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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:	Docket No. 10 <u>0218</u> (ENF-CO)
DEPARTMENT OF BANKING, BUREAU	:	
OF COMPLIANCE, INVESTIGATION	:	
AND LICENSING	:	
	:	
v.	:	
SUPERIOR MORTGAGE CORP.	:	
D/B/A SUPERIOR HOME	:	
MORTGAGE CORP.	:	

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of Superior Mortgage Corp. d/b/a Superior Home Mortgage Corp. ("Superior Mortgage"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Superior 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. Superior Mortgage is currently licensed under the Mortgage Licensing Act as a Mortgage Lender, license no. 21240, with a Nationwide Mortgage Licensing System and Registry identification number of 2743.

4. Superior Mortgage maintains its principal place of business at 854 S. White Horse Pike, Hammonton, NJ 08037 ("Principal Place") along with various branch locations.

5. On or around May 12, 2009, the Department commenced an examination ("Examination") of Superior Mortgage at the 640 W. Uwchlan Ave, Exton PA 19341 branch location.

#### Unlicensed Branch Locations

6. The Examination revealed that Superior Mortgage originated eighteen (18) mortgage loans involving Pennsylvania real property from 5700 Kennett Pike, Wilmington DE, and four (4) from 1002 Lincoln Dr. West, Ste E Marlton, NJ prior to the locations being licensed as branches ("Unlicensed Branches").

7. 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.

8. Section 6131(a)(1)(ii) of the Mortgage Licensing Act provides, in relevant part, that an application for licensure shall include "[t]he address of the principal place of business of the applicant and the address *or addresses* where the applicant's mortgage loan business is to be conducted." 7 Pa. C.S. § 6131(a)(1)(ii) (emphasis added).

9. Section 6132 of the Mortgage Licensing Act provides that a licensee must pay initial application fees and renewal fees for each branch office. 7 Pa. C.S. § 6132.

10. Based on the foregoing, any office of a licensee where mortgage loan business is conducted under the Mortgage Licensing Act must be licensed as a branch pursuant to the Mortgage Licensing Act.

Violation of Previous Order

11. On September 16, 2008, Superior Mortgage entered into a Consent Agreement and Order (Docket No. 080243 ENF-CO) with the Department for originating mortgage loans from unlicensed branch locations.

12. The terms of the September 16, 2008 Order required Superior Mortgage to cease and desist from originating first and secondary mortgage loans from unlicensed branch locations upon the effective date of that order, which was September 16, 2008 and to pay a fine of \$12,000 for those violations.

13. By originating loans from the Unlicensed Branches Superior Mortgage violated an order issued by the Department for which Superior Mortgage's license could be suspended, revoked or not renewed. 7 Pa. C.S. § 6139(a)(2).

14. By originating loans from the Unlicensed Branches, Superior Mortgage displayed negligence in the mortgage business for which Superior Mortgage's license could be suspended, revoked or not renewed. 7 Pa. C.S. § 6139(a)(10).

Unlicensed Loan Originator

15. The Mortgage Licensing Act is the successor statute to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (the "MBBCEPA"), 63 P.S. § 456.101 et seq., and the Secondary Mortgage Loan Act (the "SMLA"), 7 P.S. § 6601 et seq. 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. The Mortgage Licensing Act was amended on August 5, 2009 by Act 31 of 2009, H.B. 1654 (P.N. 2448).

16. Section 6111(a) of the Mortgage Licensing Act provides, in relevant part, "on and after the effective date of this section, no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator as provided under this chapter...." 7 Pa. C.S. § 6111(a).

17. As November 5, 2008, individuals acting as mortgage loan originators were required to be licensed as mortgage originators pursuant to Section 6111(a) of the Mortgage Licensing Act.

18. The Examination revealed that Superior Mortgage accepted thirty-five (35) Pennsylvania residential mortgage applications from unlicensed mortgage originators (the "Unlicensed Individuals") subsequent November 5, 2008.

19. Superior Mortgage 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).

20. By failing to ensure that Superior Mortgage employed only licensed mortgage loan originators, Superior Mortgage failed to directly supervise, control and maintain responsibility for the acts and omission of the mortgage originators they employed as required by the Mortgage Licensing Act.

21. 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 has "conducted the mortgage loan business through an unlicensed mortgage originator." 7 Pa. C.S. § (a)(14).

22. Superior Mortgage has informed the Department that they have instituted internal control measures which will ensure that all branches are properly licensed and will also prohibit unlicensed individuals from engaging in the mortgage business in Pennsylvania.

#### Authority of the Department

23. 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).

24. 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**

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

26. Superior Mortgage violated Sections 6111(a), 6131(f)(1) and 6139(a)(14) of the Mortgage Licensing Act by accepting mortgage loans from unlicensed loan originators.

27. Superior Mortgage violated Sections 6139(a)(2) and 6139(a)(10) of the Mortgage Licensing Act by violating a previous order issued by the Department.

## RELIEF

28. Fine. Superior Mortgage agrees to pay a fine of thirty thousand dollars (\$30,000) 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.

29. Corrective Measures. Upon the Effective Date of this Order, Superior 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, and
- b. originating loans from unlicensed locations.

## FURTHER PROVISIONS

30. Consent. Superior 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. Superior 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.

31. 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).

32. 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 Superior Mortgage.

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

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

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

36. 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 Superior Mortgage in the future regarding all matters not resolved by this Order.

b. Superior 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.

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

38. Counterparts. This Order may be executed in separate counterparts, by facsimile or electronic mail in portable document format "pdf."

39. 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.

