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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.

MORTGAGE NOW, INC.

Docket No. 10 0227 (ENF-CO)

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 Mortgage Now, Inc. ("Mortgage Now") operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* It is Mortgage Now's position that at all times it operated with the belief that it was in compliance with the Mortgage Licensing Act, and all other relevant statutes and regulations. Mortgage Now 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. Mortgage Now is licensed as a mortgage lender under the Mortgage Licensing Act license number 27176 and has a NMLS ID number of 117338.

4. Mortgage Now maintains its principal place of business at 750 W. Resource Dr, Suite 300 Brooklyn Heights, OH 44131-1879.

Unlicensed Mortgage Originators

5. 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).

6. Beginning on August 10, 2010 the Bureau conducted an investigation that revealed Mortgage Now had originated mortgages through employees unlicensed to perform such services.

7. The Bureau obtained a loan log from Mortgage Now pursuant to its investigation for the period beginning November 5, 2008 through August 10, 2010.

8. The loan log shows that 456 mortgage loan applications were originated between November 5, 2008 and August 10, 2010 by ninety-one unlicensed mortgage originators.

9. The mortgage loan applications originated by Mortgage Now subsequent to November 5, 2008 through unlicensed individuals are in violation of the Mortgage Licensing Act.

10. Mortgage Now 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).

11. It is the Bureau's position that by failing to ensure that Mortgage Now employed only licensed mortgage loan originators, Mortgage Now 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.

12. It is the position of Mortgage NOW that it was in substantial compliance with the Mortgage Licensing Act in light of the various changes to that statute in a limited period of time regarding the licensing requirements and because it maintained a licensed office, performed background checks, and met the S.A.F.E Act 20 hour training requirement for its loan originators.

Access to Books and Records

13. The Mortgage Licensing Act provides, "[e]ach licensee shall be subject to examination by the department at its discretion, at which time the department shall have free access, during regular business hours, to the licensee's place or places of business and to all instruments, documents, accounts, books and records which pertain to a licensee's first or secondary mortgage loan business." 7 Pa.C.S. § 6135(a)(4).

14. It is the Bureau's position that the access provided did not meet the strict requirements of the Mortgage Licensing Act.

15. It is Mortgage Now's position that it was compliant in all respects with the Bureau's requests for access to instruments, documents, accounts, books and records which pertain to a licensee's first or secondary mortgage loan business.

Authority of the Department

16. 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).

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 “failed to comply with or violated any provision of this chapter. . . .” 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).

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 Mortgage Now violated the Mortgage Licensing Act on 453 occasions when it continued to conduct the mortgage loan business through unlicensed mortgage originators after November 5, 2008, and when it failed to properly control and supervise its employees in accordance with the requirements of the Mortgage Licensing Act. 7 Pa. C.S. § 6111(a); 7 Pa. C.S. § 6131(f)(1).

20. The Bureau believes that the access provided by Mortgage Now did not meet the strict requirements of the Mortgage Licensing Act. 7 Pa. C.S. § 6135(a)(4).

21. Mortgage Now denies any violation or wrongdoing.

RELIEF

23. Fine. Mortgage Now, to avoid litigation and without admitting any wrongdoing, agrees to pay a fine of \$114,000.00 which shall be due and payable in eleven installments. The first installment of \$14,000.00 is due and payable on October 15, 2010. The remaining ten installments of \$10,000.00 each shall be due and payable on the 15th of each month starting November 15, 2010 and ending August 15, 2011. The fine payments shall be remitted by a 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.

24. Compromise. It is expressly understood by the parties that this is a compromise agreement entered into by Mortgage Now and the Bureau solely for the purpose of avoiding the expense, inconvenience and uncertainty of litigation.

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

FURTHER PROVISIONS

26. Consent. Mortgage Now 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. Mortgage Now, 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.

27. Publication. The Department will publish this Order on its website pursuant to its authority in Section 302.A.(5) of the Department of Banking Code, 71 P.S. § 733-302.A.(5), and will otherwise make the Order available pursuant to requirements of law.

28. 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 Mortgage Now.

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

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

31. Effectiveness. Mortgage Now hereby stipulates and agrees that the Order shall become effective on the date the Bureau executes the Order.

32. 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 Mortgage Now, in the future regarding all matters not resolved by this Order.

b. Mortgage Now 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.

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

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

35. 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 Mortgage Now 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: 9/24/10

FOR MORTGAGE NOW, INC.

(O. _____)

(Print Officer Name)

PRESIDENT
(Title)

Date: 9/22/2010