.

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

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

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

26. 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 Guaranteed Mortgage in the future regarding all matters not resolved by this Order.

b. Guaranteed 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.

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

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

29. 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 Guaranteed 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 6, 2010

FOR GUARANTEED MORTGAGE COMPANY

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 8/6/10