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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. 10 0114 (ENF-CO)

v.

PINNACLE MORTGAGE, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, conducted an examination of Pinnacle Mortgage, Inc. ("Pinnacle Mortgage"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Pinnacle 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. Pinnacle Mortgage was formerly licensed as a First Mortgage Broker, license no. 1463, pursuant to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity

Order

Protection Act (the "MBBCEPA") and as a Secondary Mortgage ^{Lender} Broker, license no. 12492, pursuant to the Secondary Mortgage Loan Act (the "SMLA"), 7 P.S. § 6601 et seq.

4. The Mortgage Licensing Act is the successor statute to Chapter 3 of the MBBCEPA and the SMLA.

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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.

6. The Department granted Pinnacle Mortgage a conditional license pursuant to the Mortgage Licensing Act on November 5, 2008.

7. Pinnacle Mortgage is currently licensed under the Mortgage Licensing Act as a mortgage broker, with the National Mortgage Licensing System ("NMLS") identification number of 21677.

8. On or around October 17, 2008, an examination of Pinnacle commenced at its then principal place of business at 1000 Germantown Pike Unit B8, Plymouth Meeting, Pennsylvania 19462.

9. Pinnacle Mortgage operates offices in Pennsylvania and New Jersey.

Unlicensed Activity

10. The Examination revealed that Pinnacle Mortgage continued to originate Pennsylvania mortgages from a branch without a Pennsylvania license and to misrepresent the originating location on mortgage loan applications despite the terms of its May 4, 2006 order with the Department.

11. 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.

12. Pinnacle Mortgage maintains a branch at 383 Ridgedale Avenue, East Hanover, New Jersey 07936.

13. Pinnacle Mortgage's East Hanover New Jersey branch is not licensed by the Department.

14. The Examination revealed that Pinnacle Mortgage originated sixteen (16) first mortgage loans and two (2) second mortgage loans to Pennsylvania residents from its unlicensed East Hanover New Jersey branch.

15. The Examination also revealed that eight (8) of the closed mortgage loans to Pennsylvania residents had the origination addresses altered on the Residential Mortgage Loan Application to reflect Pinnacle Mortgage's 1000 Germantown Pike Unit B8, Plymouth Meeting, Pennsylvania 19462.

16. 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).

17. Pinnacle Mortgage failed to disclose on its application that it conducted mortgage loan business at its East Hanover New Jersey branch as required by the Mortgage Licensing Act.

18. Because Pinnacle Mortgage failed to disclose its East Hanover New Jersey branch, any mortgage loan origination activity at the East Hanover New Jersey branch, in regards to mortgage loans secured by real property located in Pennsylvania, constituted unlicensed activity under the Mortgage Licensing Act.

Authority of the Department

19. 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).

20. The Mortgage Licensing Act applies to mortgage loans regardless of their place of execution where the mortgage loan is secured by real property located in Pennsylvania. 7 Pa. C.S. § 6151(1)(iii).

21. 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

22. Pinnacle Mortgage is in violation of Section § 6131(a)(1)(ii) of the Mortgage Licensing Act because it failed to disclose on its mortgage loan originator application that it conducted mortgage loan business out of a branch in East Hanover New Jersey.

RELIEF

23. Fine. Pinnacle Mortgage agrees to pay a fine of fifteen thousand dollars (\$15,000) 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: Pennsylvania Department of Banking, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

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

FURTHER PROVISIONS

25. Consent. Pinnacle 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. Pinnacle 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.

26. 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).

27. 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 Pinnacle Mortgage.

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

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

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

31. 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 Pinnacle Mortgage in the future regarding all matters not resolved by this Order.

b. Pinnacle 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.

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, by facsimile and by 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 Pinnacle 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**

Lucy Cortez, Enforcement Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 4/22/10

FOR PINNACLE MORTGAGE, INC.

(Signature)

(Print Office Name)

(Print Office Name)

Office Manager
(Title)

Date: 4/22/10