

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

2010 SEP -8 AM 11:54

PA DEPT OF BANKING

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

Docket No. 10 0207 (ENF-CO)

v.

VINCENT R. LIOTT, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of Vincent R. Liott, Inc. and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Vincent R. Liott, Inc. is in violation of 7 Pa. C.S. § 6101 et. seq., the Mortgage Licensing Act and the regulation promulgated under the Mortgage Licensing Act known as the Proper Conduct of Lending and Brokering in the Mortgage Loan Business ("Proper Conduct Regulation"), 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. Vincent R. Liott, Inc. ("Liott") was formerly licensed as a First Mortgage Broker, license no. 16439, pursuant to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act ("MBBCEPA") and as a Secondary Mortgage Broker, license no. 16440, pursuant to the Secondary Mortgage Loan Act ("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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Licensing Act.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 issued Liott a conditional license as a mortgage broker pursuant to the Mortgage Licensing Act on December 24, 2008.

6. Liott is currently licensed under the Mortgage Licensing Act as a mortgage broker, with the Nationwide Mortgage Licensing System Registry ("NMLSR") identification number of 119476.

7. On August 5, 2009, the Bureau of Examinations commenced an examination ("Examination") of Liott at its principal location of 1246 W Chester Pike, Ste 316, West Chester, Pennsylvania 19382-5683.

8. The examiner reviewed fourteen (14) Liott mortgage loan files originated after March 20, 2009.

Consumer Disclosure Form

9. The Examination revealed that of the fourteen (14) mortgage loan files reviewed, five (5) files contained signed blank consumer disclosure forms, five (5) files contained no evidence that the applicants received the consumer disclosures, and one (1) file contained a signed, but incomplete consumer disclosure.

10. The Proper Conduct Regulation states a licensee must disclose certain information to an applicant. 10 Pa. Code § 46.2(b).

11. Before the licensee gives the consumer disclosure form to the applicant, the licensee is required to sign and date, then deliver or place in the mail, the consumer disclosure form within three (3) business days after the application is received or prepared by the licensee. 10 Pa. Code § 46.2(c).

12. The Proper Conduct Regulation requires that the licensee obtain the signed and dated consumer disclosure form from an applicant within ten (10) business days after delivery or mailing. 10 Pa. Code § 46.2(e).

13. Upon timely receiving a signed and dated consumer disclosure, the Proper Conduct Regulation requires the licensee to retain the original executed disclosure form in the applicant's loan file. 10 Pa. Code § 46.2(e).

14. A licensee is prohibited from directing, encouraging, permitting or otherwise being involved with the improper execution of any document including "[r]equesting or allowing an applicant to sign documents that contain blank spaces where material information regarding the loan transaction is required." 10 Pa. Code § 46.2(j)(6)(i).

15. Thus, the Proper Conduct Regulation requires that a licensee must complete all information on the disclosure.

16. Section 46.3(a) of the Proper Conduct Regulation provides that a violation of the Proper Conduct Regulation is a violation of the Mortgage Licensing Act. 10 Pa. Code § 46.3(a).

17. Vincent R. Liott, Sr. told the examiner that although the files contained blank consumer disclosure forms, it is his understanding that Liott later sent these forms to the respective clients and obtained their signatures.

18. Because Liott failed to obtain consumer signatures on the consumer disclosures forms in the manner set forth by Proper Conduct Regulation and provided blank disclosures for consumers to sign, Liott is in violation of the Proper Conduct Regulation and the Mortgage Licensing Act.

Requested Appraisal Values

19. The Examination revealed that of the fourteen (14) mortgage loan files reviewed, five (5) were refinance loan files.

20. The five refinance loan files contained fax cover sheets appearing to ask the appraiser to return a minimum appraised value ("Target Value") for the subject properties so that the applicants could refinance their properties under the offered loan.

21. Section 46.2(j)(8)(i)(B) of the Proper Conduct Regulation provides, in part, that a licensee may not improperly influence or attempt to improperly influence "[a]n appraiser by committing any act or omission that is intended to ...[e]nsure that an appraisal matches a requested or target value." 10 Pa. Code § 46.2(j)(8)(i)(B).

22. Section 46.3(a) of the Proper Conduct Regulation provides that a violation of the Proper Conduct Regulation is a violation of the Mortgage Licensing Act. 10 Pa. Code § 46.3(a).

23. Vincent R. Liott, Sr. told the examiner that he did not realize his request for a specific minimum appraised value constituted improper behavior.

24. Vincent R. Liott, Sr. told the examiner that the fax cover sheets contained a Target Value because Liott contends he had an arrangement with the appraisers that if the appraisals would not meet or exceed the Target Value listed by Liott on the fax cover sheets, then the appraiser should not perform the appraisal.

25. Liott is in violation of the Proper Conduct Regulation because he requested Target Values from appraisers.

Authority of the Department

26. 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).

27. Section 6139(a)(3) 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 licensee or director, officer, partner, employee or owner of a licensee has “[e]ngaged in dishonest, fraudulent or illegal practices or conduct in a business or unfair or unethical practices or conduct in connection with the mortgage loan business.” 7 Pa. C.S. § 6139(a)(3).

28. Section 6139(a)(10) 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 licensee or director, officer, partner, employee or owner of a licensee “has demonstrated negligence or incompetence in performing an act for which the licensee is required to hold a license under this chapter.” 7 Pa. C.S. § 6139(a)(10).

29. 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

30. Liott violated the Mortgage Licensing Act and the Proper Conduct Regulation because he did not have consumers sign properly completed consumer disclosure forms.

31. Liott violated the Mortgage Licensing Act and the Proper Conduct Regulation by requesting a target value from an appraiser.

RELIEF

32. Fine. Liott agrees to pay a fine of two thousand dollars (\$2,000) 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.

33. Corrective Measures. Upon the Effective Date of the Order, Liott shall:
- (a) issue only completed disclosures to all applicants,
 - (b) desist from accepting applicants' signatures on blank consumer disclosures,
 - (c) maintain signed consumer disclosures in the applicants' files, and
 - (d) refrain from requesting specific appraisal values from the appraiser when ordering appraisals.

FURTHER PROVISIONS

34. Consent. Liott 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. Liott, 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.

35. 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).

36. 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 Liott.

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

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

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

40. 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 Liott in the future regarding all matters not resolved by this Order.

b. Liott 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.

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

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

43. 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 Vincent R. Liott, Inc., 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**

John Administration
Executive of Compliance, Investigation and Licensing
Department of Banking

Date: 9/8/2010

FOR VINCENT R. LIOTT INC

(Officer Signature)

(Print Officer Name)

PRESIDENT/OWNER
(Title)

Date: 9/1/10