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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

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

v.

: Docket No. : 110147 (ENF-CO)

AFFORDABLE MORTGAGE ADVISORS, :
LLC D/B/A HOLLAND MORTGAGE :
ADVISORS AND JONATHAN FREED AND :
JULIUS DANA DIVECCHIO :
AND DAVID HOLLAND, JR. :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of Affordable Mortgage Advisors, LLC d/b/a Holland Mortgage Advisors ("Affordable Mortgage") and its owners, officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") concluded that Affordable Mortgage and its owners, Jonathan Freed, Julius Dana DiVecchio and David Holland, Jr., 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 and agree 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. Affordable Mortgage is a mortgage broker with its corporate headquarters located at 369 Mansfield Avenue, Pittsburgh, Pennsylvania 15220-2709.

4. Affordable Mortgage is licensed by the Department, license number 24733 and Nationwide Mortgage Licensing System and Registry ("NMLS") identification number 139164.

5. Affordable Mortgage has three owners: Jonathan Freed, Julius Dana DiVecchio and David Holland.

6. On August 5, 2009, the Mortgage Licensing Act was amended to require owners that take mortgage loan applications or offer or negotiate terms of a mortgage loan for compensation or gain in Pennsylvania to obtain a mortgage originator license. *See* 7 Pa. C.S. §§ 6102, 6111(a).

7. On October 5, 2009, the amendment became effective.

8. At the time of the amendment, Affordable Mortgage's owners were employed at different companies.

9. Mr. Freed was 50% owner of Affordable Mortgage Advisors, LLC.

10. Mr. DiVecchio owned 100% Landmark Financial Group, Inc.

11. Mr. Holland owned 100% Holland Mortgage Group, LLC.

12. On May 1, 2010, Mr. DiVecchio and Mr. Holland merged their mortgage broker businesses with Mr. Freed's company, Affordable Mortgage Advisors, LLC.

13. As a result of the merger, Landmark Financial Group, Inc. and Holland Mortgage Group, LLC surrendered their mortgage broker licenses to the Department.

14. Since May 1, 2010, Mr. Freed, Mr. DiVecchio and Mr. Holland have engaged in the mortgage loan business for Affordable Mortgage Advisors, LLC d/b/a Holland Mortgage.

15. On November 29, 2010, an examiner for the Department commenced an examination of Affordable Mortgage.

16. The examiner reviewed the mortgage loan files of Affordable Mortgage and the owner's files representing the business transacted from 2009 through April 2010.

17. The examiner found that Affordable Mortgage and the owners, while employed at their predecessor companies, violated the Mortgage Licensing Act as set forth below.

VIOLATIONS

Affordable Mortgage: Unique Identifier Not Displayed On Applications

18. The examiner found that all mortgage applications originated by Affordable Mortgage between August 5, 2009 and April 20, 2010 did not display the mortgage originators' unique identifiers.

19. Section 6121(14) of the Mortgage Licensing Act provides that "[a] licensee shall do all of the following . . . [i]n the case of a mortgage originator, clearly display the mortgage originator's unique identifier on all mortgage loan application forms and personal solicitations or advertisements, including business cards." 7 Pa. C.S. § 6121(14).

20. Prior to the conclusion of the examination, Affordable Mortgage updated the origination software to ensure that the unique identifier is displayed on all applications and advertising material.

Affordable Mortgage and Jonathan Freed: Unlicensed Activity

21. The examiner found that Mr. Freed originated four mortgage loan applications during the period of October 5, 2009 through October 28, 2009 as an employee of Affordable Mortgage when he was not licensed by the Department as a mortgage originator.

22. 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).

23. A mortgage originator is an “individual who takes a mortgage loan application or offers or negotiates terms of a mortgage loan for compensation or gain.” 7 Pa. C.S. § 6102.

24. By taking mortgage loan applications in Pennsylvania while not licensed by the Department as a mortgage originator, Mr. Freed violated Section 6111(a) of the Mortgage Licensing Act.

25. As a mortgage broker, Affordable Mortgage must “[m]aintain supervision and control of and responsibility for the acts and omissions of all mortgage originators” that it employs. *See* 7 Pa. C.S. § 6121(13)(i); *see also* 7 Pa. C.S. § 6111(a).

26. As a result, Affordable Mortgage is responsible for Mr. Freed’s unlicensed activity.

27. At the conclusion of the examination, Mr. Freed explained to the examiner that the violation was unintentional; as soon as he became aware that he had to obtain a mortgage originator license he promptly did so.

28. Mr. Freed applied for a license on October 28, 2009 and is currently licensed by the Department as a mortgage originator.

Julius Dana DiVecchio: Unlicensed Activity

29. The examiner found that Mr. DiVecchio originated one mortgage loan application during the period of October 5, 2009 through October 30, 2009 when he was not licensed by the Department as a mortgage originator.

30. By taking a mortgage loan application while not licensed as a mortgage originator, Mr. DiVecchio violated Section 6111(a) of the Mortgage Licensing Act.

31. At the conclusion of the examination, Mr. DiVecchio explained to the examiner that the violation was unintentional; as soon as he became aware that he had to obtain a mortgage originator license he promptly did so.

32. Mr. DiVecchio applied for a license on October 30, 2009 and is currently licensed by the Department as a mortgage originator.

David Holland, Jr.: Unlicensed Activity

33. The examiner found that Mr. Holland originated seven mortgage loan applications during the period of October 5, 2009 through October 30, 2009 when he was not licensed by the Department as a mortgage originator.

34. By taking mortgage loan applications while not licensed by the Department as a mortgage originator, Mr. Holland violated Section 6111(a) of the Mortgage Licensing Act.

35. At the conclusion of the examination, Mr. Holland explained to the examiner that the violation was unintentional; as soon as he became aware that he had to obtain a mortgage originator license he promptly did so.

36. Mr. Holland applied for a license on November 25, 2009 and is currently licensed by the Department as a mortgage originator.

37. Mr. Holland explained to the examiner that his delay in applying for a mortgage originator license resulted from him being married in the beginning of November 2009; when he returned from his honeymoon he applied for and obtained a license from the Department.

Authority of the Department

38. The Department has 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).

39. 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

40. Fine. Affordable Mortgage, Mr. Freed, Mr. DiVecchio and Mr. Holland shall pay a fine of \$3,250 for violations of the Mortgage Licensing Act. The fine shall be due and payable within 30 days of the Effective Date of this Order as defined in Paragraph 47. 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 the Compliance Division, Bureau of Compliance, Investigation and Licensing, 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

41. Corrective Measures. Upon the effective date of this Order, as defined in Paragraph 47, Affordable Mortgage shall cease and desist from accepting Pennsylvania mortgage loans from unlicensed mortgage loan originators and shall require its mortgage originators to display their NMLS number on all mortgage loan applications and advertisements, including business cards, as required by the Mortgage Licensing Act.

Further, Mr. Freed, Mr. DiVecchio and Mr. Holland shall cease and desist from taking mortgage loan applications or offering or negotiating terms of mortgage loans for compensation or gain in Pennsylvania unless licensed as a mortgage originator by the Department.

FURTHER PROVISIONS

42. Consent. Affordable Mortgage, Mr. Freed, Mr. DiVecchio and Mr. Holland hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Licensing Act and agree that they understand all of the terms and conditions contained herein. Affordable Mortgage, Mr. Freed, Mr. DiVecchio and Mr. Holland by voluntarily entering into this Order, waive any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

43. 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).

44. 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, Affordable Mortgage, Mr. Freed, Mr. DiVecchio and Mr. Holland.

45. Binding Nature. The Department, Affordable Mortgage, Mr. Freed, Mr. DiVecchio and Mr. Holland intend to be and are legally bound by the terms of this Order.

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

47. Effectiveness. Affordable Mortgage, Mr. Freed, Mr. DiVecchio and Mr. Holland hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

48. 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 Affordable Mortgage, Mr. Freed, Mr. DiVecchio, and Mr. Holland in the future regarding all matters not resolved by this Order.

b. Affordable Mortgage, Mr. Freed, Mr. DiVecchio and Mr. Holland acknowledge and agree 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.

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

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

51. 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 Commonwealth of Pennsylvania, Department of Banking, Bureau of Compliance, Investigation and Licensing and Affordable Mortgage, LLC d/b/a Holland Mortgage and Jonathan Freed and Julius Dana DiVecchio and David Holland, Jr., 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**

Ryan M. Walsh, Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: September 1, 2011

**FOR AFFORDABLE MORTGAGE ADVISORS, LLC
D/B/A HOLLAND MORTGAGE ADVISORS**

(Officer's Name) re)

(Print Officer's Name)

PRESIDENT
(Title)

Date: 8/23/11

FOR JONATHAN FREED

(Jonathan Freed's Signature)

(Print Jonathan Freed's Name)

Date: 08/22/2011

FOR JULIUS DANA DIVECCHIO

(Julius Dana DiVecchio's Signature)

(Print Julius Dana DiVecchio's Name)

Date: 8/23/11

FOR DAVID HOLLAND, JR.

(David Holland, Jr.'s Signature)

(Print David Holland, Jr.'s Name)

Date: 8/23/11

