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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

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

Docket No. 110/49 (ENF-CO)

v.

AMERICAN CONSUMER ADVOCATES
LAW GROUP, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations has conducted an examination of American Consumer Advocates Law Group, Inc. and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance and Licensing ("Bureau") contends that American Consumer Advocates Law Group 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. American Consumer Advocates Law Group (“ACA Law Group”) maintains its principal place of business at 3001 Executive Drive, Suite 300, Clearwater, Florida 33762.

4. On or around July 7, 2011, the Department received a consumer inquiry regarding ACA Law Group.

Unlicensed Loan Modification Activity

5. The Department’s investigation revealed that ACA Law Group actively engages in and holds itself out as being engaged in the “mortgage loan business” as defined in the Mortgage Licensing Act. 7 Pa. C.S. § 6151(1)(i).

6. 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).

7. Neither ACA Law Group nor any of its employees hold a license issued by the Pennsylvania Department of Banking.

8. ACA Law Group asserts that it meets the exception set forth in Section 6112 of the Mortgage Licensing Act. 7 Pa. C.S. § 6112.

9. Section 6112 of the Mortgage Licensing Act contains an exception for attorneys who are (a) “not otherwise engaged in or holding himself or herself out to the public as being engaged in the mortgage loan business” but (b) who act “as a mortgage broker or a mortgage originator in negotiating or placing a mortgage loan in the normal course of legal practice.” 7 Pa. C.S. § 6112.

10. The Mortgage Licensing Act exempts certain *activities* of an attorney, not the attorney themselves.

11. The Bureau agrees that when ACA Law Group engages in loan modification as a means of helping a client who started off seeking another service, the loan modification activity in those cases is exempted from the licensure requirements of the Mortgage Licensing Act.

12. ACA Law Group agrees that because it does not seek to obtain a license from the Department, it will limit its loan modification activities in relation to Pennsylvania consumers to only assisting with loan modifications when it is in furtherance of another legal service being provided to the Pennsylvania consumer.

Advertising

13. ACA Law Group maintains a website located at www.acalawgroup.com.

14. On its website, ACA Law Group specifically advertises that it offers loan modification services, as well as other services including foreclosure defense, short sales assistance, debt settlement and bankruptcy representation.

15. On the page describing the loan modification services, ACA Law Group indicates that it “works with every major lender and most of the minor ones on a regular basis.”

16. The loan modification page also indicates that ACA Law Group knows the intricacies of the available loan modification programs and will work to prepare a submission to get an adjustment to its clients’ existing mortgages.

17. The Mortgage Licensing Act defines the “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.

18. In Pennsylvania, advertisement of loan modification services without a license from the Pennsylvania Department of Banking is a violation of the Mortgage Licensing Act because offering that service separately to Pennsylvania consumers and not just in furtherance of

another legal service, is engaging in the mortgage business in a manner which requires licensing in Pennsylvania.

Authority of the Department

19. 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).

20. Section 6139(a)(2) of the Mortgage Licensing Act states that the department may suspend, revoke or refuse to renew a license where a licensee has "failed to comply with or violated any provision of this chapter or any regulation or order promulgated or issued by the department under this chapter." 7 Pa. C.S. § 6139(a)(2).

21. 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).

RELIEF

22. Fine. ACA Law Group agrees to pay a fine of one thousand dollars (\$1,000) 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 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 and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

23. Corrective Action. Upon the effective date of this Order, ACA Law Group shall:

(a) decline to accept mortgage loan modification applications from Pennsylvania consumers or accept mortgage loan modification applications relating to real property located in Pennsylvania; (b) maintain a system to filter telephone and internet inquiries from Pennsylvania residents regarding loan modifications so that the Pennsylvania residents are informed that due to Pennsylvania Department of Banking licensing requirements, ACA Law Group is unable to provide loan modification services to them; and (c) provide loan modification services to Pennsylvania consumers only when those services are directly in conjunction with another legal service where counsel employed by ACA Law Group has been retained by that consumer.

FURTHER PROVISIONS

24. Consent. ACA Law Group 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 therein. ACA Law Group, 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.

25. 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).

26. 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 ACA Law Group.

27. Binding Nature. The Department, ACA Law Group, and all officer, owners, directors, employees, heirs and assigns of ACA Law Group intend to be and are legally bound by the terms of this Order.

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

29. Effectiveness. ACA Law Group hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

30. 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 ACA Law Group, in the future regarding all matters not resolved by this Order.

b. ACA Law Group 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.

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

32. Counterparts. This Order may be executed in separate counterparts and by facsimile or by PDF.

33. 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 American Consumer Advocates Law Group, 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 AND LICENSING**

John Valala, Enforcement Administrator
Bureau of Compliance and Licensing
Department of Banking

Date: 12-5-2011

FOR AMERICAN CONSUMER ADVOCATES LAW GROUP, INC.

(Officer Signature) _____

(Print Officer Name) _____

(Title) _____

Date: 12/5/2011