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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING, BUREAU	:	
OF COMPLIANCE, INVESTIGATION	:	
AND LICENSING	:	
v.	:	Docket No. 11 <u>0136</u> (ENF-CO)
	:	
	:	
FIRST UNITED FUNDING, INC.	:	

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations has conducted an examination of First United Funding, Inc. ("First United Funding") and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance, Investigation and Licensing ("Bureau") concluded that First United Funding violated 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. First United Funding is a mortgage broker that engages in the mortgage loan business in the Commonwealth as set forth in 7 Pa. C.S. § 6151.

4. First United Funding's principal place of business is located at 1 North Park Drive, Suite 205, Cockeysville, Maryland 21030.

5. First United Funding is licensed by the Department as a mortgage broker, license no. 27819, Nationwide Mortgage Licensing System and Registry ("NMLS") Identification No. 144060.

6. As a mortgage broker, First United Funding must "maintain 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)(i)(emphasis added); *see also* 7 Pa. C.S. § 6131(f)(1).

7. On September 15, 2010, an examiner for the Department commenced an examination of First United Funding at the York branch office.

VIOLATION

8. The examiner found that the sole mortgage originator employed at the York branch office did not clearly display his unique identifier, his NMLS number, on his business cards.

9. Section 6121(14) of the Mortgage Licensing Act provides that "[a] licensee shall do all of the following . . . [i]n the case of a mortgage originator, clearly display the mortgage originator's unique identifier on all mortgage loan application forms and personal solicitations or advertisements, including business cards." 7 Pa. C.S. § 6121(14).

10. By failing to require the mortgage originator it employs to display his NMLS Number on his business cards, First United Funding violated Section 6121(14) of the Mortgage Licensing Act.

AUTHORITY

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

12. 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).

RELIEF

13. Fine. Within 30 days of the effective date of this Order (as defined in Paragraph 20) First United Funding shall pay the Department a fine in the amount of \$250.00. The fine shall be remitted by certified check or money order made payable to the “Department of Banking” and be sent to the attention of: Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing, Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

14. Corrective Action. Upon the effective date of this Order (as defined in Paragraph 21) First United Funding shall ensure that its mortgage originators’ unique identifiers are prominently displayed on all mortgage loan application forms and personal solicitations and advertisements including business cards as required by 7 Pa. C.S. § 6121(14).

FURTHER PROVISIONS

15. Consent. First United 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

therein. First United 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.

16. 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).

17. 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 First United Funding.

18. Binding Nature. The Department and First United Funding, and its officers, employees, directors, heirs and assigns intend to be and are legally bound by the terms of this Order.

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

20. Effectiveness. First United Funding hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

21. 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 First United Funding, in the future regarding all matters not resolved by this Order.

b. First United 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.

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

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

24. 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 First United Funding, Inc., 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**

John Valzai, Enforcement Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 7-28-2011

FOR FIRST UNITED FUNDING, INC.

(Officer Signature) _____

(Print Officer Name) _____

President
(Title)

Date: 7/25/11