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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

PA DEPT OF BANKING
Docket No.: 110179 (ENF-ORD)

v.

123 FIX MY LOAN

PA DEPT OF BANKING

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NOTICE OF RIGHT TO APPEAL AND HEARING

You, 123 Fix My Loan, have the right to appeal the attached Order of Prohibition (the "Order") within 10 days of the date of service. See 1 Pa. Code § 35.20. The date of service is the date the Order is deposited in the mail or delivered to you in person, as the case may be, as set forth in 1 Pa. Code § 33.34. If you appeal the Order, you also have a right to a hearing.

To file an appeal and request a hearing on the Order, you must file a petition with the Secretary of Banking within 10 days of the date of service. 1 Pa. Code § 35.20. The petition must be in writing, state clearly and concisely your grounds of interest in the subject matter, the facts you rely upon, the law you rely upon, and the relief you seek. See 1 Pa. Code § 35.17. Please deliver your petition to:

Linnea Freeberg, Docket Clerk
Office of Executive Deputy Secretary
Pennsylvania Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101

The petition must be received by the Docket Clerk within the aforementioned 10 day deadline. If the Docket Clerk does not receive your petition on time, you will waive your right to an appeal and a hearing and the Order will be deemed final.

If you choose to file a petition challenging the Order, please send an additional copy to:

Sarah E. Sedlak, Assistant Counsel
Pennsylvania Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Once you file your petition appealing the Order and requesting a hearing, you will be notified of the hearing date, time, place, the person who will preside at your hearing, and any other pertinent information.

You have the right to be represented by an attorney. Corporations may be required to be represented by an attorney.

The hearing and all other procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa. C.S. §§ 501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1.-35.251.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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DEPARTMENT OF BANKING, BUREAU OF
COMPLIANCE AND LICENSING

: Docket No.: 11 0179 (ENF-ORD)
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v.

123 FIX MY LOAN

ORDER

WHEREAS, the Department of Banking (“Department”) is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce 7 Pa. C.S. § 6101 (“Mortgage Licensing Act”) et seq.; and

WHEREAS, the Bureau of Compliance and Licensing (“Bureau”) is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department; and

WHEREAS, the Mortgage Licensing Act was amended on August 5, 2009, by Act 31 of 2009, H.B. 1654 (P.N. 2448); and

WHEREAS, 123 Fix My Loan is located at 1200 Providence Highway, Suite 200, Sharon, Massachusetts, 02067; and

WHEREAS, 123 Fix My Loan used to maintain a website with the web address of www.123fixmyloan.com which is no longer operational; and

Unlicensed Activity

WHEREAS, 123 Fix My Loan entered into a contract for loan modification services with at least one Pennsylvania consumer; and

WHEREAS, the 123 Fix My Loan agreement offered to analyze the debt situation of its clients, research alternatives to restructure its clients' debt, present the results of that analysis to its clients and act as a consultant on its clients' behalf with third parties including lenders; and

WHEREAS, the 123 Fix My Loan agreement prohibited its clients from speaking with their lender while the agreement was in place; and

WHEREAS, by negotiating, offering or otherwise transacting mortgage loan modifications to at least one Pennsylvania consumer, 123 Fix My Loan is actively engaged in and holding itself out as being engaged in the "mortgage loan business" as defined in the Mortgage Licensing Act, See 7 Pa. C.S. § 6151(1)(i); and

WHEREAS, the Mortgage Licensing Act prohibits persons from engaging in the mortgage loan business in Pennsylvania without holding a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator license, See 7 Pa. C.S. § 6111(a); and

WHEREAS, 123 Fix My Loan does not hold a license issued by the Pennsylvania Department of Banking to engage in the mortgage loan business in Pennsylvania; and

WHEREAS, no employees of 123 Fix My Loan hold a license issued by the Pennsylvania Department of Banking to engage in the mortgage loan business in Pennsylvania; and

WHEREAS, Sections 6111(b) and 6112 of the Mortgage Licensing Act set forth exceptions to the licensure requirements of Section 6111(a), See 7 Pa. C.S. §§ 6111(b), 6112; and

WHEREAS, 123 Fix My Loan does not meet any of the exceptions to licensure in Section 6111(b) and 6112 of the Mortgage Licensing Act, See 7 Pa. C.S. §§ 6111(b), 6112; and

WHEREAS, the employees of 123 Fix My Loan that conduct the mortgage loan modification negotiations with third party lenders on behalf of consumers are not licensed as mortgage originators pursuant to the Mortgage Licensing Act; and

WHEREAS, the employees of 123 Fix My Loan do not meet any exception to licensure, See 7 Pa. C.S. §§ 6102, 6111(a), 6112; and

WHEREAS, 123 Fix My Loan has violated the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania without a license; and

Advance Fees

WHEREAS, Section 6102 of the Mortgage Licensing Act defines an “advance fee” as “[a]ny funds requested by or to be paid to a person in advance of or during the processing of a mortgage loan application, excluding those fees paid by a consumer directly to a credit agency reporting bureau, title company or real estate appraiser,” See 7 Pa. C.S. § 6102; and

WHEREAS, a mortgage loan application may either be in writing or electronically submitted, including a written record of an oral application and is defined as the submission of a borrower's financial information including “the borrower's name, the borrower's monthly income, the borrower's social security number to obtain a credit report, the property address, an estimate of the value of the property, the mortgage loan amount sought, and any other information deemed necessary by the loan originator;” and

WHEREAS, consumer’s lender offered her a modification prior to her involvement with 123 Fix My Loan; and

WHEREAS, and (“Consumers”), Pennsylvania residents, contacted 123 Fix My Loan for loan modification services regarding a Pennsylvania residential property; and

WHEREAS, consumers informed 123 Fix My Loan of the prior offer and inquired whether 123 Fix My Loan could get a better offer; and

WHEREAS, 123 Fix My Loan indicated it could get consumers a better modification offer; and

WHEREAS, the consumers' agreement required them to make two payments of \$900 for a total payment of \$1,800; and

WHEREAS, on or around February 25, 2010, consumers entered into a contract with 123 Fix My Loan for loan modification services; and

WHEREAS, the first of these payments was made on or around February 27, 2010; and

WHEREAS, the second of these payments was made on or around March 19, 2010; and

WHEREAS, consumers spoke with a representative of 123 Fix My Loan on or around March 24, 2010 regarding the review of consumers' paperwork; and

WHEREAS, during that conversation, the representative from 123 Fix My Loan told consumers that from his review of the paperwork, the offer from the lender was the best that could be obtained by 123 Fix My Loan; and

WHEREAS, the representative from 123 Fix My Loan advised consumers to take the offer from the lender; and

WHEREAS, the consumers did as 123 Fix My Loan advised and accepted the lender's original offer; and

WHEREAS, consumers requested a refund from 123 Fix My Loan because it never obtained a better, or even different, loan modification offer than consumers already had prior to contracting with 123 Fix My Loan; and

WHEREAS, consumers requested a refund from 123 Fix My Loan pursuant to the “Our Money Back Guarantee” paragraph of the agreement, found at paragraph eight (8); and

WHEREAS, on or around June 10, 2010, 123 Fix My Loan denied consumers’ request for a refund stating that by taking the plan originally offered to consumers by their lender, consumers cancelled their contract with 123 Fix My Loan; and

WHEREAS, the money back guarantee excludes cancellations by the consumer from its guarantee, 123 Fix My Loan claimed consumers were not entitled to the refund under the terms of the agreement; and

WHEREAS, the Department received a complaint from consumers regarding 123 Fix My Loan; and

WHEREAS, the consumers request the refund of their advance fees; and

WHEREAS, the Mortgage Licensing Act requires those engaged in the mortgage loan business to obtain a bond in order to be permitted to charge an advance fee to any consumer; See 7 Pa. C.S. § 6131(d)(1) and (e)(1); and

WHEREAS, 123 Fix My Loan did not obtain the required bond; and

WHEREAS, 123 Fix My Loan collected advance fees from consumers which were connected to its engagement in the mortgage loan business; and

WHEREAS, the Mortgage Licensing Act permits suspension, revocation or refusal to renew a license where a licensee “accepted an advance fee without having obtained the bond required by section 6131(d)(1) or (e)(1)...”, See 7 Pa. C.S. § 6139(11); and

Mortgage Licensing Act

WHEREAS, Section 6102 of the Mortgage Licensing Act defines “mortgage loan business” as “[t]he 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; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a “mortgage originator” as:

- (1) An individual [that] takes a mortgage loan application or offers or negotiates terms of a mortgage loan for compensation or gain.
- (2) The term does not include any of the following:
 - (i) An individual engaged solely as a loan processor or underwriter consistent with section 6112(8) (relating to exceptions to licensing requirements).
 - (ii) A person or entity solely involved in extensions of credit relating to timeshare plans. . . .
- (3) Except as set forth in paragraph (4), the term does not include an employee of a licensee or person exempt or excepted from licensure under this chapter who *solely renegotiates terms for existing mortgage loans held or serviced by that licensee or person* and who does not otherwise act as a mortgage originator.
- (4)

7 Pa. C.S. § 6102 (emphasis added); and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a “mortgage loan” as “[a] first or secondary mortgage loan, or both, as the context may require”, 7 Pa. C.S. § 6102; and

WHEREAS, Section 6111(a) of the Mortgage Licensing Act provides that “. . . 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. 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); and

WHEREAS, Section 6138(a)(4) of the Mortgage Licensing Act provides the Department with 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); and

WHEREAS, Section 6140(a) of the Mortgage Licensing Act provides, in relevant part that “[a] person subject to the provisions of this chapter and not licensed by the department who violates any provision of this chapter or who commits any action which would subject a license to suspension, revocation or nonrenewal under section 6139 (relating to suspension, revocation or refusal) may be fined by the department up to \$10,000 for each offense”, 7 Pa. C.S. § 6140(a); and

WHEREAS, the Mortgage Licensing Act applies to any mortgage loan that is “(i) negotiated, offered or otherwise transacted within this Commonwealth, in whole or in part, whether by the ultimate lender *or any other person*; (ii) made or executed within this Commonwealth; or (iii) notwithstanding the place of execution, secured by real property located in this Commonwealth”, 7 Pa. C.S. § 6151(1) (emphasis added); and

AND NOW, THEREFORE, since 123 Fix My Loan has engaged in unlicensed activity, the Bureau, pursuant to its authority referenced above hereby imposes the following Order:

1. Loan Origination. Upon the effective date of this Order¹, 123 Fix My Loan and any and all officers, members, managers, employees, independent contractors or agents of 123 Fix My Loan shall cease and desist from engaging in the mortgage loan business subject to the Mortgage Licensing Act, including, but not limited to, advertising (including website advertising), accepting applications and negotiating mortgage loans and mortgage loan

¹ This Order is effective on the tenth day of the date it is executed below, if no petition for hearing is timely filed. If a petition for hearing is timely filed, the Order will become effective on the date upon which a final order is issued.

modifications in Pennsylvania or to Pennsylvania consumers, unless and until such time that 123 Fix My Loan and all mortgage originators as defined by the Mortgage Licensing Act are licensed by the Department pursuant to the Mortgage Licensing Act.

2. Fine. Upon the effective date of this Order, 123 Fix My Loan shall pay a \$1,000 fine for violating the Mortgage Licensing Act. The fine shall be made by certified check or money order made payable to the "Department of Banking" and shall be sent to the attention of the Department of Banking, Bureau of Compliance and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

3. _____ and _____ Upon the effective date of this Order, 123 Fix My Loan shall provide _____ and _____ a refund in the amount of \$1,800. 123 Fix My Loan shall provide the Bureau with evidence that the refund was paid by providing the Bureau with a copy of a cancelled/cleared check. A copy of the cancelled/cleared check shall be sent to John Talalai, Administrator, Compliance Division, at _____ by 5:00 PM eastern time on the effective date of this Order.

4. Pipeline Report. Upon the effective date of this Order, 123 Fix My Loan shall provide a list of consumers that 123 Fix My Loan has worked with in order to negotiate mortgage loan modifications (the "Pipeline Report"). The Pipeline Report shall include, but is not limited to:

- a. The names, addresses and phone numbers of Pennsylvania consumers that have responded to advertisements or that 123 Fix My Loan has as clients;
- b. The amount of fees collected from the Pennsylvania consumers;

- c. The current rate, term and payment of the Pennsylvania consumers' loans;
- d. The proposed rate, term and payment of the loans subsequent to the loan modification; and
- e. The current status and/or resolution of the loan modification.

The Pipeline Report shall be sent to John Talalai, Administrator, Compliance Division, at _____, by 5:00 PM eastern time on the effective date of this Order. The Pipeline Report shall be updated weekly, until the Bureau no longer requires updates.

5. Advertising. Upon the effective date of this Order, 123 Fix My Loan shall provide a list of any websites or copies of any other advertising that 123 Fix My Loan has utilized including, but not limited to, mail solicitations. The information shall be sent to John Talalai, Administrator, Compliance Division, at _____, by 5:00 PM eastern time on the effective date of this Order.

6. Contact Information. Upon the effective date of this Order, 123 Fix My Loan shall provide a list of all owners, officers and employees of 123 Fix My Loan. The list shall include the name, address telephone number and position of these individuals. The information shall be sent to John Talalai, Administrator, Compliance Division, at _____, by 5:00 PM eastern time on the effective date of this Order.

7. Waiver. Nothing in this Order shall prevent 123 Fix My Loan from seeking a waiver from the Department to allow 123 Fix My Loan to complete a loan modification for a Pennsylvania consumer that is listed on the Pipeline Report as provided in Paragraph 4 in order to prevent further harm to the Pennsylvania consumer and for no other reason. Requests for waiver may be made to John Talalai, Administrator, Compliance Division, at _____.

9. Reservation of Rights. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary including, but not limited to imposing fines pursuant to Section 6140(a) or (b) of the Mortgage Licensing Act or seeking restitution for consumers.

IT IS SO ORDERED.

John Palalai, Administrator
Department of Banking,
Bureau of Compliance and Licensing

11 / 14 / 2011
(Date)

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DEPARTMENT OF BANKING

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v.

123 FIX MY LOAN

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Order upon the parties below; who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST CLASS MAIL

123 Fix My Loan
1200 Providence Hwy., Suite 200
Sharon, MA 02067

Dated this 14th day of November, 2011.

Sarah E. Sedlak, Assistant Counsel
Attorney I.D. # 93810
FOR: Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471

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BY CERTIFIED AND FIRST CLASS MAIL

123 Fix My Loan
P.O. Box 977
Attleboro, MA 02703-0017

Dated this 29th day of November, 2011.

Sarah E. Sedlak, Assistant Counsel
Attorney I.D. # 93810
FOR: Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471