

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

FILED

2011 JUN -2 PM 3:00

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

v.

DANIEL E. HOEY, individually

PA DEPT OF BANKING

Docket No.: 11 0106 (ENF-ORD)

NOTICE OF RIGHT TO APPEAL AND HEARING

You, Daniel E. Hoey, 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. 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.

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

PA DEPT OF BANKING

Docket No.: 11 010e (ENF-ORD)

v.

DANIEL E. HOEY

ORDER OF PROHIBITION

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

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

WHEREAS, Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (“MBBCEPA”), 63 P.S. § 456.301 et seq., and the Secondary Mortgage Loan Act (“SMLA”), 7 P.S. § 6601 et seq., were repealed by operation of law on November 5, 2008; and

WHEREAS, 7 Pa. C.S. § 6101 et seq. was amended on August 5, 2009, by Act 31 of 2009, H.B. 1654 (P.N. 2448); and

WHEREAS, Daniel E. Hoey (“Hoey”) was President and Corporate Officer of Hoey Capital LLC d/b/a Trilliant Mortgage PA (“Trilliant Mortgage”) located at 800 Cranberry Woods Drive, Suite 110, Cranberry Township, Pennsylvania 16066; and

WHEREAS, Trilliant Mortgage was formerly licensed as a First Mortgage Broker, license no. 12649, pursuant to Chapter 3 of the MBBCEPA and as a Secondary Mortgage Broker, license no. 14492, pursuant to the SMLA; and

WHEREAS, Trilliant Mortgage's first and secondary mortgage broker licenses were cancelled effective July 1, 2008; and

WHEREAS, as a result of information obtained during a risk based exam of another mortgage broker ("Risk Based Exam"), the Department issued a subpoena to Hoey because the employee that was the subject of the Risk Based Exam now worked for Trilliant Mortgage; and

WHEREAS, in response to the subpoena, the Bureau deposed Hoey on October 9, 2008; and

WHEREAS, Hoey stated in his deposition that he:

(a) entered into a contract to purchase a property located in Sewickley, Pennsylvania ("Sewickley Property"); and

(b) realized that upon entering into the contract to purchase the Sewickley Property, his wife and he could not obtain the mortgage loan funding necessary to complete the purchase because of their credit scores; and

(c) arranged with his sister-in-law, SA ("SA") to have her obtain a mortgage on the Sewickley Property from a mortgage lender in order to complete the contract for sale; and

WHEREAS, on or around January 30, 2007, Hoey, through Trilliant Mortgage, submitted a mortgage loan application for SA to a mortgage lender that contained false information regarding SA's employment information; and

WHEREAS, Hoey knew that the documents contained material misrepresentations about SA's financial condition; and

WHEREAS, Hoey violated Section 313(a)(5) of the MBBCEPA and Section 6139(a)(3) of the Mortgage Licensing Act because he 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 when he arranged for SA to obtain a mortgage from a mortgage lender using false information in order for Hoey to effectuate the sale of a home for his wife and him; and

WHEREAS, on June 16, 2009, the United States Attorney's Office, Western District of Pennsylvania, filed an indictment against Hoey (See Indictment attached as Exhibit A); and

WHEREAS, the Indictment alleged that "from in or around January 2007, and continuing thereafter until in or around July 2007, in the Western District of Pennsylvania and elsewhere, the defendant, Daniel Hoey, knowingly and willfully did conspire, combine, confederate and agree with other persons known to the grand jury as RA and JM, to commit" the offense of Wire Fraud (18 U.S.C. § 1343) (See Exhibit A, ¶1); and

WHEREAS, the Indictment alleged Hoey:

(a) participated in a scheme to finance the purchase and renovation of the Sewickley Property through a series of false representations (See Exhibit A, ¶2); and

(b) participated in the submission of loan applications in the name of SA to a lender as if SA intended to purchase the Sewickley Property for the purpose of residing there, when, as Hoey knew, SA did not intend to reside in the Sewickley Property (See Exhibit A, ¶3); and

(c) participated in the submission by an individual identified as RA of loan applications in SA's name that Hoey knew contained false representations including, but not limited to, SA's income and assets (See Exhibit A, ¶4); and

(d) participated in the submission of information to the lenders that overstated the actual Sewickley Property sales price as well as an overstated appraisal by an individual known as JM (See Exhibit A, ¶5, 6); and

(e) participated in the preparation and submission of a fraudulent settlement statement that contained false representations regarding the down payment and money distribution at closing (See Exhibit A, ¶7); and

(f) used and caused the use of interstate wires to communicate with lenders during the course of the loan application and underwriting process (See Exhibit A, ¶7); and

(g) caused wire transfers from the account of lenders located outside Pennsylvania to the account of the closing attorney in Pennsylvania (See Exhibit A, ¶7); and

WHEREAS, on August 3, 2010, Hoey pleaded guilty to the felony of Wire Fraud (See copy of plea attached as Exhibit B); and

WHEREAS, Hoey's actions violated the MBBCEPA and Mortgage Licensing Act and his actions in the commission of Wire Fraud all related to the mortgage industry; and

WHEREAS, the Department has the authority to "prohibit or permanently remove a person or licensee responsible for a violation of this chapter from working in the present capacity or in any other capacity of the person or licensee related to activities regulated by the department" 7 Pa. C.S. § 6138(a)(5); and

WHEREAS, Section 6138(a)(4) of the Mortgage Licensing Act (corresponding to Section 310(a) of the MBBCEPA and Section 16(1) of the SMLA) grants the Department broad authority to issue orders as may be necessary for the enforcement of the Mortgage Licensing Act, 7 Pa. C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a) and 7 P.S. § 6616(1));

AND NOW THEREFORE, based upon the foregoing, the Bureau, under the authority cited above, hereby imposes the following Order. Upon the effective date of this Order:

Daniel E. Hoey, as a natural person or as a corporation or as any other form of organization of any kind whatsoever, is hereby prohibited from working in the mortgage loan business as regulated by the Mortgage Licensing Act as a licensee, employee, independent contractor, agent, representative, or in any other capacity of any kind whatsoever, in any way whatsoever.

IT IS SO ORDERED.

Date: 6/2/11

Redacted

~~Lucy Cortez~~, Enforcement Administrator
Department of Banking
Bureau of Compliance, Investigation and Licensing
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Exhibit A

1544

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)

v.)

DANIEL HOEY)

Criminal No. 09-200

(18 U.S.C. § 1349)

INDICTMENT

COUNT ONE

The grand jury charges:

THE CONSPIRACY AND ITS OBJECTS

1. From in or around January 2007, and continuing thereafter until in or around July 2007, in the Western District of Pennsylvania and elsewhere, the defendant, DANIEL HOEY, knowingly and willfully did conspire, combine, confederate and agree with other persons known to the grand jury as RA and JM, to commit an offense against the United States, that is, Wire Fraud, in violation of Title 18, United States Code, Section 1343.

MANNER AND MEANS OF THE CONSPIRACY

2. It was a part of the conspiracy that the defendant, DANIEL HOEY, participated in a scheme to finance the purchase of the residence located at 357 Chestnut Street, Sewickley, Pennsylvania, and renovations to that residence, through a series of false representations.

3. It was further a part of the conspiracy that, as the defendant, DANIEL HOEY, then well knew, loan applications were submitted in the name of an individual known to the grand jury as SA, as if SA were purchasing 357 Chestnut Street, Sewickley,

U.S. DISTRICT COURT

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Pennsylvania, for the purpose of residing at that residence, when, as the defendant, DANIEL HOEY, then well knew, SA did not intend to reside at that residence.

4. It was further a part of the conspiracy, that as the defendant, DANIEL HOEY, then well knew, RA submitted loan applications in SA's name that contained false representations related to, among other things, SA's income and assets.

5. It was further a part of the conspiracy that members of the conspiracy submitted information to the lenders that overstated the true sales price of the property.

6. It was further a part of the conspiracy that an appraiser known to the grand jury as JM prepared a fraudulent appraisal for the residence that overstated the true fair market value of the residence.

7. It was further a part of the conspiracy that members of the conspiracy caused a fraudulent settlement statement to be prepared and submitted to a lending institution that contained false representations related to the down payment and the distribution of the money at the closing.

8. It was further a part of the conspiracy that the defendant, DANIEL HOEY, and other members of the conspiracy used and caused the use of the interstate wires in connection with communications with the lending institutions during the course of the loan application and underwriting process.

9. It was further a part of the conspiracy that the defendant, DANIEL HOEY, and other members of the conspiracy caused wire transfers from the accounts of the lending institutions, located outside the Commonwealth of Pennsylvania, to the account of the closing attorney in the Commonwealth of Pennsylvania, in furtherance of the Wire Fraud scheme.

All in violation of Title 18, United States Code, Section 1349.

A True Bill,

Redacted

~~FOREPERSON~~

Redacted

~~MARY~~ BETH BUCHANAN
United States Attorney
PA ID No. 50254

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

vs.

DANIEL HOEY,

Defendant.

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)

Criminal No. 09-200

CHANGE OF PLEA

AND NOW, the Defendant, Daniel Hoey,
in the above entitled case hereby withdraws his
plea of NOT GUILTY entered July 7, 2009, and
now pleads GUILTY to Count 1, in open court this
3rd day of August, 2010.

Redacted

~~Defendant~~

Redacted

Attorney

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Docket No.: 11 0106 (ENF-ORD)

v.

DANIEL E. HOEY, individually

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **Order of Prohibition** upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code § 33.31:

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED
AND FIRST CLASS MAIL

Daniel E. Hoey, Register No. 30431-068
MDC BROOKLYN
METROPOLITAN DETENTION CENTER
P.O. BOX 329002
BROOKLYN, NY 11232

Dated this 2nd day of June 2011.

Redacted

~~Sarah E. Sedlak~~, Assistant Counsel
Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471