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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

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

v. :

Docket No. 11 068 (ENF-CO)

BANKERS FIRST MORTGAGE, INC. :
NORTHEAST FINANCIAL :
CONSULTANTS, INC., and :
GEORGE HANZIMANOLIS, individually :
:

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Compliance, Investigation and Licensing, ("Bureau") conducted an investigation of Bankers First Mortgage, Inc. ("BFMI"), Northeast Financial Consultants, Inc. ("NFCI") and George Hanzimanolis ("GH"). Based on the results of the investigation, the Bureau believes that BFMI, NFCI and GH operated in violation of section 8 of the Real Estate Settlement Procedures Act ("RESPA"), and in violation of the Mortgage Bankers and Brokers and Consumer Equity Protection Act ("MBBCEPA"), 63 P.S. § 456.101, and its successor statute, the Mortgage Licensing Act, 7 Pa. C. S. § 6101 *et seq.* It is BFMI, NFCI and GH's position that, at all times, they operated with the belief that they were in compliance with RESPA, the MBBCEPA, the Mortgage Licensing Act, and all other relevant statutes and regulations. BFMI, NFCI, and GH enter into this agreement and order to resolve this matter without litigation, but without admitting guilt or wrongdoing. Accordingly, the parties, 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and enforce the Mortgage Bankers and Brokers and Consumer Equity Protection Act, 63 P.S. § 456.101 *et seq.*, now repealed, and its successor statute, the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.*
2. The Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act on behalf of the Department.
3. The Bureau operates from the Department's main office located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.
4. BFMI was located at all relevant and material times at HC 1 Box 2400, Route 611, Tannersville, Monroe County, Pennsylvania 18372.
5. BFMI is currently licensed as a mortgage broker under the Mortgage Licensing Act with license number 20469 and a Nationwide Mortgage Licensing System and Registry (NMLS) identification number of 129185.
6. BFMI was, at all relevant and material times, an FHA-approved mortgage broker certified as a "mini-eagle," which status allowed it to originate FHA insured mortgages.
7. Northeast Financial Consultants, Inc. ("NFCI") is an affiliate of BFMI.
8. NFCI operates out of HC 1 Box 2400, Route 611, Tannersville, Monroe County, Pennsylvania 18372.
9. BFMI and NFCI are both 100% owned by GH.
10. GH is a mortgage originator as defined by the Mortgage Licensing Act, 7 Pa. C.S. § 6102, licensed by the Commonwealth of Pennsylvania license number 24047 and

registered with the Nationwide Mortgage Licensing System and Registry with unique identification number 129172.

11. On or around February 2, 2010, the Bureau began an investigation of BFMI and GH when BFMI was identified on the Housing and Urban Development's (HUD) Neighborhood Watch database as having higher than average consumer mortgage loan default rates.

Legal Authority

12. Pursuant to the Mortgage Licensing Act, a licensee shall "[c]omply with all applicable Federal law, including the Real Estate Settlement Procedures Act (88 Stat. 1724, 12 U.S.C. §§ 2601 et seq.) the Truth in Lending Act (82 Stat. 146, 15 U.S.C. §§ 1601 et seq.) and the Equal Credit Opportunity Act (88 Stat. 1521, 15 U.S.C. §§ 1691 et seq.)." 7 Pa.C.S. § 6121(3).
13. Section 8(a) of RESPA provides, in relevant part, that "[n]o person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person. 12 USCS § 2607(a)."
14. Mortgagee Letter 2008-17, interpreting section 8(a) of RESPA, issued by the United States Department of Housing and Urban Development (HUD) on June 20, 2008 provides "FHA loan origination services *must be performed by a FHA-approved lender or FHA-approved mortgage broker* (loan correspondent)." (emphasis added).
15. Mortgagee Letter 2008-17 further provides that "[w]hile FHA regulations permit a borrower to engage a broker who is not FHA-approved to assist him/her in obtaining

mortgage financing (24 CFR 203.27(e)), the loan origination services *may not be performed by that broker and the FHA approved mortgagee shall not compensate the broker for such services.*" (emphasis added).

16. The Mortgagee Letter 2008-17 prohibits "the payment of duplicative fees." "The payment to the unapproved broker for duplicated services *amounts to an unearned fee* in violation of section 8(b) of RESPA."
17. The Mortgagee Letter 2008-17 further explains that counseling type services "must be paid from the mortgagor's *own available assets*, must be disclosed on the HUD-1 at closing and a copy of the contract for these services must be included in the loan file submitted for insurance endorsement." (emphasis in the original).
18. The Bureau is responsible for investigations of licensees under the authority provided to the Department in the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(1), formerly section 310(c)(1) of the MBBCEPA, 63 P.S. § 456.310(c)(1).
19. The Department shall have the authority to issue orders for the proper conduct of the mortgage loan business by licensees and for the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4), formerly section 310(a) of the MBBCEPA, 63 P.S. § 456.310(a).
20. The Department shall have the authority to order a person or licensee to make restitution for actual damages to consumers caused by any violation of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(6).
21. The Department shall have the authority to impose such other conditions as the Department deems appropriate. 7 Pa. C.S. § 6138(a)(8).

22. An order issued against a licensee is applicable to the mortgage originators employed by the licensee. 7 Pa. C.S. § 6138(f).
23. The Department may suspend, revoke or refuse to renew a license if the licensee engaged 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 pursuant to the Mortgage Licensing Act. 7 Pa. C.S. § 6139(a)(3), formerly section 313(a)(5) of the MBBCEPA, 63 P.S. § 456.313(a)(5).
24. The Department may suspend, revoke or refuse to renew a license if the licensee demonstrated negligence or incompetence in performing any act for which the licensee is required to hold a license pursuant to the Mortgage Licensing Act. 7 Pa. C.S. § 6139(a)(10), formerly section 313(a)(14) of the MBBCEPA, 63 P.S. § 456.313(a)(14).
25. The Department may impose a fine upon any person licensed or unlicensed, or any director, officer, employee or agent of a licensee who shall violate the provisions of Mortgage Licensing Act, 7 Pa.C.S. § 6140, up to \$10,000 per violation and upon any person licensed or unlicensed, or any director, officer, employee or agent of a licensee who shall violate the MBBCEPA in an amount up to \$2,000 per violation, 63 P.S. § 456.314 (b) and (c).

ALLEGATIONS

26. The Bureau alleges as follows:
 - a. The Bureau alleges that on at least thirty-seven occasions, from January 2008 through December 2009, BFMI, an FHA-approved broker, submitted FHA insured mortgage loan applications to lenders which were originated by eleven different non FHA-approved mortgage brokers.

- b. The Bureau alleges that BFMI would, through its employees, 1) re-type consumer signed mortgage loan applications received from the non FHA-approved brokers on BFMI forms; 2) send the re-typed forms to the non FHA-approved brokers for consumer signature; 3) receive the re-typed and re-signed mortgage loan applications from the non FHA-approved broker; and, 4) together with the supporting documentation previously gathered and provided by the non FHA-approved mortgage brokers, submit the entire package to lenders for an FHA insured loan as if it was BFMI's own origination work.
- c. The Bureau alleges that BFMI paid the non FHA-approved mortgage brokers through BFMI's third party affiliate, NCFI.
- d. The Bureau alleges that the fees paid by BFMI to the non FHA-approved brokers were unauthorized, excessive, and/or unearned from BFMI funds paid when the FHA insured mortgage loans settled.
- e. The Bureau alleges that in some instances, payment for unauthorized origination of the FHA insured mortgage loan, although disclosed on the HUD-1 settlement sheet, was made directly to a non-FHA approved broker through disbursement by the settlement agent at the closing of the FHA insured loan instead of directly by the consumer out of the consumer's own available assets.
- f. The Bureau alleges that fees disclosed on the HUD-1 settlement sheets paid to non FHA-approved brokers were improperly identified as "consulting" fees, when in fact the fees were for the act of origination.
- g. The Bureau alleges that in most instances, the fees paid by BFMI to the non FHA-approved brokers were not disclosed on the HUD-1 settlement sheets.

- h. The Bureau alleges that fees paid by BFMI to non FHA-approved brokers were duplicative fees for the same service prohibited by RESPA as an unearned fee.
27. The Bureau alleges that, by engaging in the acts or practices described in paragraph 26, BFMI, GH and NFCI violated RESPA, thereby violating the Mortgage Licensing Act and constituting grounds for administrative action pursuant to the Mortgage Licensing Act and its predecessor statute, the MBBCEPA. 7 Pa.C.S. § 6121(3), 7 Pa. C.S. § 6139(a)(3); 63 P.S. § 456.313(a)(5).
28. The Bureau alleges that the unauthorized, excessive and/or unearned fees paid by consumers to non FHA-approved brokers through NFCI for the thirty-eight loans totaled \$145,457.45.
29. The Bureau alleges that, as a result of BFMI's and GH's failure to properly supervise staff and the absence of internal controls, the quality and accuracy of mortgage loan underwriting and processing materially suffered and led to improper documents being forwarded from non FHA-approved brokers to lenders and investors and to the improper execution of documents.
30. The Bureau alleges that by engaging in the acts and practices described in paragraph 29, BFMI and GH violated the Mortgage Licensing Act, 7 Pa.C.S. § 6121(13)(i), for which discipline may be imposed pursuant to the MBBCEPA, 63 P.S. § 456.313(a)(14) and the Mortgage Licensing Act, 7 Pa. C.S. § 6139(a)(10).
31. The Bureau alleges that BFMI failed to disclose the affiliated relationship between BFMI and NFCI on BFMI's Nationwide Mortgage Licensing System and Registry application, and failed to update information on this affiliation in the intervening time period as

required by the Mortgage Licensing Act, 7 Pa.C.S. § 6131(b) for which a penalty may be assessed under the Mortgage Licensing Act, 7 Pa. C.S. § 6140(b).

32. The Bureau alleges that BFMI and GH, on one occasion, submitted to a lender a mortgage application originated by an unlicensed broker subjecting BFMI and GH to a penalty for consenting to a violation of the MBBCEPA, pursuant to the MBBCEPA, 63 P.S. §456.314(c).

RESPONSE OF BFMI

33. BFMI asserts that the non FHA-approved mortgage brokers referenced herein did not, in fact, originate FHA loans but took applications for conventional loans. When these loans could not be originated as conventional loans, they were sent to BFMI to be originated as FHA loans. In this regard, the Brokers notified BFMI of loan applicants who did not qualify for conventional mortgage financing and before sending loans to BFMI advised their customers that they could apply for FHA financing through an FHA-approved mortgage broker such as BFMI. BFMI then provided loan origination services for, and charged and retained reasonable mortgage broker fees from, the referenced consumers who through BFMI applied for FHA-insured mortgage loans. It remains BFMI's understanding that the non FHA-approved brokers referenced herein were providing "counseling type" services and not loan origination services described as permissible for non FHA-approved brokers in the FHA Mortgagee Letter 2008-17. BFMI NFCL, and GH did not retain any fees charged by the consultants for their counseling services. Any restitution agreed to herein to be provided by BFMI, NFCL, and George Hanzimanolis to the borrowers on the referenced FHA-insured loans are not the fees received by BFMI for its mortgage broker services but relates to fees charged and received by the

consultants for what BFMI understood to be compensation for their counseling type services.

34. BFMI, NFCI and GH state that at all times they believed they were properly originating and processing mortgage loans and were not in conflict with FHA's position on payment for counseling services.
35. BFMI, NFCI and GH deny any wrongdoing.

RELIEF

36. BFMI, NFCI and GH hereby consent to pay restitution in the amount of \$145,457.45 to consumers. The restitution to consumers will be paid in full within four years of the effective date of this Order as defined in paragraph 49 below to the consumers named and amounts set forth on the spreadsheet attached hereto marked as Exhibit A, and incorporated by reference in this Order. Restitution payments will be made in good faith and on a regular basis within four years from the effective date of this Order and BFMI will provide the Bureau with regular reports on the payments made to consumers on a quarterly basis. The failure of BFMI, NFCI and GH to make at least two payments per annum shall constitute a material breach of the Order. All restitution will be paid by certified check or money order with copies of the checks sent to the Department as confirmation of compliance.
37. Fine. BFMI and GH, jointly and severally, to avoid litigation and without admitting wrongdoing, agree to pay a fine of \$191,000 for violations of the MBBCEPA and Mortgage Licensing Act. The fine shall be due and payable no later than four years from the effective date of this order and will be paid subsequent to payment of all restitution to all consumers as set forth in paragraph 46 above. The fine payments shall be remitted by

a certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of Licensing Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

38. Reduction of Fine for Full Compliance. In the event BFMI and GH are in full compliance with this Order four years from its effective date, the fine amount to be paid to the Department will be reduced to \$63,333.00. If BFMI and GH are not in full compliance with this Order four years from the effective date, the remainder of the \$191,000 fine not paid will become immediately due.
39. Corrective Measures. Upon the effective date of this Order, BFMI and GH:
- a. shall cease and desist from paying fees deemed unauthorized by the Bureau through a third party such as NPCI;
 - b. shall cease and desist from the activities the Bureau deems in violation of Mortgagee Letter 2008-17, section 8 of RESPA and the Mortgage Licensing Act and all other related state and federal laws and regulations;
 - c. shall cease and desist from collecting fees deemed as unauthorized or unearned by the Bureau in violation of section 8 of RESPA and Mortgage Licensing Act;
 - d. shall cease and desist from what the Bureau considers failing to properly control and supervise its employees in accordance with the requirements of section 6121(13)(i) of the Mortgage Licensing Act; and
 - e. shall cease and desist from violating section 6139(a)(10) of the Mortgage Licensing Act by verifying all information provided to BFMI in support of all mortgage loans, particularly those insured by the FHA.

40. BFMI and GH consent to a suspension of BFMI's mortgage broker license number 20469 for a period of six months; all but five days of which will be held in abeyance provided BFMI, NFCI and GH remain in full compliance with this Order in all respects. During the period of suspension, which will be served from Monday, April 4, 2011, through Friday, April 8, 2011, BFMI and GH will not originate any new mortgage loans, however any loans that were originated prior to the suspension period may continue to be processed for the benefit of the consumer.
41. GH consents to a suspension of his mortgage originator license number 24047 for a period of six months; all but five days of which will be held in abeyance provided BFMI, NFCI and GH remain in full compliance with this Order in all respects. During the period of suspension, which will be served from Monday, April 4, 2011 through Friday, April 8, 2011, GH will not originate any new mortgage loans, however any loans that were originated prior to the suspension period may continue to be processed for the benefit of the consumer.
42. Elimination of Remaining Suspension for Full Compliance. In the event BFMI and GH are in full compliance with this Order four years from its effective date or complete all requirements of this Order prior thereto, then the remaining suspension of both BFMI's license and GH's license held in abeyance on condition of compliance with this Order shall be completely eliminated and void. If BFMI and GH are not in full compliance with this Order four years from the effective date, both BFMI's and GH's license shall be suspended for the remainder of the six month periods as provided above.
43. BFMI and GH agree to submit to the Bureau for its approval, a written operating manual setting forth BFMI's plan for compliance with all relevant state and federal laws

governing the mortgage loan business and this Order, including its plan to deter and uncover fraud and comply with RESPA, within 180 days from the effective date of this Order and to make any and all revisions required by the Bureau to that plan as directed.

Further Provisions

44. Consent. BFMI and GH 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. BFMI and GH, 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.
45. 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).
46. 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, BFMI and GH.
47. Binding Nature. The Department, BFMI and GH, and all officers, owners, directors, employees, heirs and assigns of BFMI and GH intend to be and are legally bound by the terms of this Order.
48. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.
49. Effectiveness. BFMI and GH hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order.

50. 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 BFMI and GH in the future regarding all matters not resolved by this Order.
 - b. BFMI and GH 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.
51. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.
52. Counterparts. This Order may be executed in separate counterparts, by facsimile and by PDF.
53. 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 BFMI and George Hanzimanolis, intending to be legally bound, do hereby execute this Consent Agreement and Order in resolution of all outstanding issues raised by the Order to Show Cause.

**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: March 31, 2011

