

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

v.

EC FINANCIAL, LLC

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: Docket No. 11 0102 (ENF-CO)
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PA DEPT OF BANKING

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (“Department”), Bureau of Examinations, has conducted an examination of EC Financial, LLC (“EC Financial”), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (“Bureau”) found that EC Financial 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. EC Financial is a mortgage broker that maintains its principal place of business at 6155 Rockside Road, Suite 201, Independence, Ohio 44131.

4. EC Financial is licensed by the Department to engage in the mortgage loan business in the Commonwealth, License Number 22990 and Nationwide Mortgage Licensing System and Registry Identification Number 128369.

5. On June 18, 2010, the Department and EC Financial entered into a Consent Agreement and Order, Docket No. 100145, resulting from EC Financial's failure to obtain and provide proof of a surety bond to the Department as required by the Mortgage Licensing Act ("June Order").

6. The June Order required EC Financial to provide the Department with proof of the required surety bond and to pay a fine in the amount of \$2,500 in two payments of \$1,250 with the first payment due by July 18, 2010 and the second payment due by August 17, 2010.

7. EC Financial complied with the June Order, in part: EC Financial provided proof of the surety bond to the Department and made the first payment on time.

8. However, EC Financial did not submit the second payment to the Department by August 17, 2010.

9. Meanwhile, on August 2, 2010, the Bureau commenced an examination of EC Financial.

10. The examination revealed three violations of the Mortgage Licensing Act as explained below.

11. The purpose of this Order is to resolve EC Financial's compliance issues resulting from the June Order and the August 2010 examination.

VIOLATIONS

Failure to Comply with Department's Order

12. As noted above, EC Financial failed to submit to the Department the second payment due August 17, 2010 as required by the June Order.

13. A licensee violates the Mortgage Licensing Act when it fails to comply with any order issued by the Department. *See* 7 Pa. C.S. § 6139(a)(2).

14. By failing to comply with the Department's June Order, EC Financial violated Section 6139(a) (2) of the Mortgage Licensing Act.

15. EC Financial asserts that its failure to pay the fine on time was not intentional; its office was relocating at the time payment was due, thus, EC Financial simply forgot to submit the payment.

16. To demonstrate good faith, EC Financial forwarded the second payment to the Department prior to executing this Order; the Department received the payment on May 12, 2011.

Failure to Display Unique Identifier

17. The August 2010 examination revealed that the mortgage originators employed by EC Financial did not display their unique identifier on mortgage applications originated for Pennsylvania residents during the 2010 calendar year.

18. Mortgage brokers 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).

19. Mortgage originators must clearly display their “unique identifier on all mortgage loan application forms and personal solicitations or advertisements, including business cards.” See 7 Pa. C.S. § 6121(14).

20. By failing to ensure that its mortgage originators displayed their unique identifiers on the mortgage loan application forms, EC Financial violated Section 6121(13) of the Mortgage Licensing Act.

Failure to Disclose Licensure

21. Further, the examination revealed that EC Financial’s website, www.ecfinancial.net, did not disclose that the company is licensed by the Department.

22. EC Financial advertises its services through the website.

23. The Mortgage Licensing Act requires each licensee to include in all advertisements language indicating that the licensee is licensed by the Department. 7 Pa. C.S. § 6135(a)(5).

24. By failing to disclose on its website that it is licensed by the Department, EC Financial violated Section 6135(a)(5) of the Mortgage Licensing Act.

25. Once notified about the problem, EC Financial promptly amended the website to indicate that it is licensed by the Department.

Failure to Disclose Mortgage Loans on Annual Report

26. Finally, the examination revealed that EC Financial failed to accurately report the total number of mortgage loans brokered in 2008 on the 2009 annual report form submitted to the Department.

27. Mortgage brokers must file a report with the department concerning the first or secondary mortgage loan business conducted by the licensee during the preceding calendar year. *See 7 Pa. C.S. § 6135(a) (3) (emphasis added).*

28. It is a violation of the Mortgage Licensing act to make a “material misstatement in any report or submission” provided to the Department. 7 Pa. C.S. § 6139(a) (1).

29. By failing to accurately report its mortgage loan business in the 2009 annual report form submitted to the Department, EC Financial violated Section 6139(a)(1) of the Mortgage Licensing Act.

30. EC Financial asserts that it failed to disclose accurate information on the annual report because the employee responsible for filing the report was on maternity leave when it was filed.

31. EC Financial agreed to resubmit the 2009 annual report form with correct information by no later than September 21, 2010; however, EC Financial failed to do so.

32. To demonstrate good faith, EC Financial resubmitted the 2009 annual report form to the Department on April 29, 2011, prior to executing this Order with the Department.

Authority of the Department

33. The Department has the authority to issue orders for the proper conduct of the mortgage loan business and to enforce the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a) (4).

34. The Department has the authority fine a licensee “up to \$10,000” for each violation of the Mortgage Licensing Act. 7 Pa. C.S. § 6140(b).

RELIEF

35. Corrective Action. Upon the effective date of this Order, EC Financial shall ensure that its licensed mortgage originators’ unique identification numbers are displayed on the

mortgage applications and on any personal solicitation or advertisements used by the originators including business cards. EC Financial shall ensure that all advertisements contain language notifying the public that it is licensed by the Department. Finally, EC Financial shall ensure that the annual reports it files with the Department contain accurate information.

36. Fine. EC Financial shall pay a \$750 fine for the violations of the Mortgage Licensing Act set forth above. The monies shall be due and payable to the Department within 30 days of the effective date of this Order (as defined in Paragraph 42). Payment shall be remitted by 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 N. Second Street; Suite 1300, Harrisburg, Pennsylvania 17101.

FURTHER PROVISIONS

37. Consent. EC Financial hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order issued 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. EC Financial 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.

38. 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)

39. Entire Agreement. This Order contains the whole agreement between the parties. There is 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 EC Financial.

40. Binding Nature. The Department, EC Financial and all of its officers, owners, directors, and employees, intend to be and are legally bound by the terms of this Order.

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

42. Effectiveness. EC Financial hereby stipulates and agrees that the Order shall become effective on the date the Bureau executes the Order.

43. 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 EC Financial in the future regarding all matters not resolved by this Order.

b. EC Financial acknowledges and agrees that this Order is only binding upon the Department and not other local, state or federal agency, department or office regarding matters within this Order.

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

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

46. 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 EC Financial, LLC, 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**

Lucy Cortez, Enforcement Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 5/20/11

EC FINANCIAL, LLC

(Officer Signature)

(Print Officer Name)

(Title)

Date: 5/16/11