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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

Docket No. 11 0116 (ENF-CO)

v.

ELITE FUNDING CORPORATION
d/b/a TENACITY MORTGAGE
CORPORATION

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, conducted an examination of Elite Funding Corporation d/b/a Tenacity Mortgage Corporation ("Elite Funding"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Elite Funding 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 Mortgage Licensing Act was enacted on November 5, 2008.

3. Effective as of December 20, 2008, the Department promulgated a regulation under the Mortgage Licensing Act known as the Proper Conduct of Lending and Brokering in the Mortgage Loan Business ("Proper Conduct Regulation"). 10 Pa. Code § 46.1 et seq.

4. The Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act and the Proper Conduct Regulation for the Department.

5. Elite Funding is currently licensed under the Mortgage Licensing Act as a mortgage broker, with license number 23751 and with the National Mortgage Licensing System Registry ("NMLSR") identification number of 138982.

6. Elite Funding maintains its principal place of business at 9001 Edmonston Road, Greenbelt, Maryland 20770.

7. On or around September 20, 2010, the Department conducted an examination ("Examination") of Elite Funding at its principal place of business.

Pennsylvania Consumer Disclosure Form

8. The Examination revealed that Elite Funding did not consistently provide applicants with a properly completed Pennsylvania Consumer Disclosure Form ("Disclosure Form").

9. A violation of the Proper Conduct Regulation is a violation of the Mortgage Licensing Act. 10 Pa. Code § 46.3(a).

10. The Proper Conduct Regulation requires that Elite Funding, as a licensee, issue a Pennsylvania Consumer Disclosure form to applicants. § 46.3(b).

11. Elite Funding was required to sign and date the Disclosure Form and then deliver or place it in the mail within three (3) business days after receiving or preparing a consumer's application. 10 Pa. Code § 46.2(c).

12. The examination reflected that Elite Funding followed the required steps regarding the Disclosure Form in some of the consumer mortgage loan files, but it either did not complete, or did not properly complete, the Disclosure Form in other loan files.

13. Because Elite Funding failed to consistently provide a properly completed Pennsylvania Consumer Disclosure Form to applicants, it was in violation of the Proper Conduct Regulation and therefore in violation of the Mortgage Licensing Act.

14. Prior to the completion of the examination, Elite Funding added the Pennsylvania Consumer Disclosure Form to its origination software in order to ensure that it is provided to applicants after receiving or preparing every application.

Authority of the Department

15. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department broad authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

16. 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).

VIOLATIONS

17. Elite Funding is in violation of Section 46.2 of the Proper Conduct Regulation, as well as the Mortgage Licensing Act, by not consistently providing applicants with properly completed Pennsylvania Consumer Disclosure Forms.

RELIEF

18. Fine. Elite Funding 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, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

19. Corrective Measures. Upon the Effective Date of the Order, Elite Funding shall provide every applicant with a fully completed Pennsylvania Consumer Disclosure Form.

FURTHER PROVISIONS

20. Consent. Elite Funding 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. Elite Funding, 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.

21. 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).

22. 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 Elite Funding.

23. Binding Nature. The Department, Elite Funding, and all officers, owners, directors, employees, heirs and assigns of Elite Funding intend to be and are legally bound by the terms of this Order.

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

25. Effectiveness. Elite Funding hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

26. 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 Elite Funding in the future regarding all matters not resolved by this Order.

b. Elite Funding 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.

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

34. Counterparts. This Order may be executed in separate counterparts, by facsimile and by PDF.

35. 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 Elite Funding Corporation d/b/a Tenacity Mortgage Corporation 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

Ryan Walsh, Administrator
Department of Banking
Bureau of Compliance, Investigation and Licensing

Date: June 21, 2011

FOR ELITE FUNDING CORPORATION d/b/a
TENACITY MORTGAGE CORPORATION

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 6/20/11