

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

FILED

2011 MAY 18 PM 12:46

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

PA DEPT OF BANKING
Docket No. : 11-0165 (ENF-ORD)

v.

EXPRESS HOME SOLUTIONS.

NOTICE OF RIGHT TO APPEAL AND HEARING

You, Express Home Solutions, have the right to appeal the attached 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. 1 Pa. Code § 35.20. 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 N. 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, your right to a hearing will be waived and the Order will be deemed final.

If you choose to file a petition challenging the Order, please send an additional copy to:

Lauren Sassani, Assistant Counsel
Pennsylvania Department of Banking
17 N. 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.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA	:	Docket No. : 11-0160 (ENT-ORD)
DEPARTMENT OF BANKING, BUREAU	:	
OF COMPLIANCE, INVESTIGATION	:	
AND LICENSING,	:	
	:	
	:	
v.	:	
	:	
EXPRESS HOME SOLUTIONS.	:	

ORDER

WHEREAS, the Department of Banking (the "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 (the "Bureau") is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department; and

WHEREAS, the Mortgage Licensing Act was amended on August 5, 2009 by Act 31 of 2009, H.B. 1654 (P.N. 2448); and

WHEREAS, Express Home Solutions ("Express Home") maintains a website, www.expresshomesolutions.us (the "Website"); and

WHEREAS, the Website lists the Corporate Office of Express Home as 595 Stewart Ave., #720, Garden City, NY 11530.

WHEREAS, "Pennsylvania" is included in the dropdown menu under the "Application" section of the Website. See Exhibit A; and

WHEREAS, in or around July 2010, the Department received a complaint from a Pennsylvania consumer, Redacted regarding Express Home; and

WHEREAS, Mr. Redacted resides at Redacted and

WHEREAS, Mr. Redacted engaged Express Home to act as his “Designated Agent” to discuss a mortgage loan modification with Mr. Redacted third party lender. See Exhibit B; and

WHEREAS, Mr. Redacted paid fees in advance of a mortgage loan modification being negotiated and or completed by Express Home; and

WHEREAS, as of the date this Order is issued, the status of any loan modification for Mr. Redacted is unknown; and

WHEREAS, by offering mortgage loan modification services to Pennsylvania consumers, Express Home has engaged in the “mortgage loan business” as defined in the Mortgage Licensing Act; and

WHEREAS, Express Home does not meet any of the exceptions to licensure in Sections 6111(b) and 6112 of the Mortgage Licensing Act. *See* 7 Pa. C.S. §§ 6111(b), 6112; and

WHEREAS, Express Home is not licensed to engage in the mortgage loan business in Pennsylvania; and

WHEREAS, the employees of Express Home that conduct the mortgage loan modification negotiations with third party lenders on behalf of consumers are not licensed as mortgage originators pursuant to the Mortgage Licensing Act and do not meet any exception to licensure. *See* 7 Pa. C.S. § 6102; and

WHEREAS, at the time the unlicensed activity by Express Home occurred, only licensees that have an advance fee bond are permitted to collect advance fees. *See* 7 Pa. C.S. § 6131(e)(1); and

WHEREAS, as an unlicensed mortgage broker that does not have a bond, Express Home was not authorized to collect advance fees from Pennsylvania consumers; and

WHEREAS, Express Home has violated the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania without a license; and

Mortgage Licensing Act

WHEREAS, the Mortgage Licensing Act applies to any mortgage loan that is "(i) negotiated, offered or otherwise transacted within this Commonwealth, in whole or in part, whether by the ultimate lender *or any other person*; (ii) made or executed within this Commonwealth; or (iii) notwithstanding the place of execution, secured by real property located in this Commonwealth." 7 Pa. C.S. § 6151(1) (emphasis added); and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines an "advance fee" as "[a]ny funds requested by or to be paid to a person in advance of or during the processing of a mortgage loan application, excluding those fees paid by a consumer directly to a credit agency reporting bureau, title company or real estate appraiser." 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines "mortgage loan business" as "[t]he business of advertising, causing to be advertised, soliciting, negotiating or arranging in the ordinary course of business or offering to make or making mortgage loans." 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a "mortgage originator" as:

- (1) An individual [that] takes a mortgage loan application or offers or negotiates terms of a mortgage loan for compensation or gain.
- (2) The term does not include any of the following:
 - (i) An individual engaged solely as a loan processor or underwriter consistent with section 6112(8) (relating to exceptions to licensing requirements).

- (ii) A person or entity solely involved in extensions of credit relating to timeshare plans. . . .
- (3) Except as set forth in paragraph (4), the term does not include an employee of a licensee or person exempt or excepted from licensure under this chapter who *solely renegotiates terms for existing mortgage loans held or serviced by that licensee or person* and who does not otherwise act as a mortgage originator.
- (4)

7 Pa. C.S. § 6102 (emphasis added); and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a “first mortgage loan” as a loan which is “(1) made primarily for personal, family or household use; and (2) secured by any first lien mortgage, deed of trust, or equivalent consensual security interest on a dwelling or on residential real estate.” 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a “secondary mortgage loan” as “(1) made primarily for personal, family or household use; and (2) secured by any secondary lien mortgage, deed of trust, or equivalent consensual security interest on a dwelling or on residential real estate.” 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Licensing Act defines a “mortgage loan” as “[a] first or secondary mortgage loan, or both, as the context may require.” 7 Pa. C.S. § 6102; and

WHEREAS, Section 6111(a) of the Mortgage Licensing Act provides that “. . . no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator as provided under this chapter. A mortgage originator may not engage in the mortgage loan business unless the mortgage originator is employed and supervised by a licensed mortgage broker, mortgage lender or mortgage loan correspondent. . .” 7 Pa. C.S. § 6111(a); and

WHEREAS, Section 6131(e)(1) of the Mortgage Licensing Act provides that mortgage broker license applicants must obtain and “maintain a bond in the amount of \$100,000, in a form acceptable to the department, prior to the issuance of the license, from a surety company authorized to do business in this Commonwealth. The bond shall be a penal bond conditioned on compliance with this chapter and subject to forfeiture by the department and shall run to the Commonwealth for its use. The bond shall also be for the use of any person against the mortgage broker for failure to carry out the terms of any provision for which advance fees are paid. . . .” 7 Pa. C.S. § 6131(e)(1); and

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

WHEREAS, Section 6140(a) of the Mortgage Licensing Act provides, in relevant part that “[a] person subject to the provisions of this chapter and not licensed by the department who violates any provision of this chapter or who commits any action which would subject a license to suspension, revocation or nonrenewal under section 6139 (relating to suspension, revocation or refusal) may be fined by the department up to \$10,000 for each offense.” 7 Pa. C.S. § 6140(a); and

AND NOW, THEREFORE, since Express Home has engaged in unlicensed activity, the Bureau, pursuant to its authority referenced above, hereby imposes the following Order:

1. Loan Origination. Upon the effective date of this Order¹, Express Home and any and all officers, members, managers, employees, independent contractors or agents of Express Home shall cease and desist from engaging in the mortgage loan business subject to the

¹ This Order is effective on the tenth day of the date it is executed below, if no petition for hearing is timely filed. If a petition for hearing is timely filed, the Order will become effective on the date upon which a final order is issued.

Mortgage Licensing Act, including, but not limited to, advertising (including website advertising), accepting applications and negotiating mortgage loans and mortgage loan modifications in Pennsylvania or to Pennsylvania consumers, unless and until such time that Express Home and all mortgage originators as defined by the Mortgage Licensing Act are licensed by the Department pursuant to the Mortgage Licensing Act.

2. Fine. Upon the effective date of this Order, Express Home shall pay a \$1,000 fine for violating the Mortgage Licensing Act. The fine shall be made by certified check or money order made payable to the "Department of Banking" and shall be sent to the attention of the Department of Banking, Bureau of Compliance, Investigation and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

3. Redacted. Upon the effective date of this Order, Express Home shall provide Redacted a refund of the advance fee collected. Express Home shall provide the Bureau with evidence that the refund was paid by providing the Bureau with a copy of a cancelled/cleared check. A copy of the cancelled/cleared check shall be sent to John Talalai, Administrator, Compliance Division, at Redacted, by 5:00 PM eastern time on the effective date of this Order.

4. Pipeline Report. Upon the effective date of this Order, Express Home shall provide a list of Pennsylvania consumers that Express Home has worked with in order to negotiate mortgage loan modifications (the "Pipeline Report"). The Pipeline Report shall include, but is not limited to:

- a. The names, addresses and phone numbers of Pennsylvania consumers that have responded to Express Home's advertisements (including www.expresshomesolutions.us) or that Express Home has as clients;

- b. The amount of fees collected from the Pennsylvania consumers;
- c. The current rate, term and payment of the Pennsylvania consumers' loans;
- d. The proposed rate, term and payment of the loans subsequent to the loan modification;
- e. The current status and/or resolution of the loan modification.

The Pipeline Report shall be sent to John Talalai, Administrator, Compliance Division, at Redacted , by 5:00 PM eastern time on the effective date of this Order. The Pipeline Report shall be updated weekly until the Bureau no longer requires updates.

5. Advertising. Upon the effective date of this Order, Express Home shall provide a list of any other websites or copies of any other advertising that Express Home has utilized including, but not limited to, mail solicitations. The information shall be sent to John Talalai, Administrator, Compliance Division, at Redacted , by 5:00 PM eastern time on the effective date of this Order.

6. Contact Information. Upon the effective date of this Order, Express Home shall provide a list of all owners, officers and employees of Express Home. The list shall include the name, address telephone number and position of these individuals. The information shall be sent to John Talalai, Administrator, Compliance Division, at Redacted , by 5:00 PM eastern time on the effective date of this Order.

7. Advance Fees. Upon the effective date of this Order Express Home shall refund all advance fees collected from a Pennsylvania consumer and shall cease and desist from collecting any future advance fees pursuant to the Federal Trade Commission's regulation of mortgage assistance relief services, 16 CFR 322.1 *et seq.* Proof of the refunded advance fees shall be made in the form of cancelled/cleared checks and shall be sent to John Talalai,

Administrator, Compliance Division, at Redacted, by 5:00 PM eastern time on the effective date of this Order.

8. Non-prohibited Conduct. Nothing in this Order shall prevent Express Home from negotiating loan modifications for consumers listed on the Pipeline Report provided the consumers listed on the Pipeline Report want Express Home to proceed on their behalf. Express Home is only permitted to process the files listed on the Pipeline Report as provided in Paragraph 4 and may not accept any new business unless and until such time as Express Home is licensed as provided in Paragraph 1.

9. Reservation of Rights. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary including, but not limited to imposing fines pursuant to Section 6140(a) or (b) of the Mortgage Licensing Act or seeking restitution for consumers.

IT IS SO ORDERED.

Redacted


John Halalai, Administrator
Department of Banking,
Bureau of Compliance, Investigation and Licensing

5-18-2011
(Date)

EXHIBIT A

Residential and Commercial
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12345 Main Street, Suite 100, Anytown, CA 90210
 Phone: 555-555-5555 Fax: 555-555-5555 Email: info@cityofanytown.com

Residential and Commercial
Collection and Disposal

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Complete Application

Mobile Email

E-mail Address *

Is there a Co-Owner? * Yes No

Social Security Number

Date of Birth

Marital Status

Mortgage Applied for *

Interest Rate *

Association Type *

Interest Rate *

Account Type *

Account Type * Fee Rate

City:

Zip Code:

Mailing Address If Different From Above

Other Party Information

* Required

EXHIBIT B

Redacted

EXPRESS HOME SOLUTIONS
595 Stewart Ave.
Suite 720
Garden City, NY 11530
Attn: Merry

July 14, 2009

Hello Merry,

This letter is in response to your phone call on Tuesday July 14, 2009 concerning employment static and W2 Forms.

I have been out of work since late January 2009 and collecting unemployment all this time.

As of today I haven't heard any positive signs from my employer as to calling me back to work any time soon.

Sincerely,

Redacted

