

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

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

Docket No. 11 0140 (ENF-CO)

v.

FISH FINANCIAL, LLC

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, conducted an examination of Fish Financial, LLC ("Fish Financial"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") believes that Fish 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 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. Fish Financial is currently licensed under the Mortgage Licensing Act as a mortgage broker, with license number 21599 and with the National Mortgage Licensing System Registry ("NMLSR") identification number of 102172.

6. Fish Financial maintains its principal place of business at 44 East Broad Street, Suite 207, Bethlehem, Pennsylvania 18018-5920.

7. On or around May 17, 2010, the Bureau conducted an examination ("Examination") of Fish Financial at its principal place of business.

Pennsylvania Consumer Disclosure Form

8. The Examination revealed that Fish Financial did not always properly complete the 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 Fish Financial, as a licensee, issue a disclosure form to applicants. 10 Pa. Code § 46.2(b).

11. In order for a disclosure form to be complete, the Proper Conduct Regulation requires that it contain the signature(s) of the borrower(s); the date the borrower(s) signed the disclosure; the licensee's name; and the date of issuance by the licensee. 10 Pa. Code § 46.2(c).

12. The Proper Conduct Regulation requires that a licensee obtain an applicant's signature with the date of signature on the disclosure form within ten (10) business days after delivery or mailing. 10 Pa. Code § 46.2(e).

13. Of the twenty-five (25) mortgage loan files the Bureau reviewed, fifteen (15) contained disclosure forms which did not adhere to the timing requirements of the Proper Conduct Regulation.

Authority of the Department

14. 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).

15. The Mortgage Licensing Act permits the Department to suspend, revoke or refuse to renew a license of a licensee where that licensee "failed to comply with or violated any provision of this chapter or any regulation or order promulgated or issued by the department under this chapter." 7 Pa. C.S. § 6139(a)(2).

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. Fish Financial violated the Proper Conduct Regulation, and therefore, the Mortgage Licensing Act, when it did not properly complete the disclosure form by adhering to all timing requirements. 10 Pa. Code § 46.2(e).

RELIEF

18. Fine. Fish Financial 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, Fish Financial shall adhere to all the requirements of the Proper Conduct Regulation.

FURTHER PROVISIONS

20. Consent. Fish Financial 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. Fish 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.

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 Fish Financial.

23. Binding Nature. The Department, Fish Financial, and all officers, owners, directors, employees, heirs and assigns of Fish Financial 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. Fish Financial 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 Fish Financial in the future regarding all matters not resolved by this Order.

b. Fish Financial 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 Fish 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

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

Date: August 15, 2011

FOR FISH FINANCIAL, LLC

[Signature]
Officer (Signature)

(Print Officer Name)

VP

(Title)

Date: 8-10-11