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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING, BUREAU  
OF COMPLIANCE, INVESTIGATION  
AND LICENSING

Docket No. 10 0198 (ENF-CO)

v.

TRIDENT MORTGAGE COMPANY LP

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of Trident Mortgage Company LP ("Trident Mortgage"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Trident Mortgage operated in violation of 7 Pa. C.S. § 6101 *et seq.* ("Mortgage Licensing Act") and the regulation promulgated there under at 10 Pa. Code § 46.1 *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. Trident Mortgage is currently licensed under the Mortgage Licensing Act as a Mortgage Lender, license no. 25331, with a Nationwide Mortgage Licensing System and Registry identification number of 111942.

4. Trident Mortgage maintains its principal place of business at 431 W Lancaster Ave, Devon, PA 19333 along with various branch locations.

5. On August 20, 2008 Trident Mortgage entered into a Consent Agreement and Order ("2008 Order") with the Department, Docket No. 080217 ENF-CO.

6. The 2008 Order was entered into by Trident Mortgage and the Bureau in order to resolve the issue of loan origination from unlicensed branch locations by imposing a fine for said unlicensed activity and ordering Trident Mortgage to cease and desist from originating first and secondary mortgage loans from unlicensed branch locations.

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. 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*).

9. The Mortgage Licensing Act required all mortgage loan originators engaging in the mortgage business in Pennsylvania to be licensed by January 1, 2009. 7 Pa. C.S. § 6111(a).

10. The Mortgage Licensing Act requires mortgage brokers to directly supervise, control and maintain responsibility for the acts and omissions of the mortgage originators they employ. 7 Pa. C.S. § 6131(f)(1).

11. Regulations promulgated under the Mortgage Licensing Act require mortgage brokers and originators to disclose to applicants, on a form prescribed by the Department, information regarding any escrow account, any lock-in on rates, any variable rate, any balloon payment, any prepayment penalty, and any negative amortization. 10 Pa. Code § 46.2.

12. Regulation Z promulgated under the Truth-in-Lending Act provides that the annual percentage rate associated with an advertised rate of finance be disclosed in the advertisement. 12 CFR 226.24(c).

13. On March 16, 2010, the Department commenced an examination of Trident Mortgage at its principal place of business for the period beginning April 1, 2008, through April 16, 2010.

#### VIOLATIONS

14. The examination revealed that Trident Mortgage originated eighty-two (82) mortgage loans for Pennsylvania residential property from four unlicensed branch locations in New Jersey in violation of Sections 6131(a)(1)(ii) and 6132(a)(1) of the Mortgage Licensing Act. 7 Pa.C.S. §§ 6131(a)(1)(ii); 6132(a)(1).

15. The unlicensed branch locations were located in Mullica Hills, Princeton Junction, Margate and Ocean City, New Jersey.

16. The examination revealed that on 151 occasions Trident Mortgage conducted the mortgage loan business through unlicensed mortgage originators thereby failing to supervise, and control its mortgage originators in violation of the Mortgage Licensing Act. 7 Pa. C.S. §§ 6131(f)(1); 6139(a)(14).

17. The examination revealed that Trident Mortgage violated the regulations promulgated under the Mortgage Licensing Act when it failed routinely to provide consumers

with the disclosure on escrow accounts, rates and other terms and conditions. 10 Pa. Code § 46.2(b).

18. The examination revealed that Trident Mortgage violated Regulation Z when it failed to disclose the annual percentage rate when it advertised loan rates on its website and through other means. 12 CFR 226.24(c).

19. During the period of examination, Trident Mortgage submitted license applications for the unlicensed branches which have since been approved and licensed.

20. During the period of examination, Trident Mortgage instituted internal control measures to ensure that all branches and loan originators are properly licensed.

#### AUTHORITY OF THE DEPARTMENT

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

22. 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.

23. Section 6131(f)(1) of the Mortgage Licensing Act provides that a mortgage broker shall directly supervise, control and maintain responsibility for the acts and omissions of the mortgage originator. 7 Pa. C.S. § 6131(f)(1).

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).

**RELIEF**

25. Fine. Trident Mortgage agrees to pay a fine of one hundred twenty thousand dollars (\$120,000) which shall be due and payable to the Department in six (6) installments of twenty thousand dollars (\$20,000) with the first payment due within thirty (30) days of the effective date of this order and subsequent payments due every 30 days thereafter until paid in full. The fine payments shall be remitted by company checks, certified checks or money orders made payable to the Pennsylvania Department of Banking and sent to the attention of the Compliance Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

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

- a. originating loans from unlicensed location;
- b. conducting the mortgage loan business through mortgage originators who are not licensed under the Mortgage Licensing Act;
- c. failing to supervise and control its mortgage originators;
- d. failing to provide the required disclosure under Section 46.2(b) of the Proper Conduct Regulation; and
- e. advertising rates without the corresponding annual percentage rate as required under Regulation Z.

## FURTHER PROVISIONS

27. Consent. Trident 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. Trident 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.

28. 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).

29. 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 Trident Mortgage.

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

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

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

33. 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 Trident Mortgage in the future regarding all matters not resolved by this Order.

b. Trident 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.

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

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

36. 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.

