

FILED

2011 JUL -1 AM 11:31

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

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

:
:
:
:
: Docket No. 11 0127 (ENF-CO)
:
:
:
:
:

v.

ARRAY FINANCIAL GROUP, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations has conducted an examination of Array Financial Group, Inc. ("Array Financial Group") and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance, Investigation and licensing (the "Bureau") believes that Array Financial Group operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* and the regulations called Proper Conduct of Lending and Brokering in the Mortgage Loan Business, 10 Pa. Code Ch. 46. 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 (the "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. Array Financial Group was assigned the Nationwide Mortgage Licensing System and Registry ("NMLSR") identification number 139418.

4. Array Financial Group was granted a Mortgage Lender license, license number 26895.

5. Array Financial Group's principal place of business is located at 200 Four Falls Corporate Center, Suite 107, West Conshohocken, Pennsylvania 19010.

6. On October 18, 2010, the Bureau of Examinations commenced an examination of Array Financial Group at its principal place of business upon which the Bureau's position is based.

Advertising

7. The Bureau found during its examination, that mortgage loan originators employed by Array Financial Group utilized business cards that did not display the mortgage originators' NMLSR unique identifier numbers.

8. Array Financial Group currently utilizes business card that display the NMLSR unique identifier numbers and it represents that these business cards were available when required, but that they were not used to allow the company to exhaust its existing supply of business cards.

9. Section 6121(14) of the Mortgage Licensing Act requires that "in 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).

Consumer Disclosure Forms

10. The exam revealed that Array Financial Group was completing and providing the required Consumer Disclosure Form to consumers for signature, but that they did not do so within three business days of application as required by the Proper Conduct Regulations and the Mortgage Licensing Act. 10 Pa. Code § 46.3(a).

11. Array Financial Group represents that it will complete and provide the required Consumer Disclosure Form to consumers and will obtain the consumer's signature on that form within three days as required, and that it will retain all such forms in its records for future examination.

12. Title 10, Chapter 46, relating to the proper conduct of lending and brokering in the mortgage loan business requires licensees to issue a one-page disclosure form prescribed by the Department within three (3) business days after the application is received or prepared by the licensee. Licensees are also required to have applicants sign and date the disclosure form, retain the disclosure form for their records and reissue the disclosure form if the licensee knows or reasonably should know the initial disclosure form is inaccurate. 10 Pa. Code § 46.2 (b) and (c).

Authority of the Department

13. 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).

14. 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

15. Fine. Within 30 days of the effective date of this Order as defined in paragraph 22 below, Array Financial Group shall pay the Department a fine in the amount of \$1,000 remitted by certified check or money order made payable to the Department of Banking. The fine payment shall be sent to the attention of: Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

16. Corrective Action. Upon the effective date of this Order, Array Financial Group shall cease and desist from violating the Mortgage Licensing Act and related regulations by ensuring that all NMLS unique identifiers are properly displayed on advertisements; that "licensed by the Department of Banking" appears on advertisements where and when required; and that all Consumer Disclosure Forms are provided to consumers when and as required.

FURTHER PROVISIONS

17. Consent. Array Financial 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. Array Financial 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. This Order represents the final resolution of the Department's examination of Array Financial Group and evidences the Department's agreement that no other fines, remedies, proceedings or actions

shall be commenced, asserted or directed against Array Financial Group as a result of the examination.

18. 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).

19. 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 Array Financial Group.

20. Binding Nature. The Department and Array Financial Group intend to be and are legally bound by the terms of this Order.

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

22. Effectiveness. Array Financial Group hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

23. 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 Array Financial Group, in the future regarding all matters not resolved by this Order.

b. Array Financial 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.

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

26. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic mail in portable document format "PDF."

27. 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, Array Financial Group 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 Tafalari, Enforcement Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking~~

Date: 7-1-2011

FOR ARRAY FINANCIAL GROUP, INC.

~~_____
(Officer Signature)~~

(Print Officer Name)

PRES.
(Title)

Date: 6/30/11