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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING 2011 DEC -5 AM 11:21

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING
BUREAU OF COMPLIANCE
AND LICENSING

PA DEPT OF BANKING

Docket No. 11 0186 (ENF-CO)

v.

PATRIOT LENDING SERVICES, INC.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations has conducted an examination of Patriot Lending Services, Inc. ("Patriot") and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance and Licensing ("Bureau") concluded that Patriot operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* and the regulations entitled the "Proper Conduct of Lending and Brokering in the Mortgage Loan Business," 10 Pa. Code § 46.1 *et seq.* ("Regulations"). 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. Patriot is a mortgage lender with a principal place of business located at 564 Washington Avenue, Carnegie, Pennsylvania 15106.
4. Patriot is licensed by the Department as a mortgage lender, license number 25520 and Nationwide Mortgage Licensing System and Registry ("NMLS") identification number 131499.
5. As a mortgage lender, Patriot must "[m]aintain supervision and control of and responsibility for the acts and omissions of all mortgage originators" that it employs. 7 Pa. C.S. §§ 6121(13)(i), 6131(f)(1).
6. On July 16, 2010, an examiner of the Department commenced an examination of Patriot at its principal place of business.
7. The purpose of the examination was to ascertain Patriot's compliance with the Mortgage Licensing Act, effective November 5, 2008, and the Regulations, effective March 20, 2009.
8. The examination included a compliance review of activity conducted in 2008, 2009 and 2010 up to the date of the examination.
9. The examiner found that Patriot violated the Mortgage Licensing Act and the Regulations as set forth in the section of this Order entitled "Violations."
10. Although Patriot agrees to enter this Order, it is Patriot's position that it did not intentionally violate the Mortgage Licensing Act or Regulations.
11. Further, Patriot takes the position that, despite the violations set forth below, the mortgage loans were properly underwritten, accepted by investors and has been mutually successful for the consumers and investors.

VIOLATIONS

Dual Sponsorship

12. The examiner found that Patriot retained and compensated at least 11 mortgage originators that were employed by other mortgage licensees, *i.e.*, brokers and lenders, to originate loans in at least 28 mortgage loan transactions.

13. Patriot knew that the mortgage originators were employed by other mortgage licensees but, nevertheless, compensated the originators as employees to originate loans and refer the loans to Patriot for funding so that the originators were employed by two licensees simultaneously.

14. The Mortgage Licensing Act provides, in relevant part, that mortgage originators shall be employees of a "*single licensed mortgage broker, mortgage lender or mortgage loan correspondent*" who shall "*directly supervise, control and maintain responsibility*" for the originator's acts and omissions. *See 7 Pa. C.S. § 6131(f)(1) (emphasis added); see also 7 Pa. C.S. § 6121(13).*

15. By employing mortgage originators that were simultaneously employed by other licensees to originate loans on its behalf, Patriot violated Section 6131(f)(1) of the Mortgage Licensing Act.

Unlicensed Branches

16. The examiner also found that Patriot employed one mortgage loan originator that originated at least 7 mortgage loans from his residence; however, Patriot did not license the mortgage originator's residence as a branch location.

17. The Mortgage Licensing Act defines branch as “[a]n office or other place of business, other than the principal place of business, where a person engages in the mortgage loan business subject to this chapter.” 7 Pa. C.S. § 6102.

18. Section 6131(f)(2) of the Mortgage Licensing Act provides that “[a] mortgage originator shall do all of the following . . . [b]e assigned to and *work out of a licensed location* of the employer licensee . . .” 7 Pa. C.S. § 6131(f)(2) (emphasis added).

19. By permitting its mortgage originator to work out of a location that is not licensed by the Department, Patriot violated Section 6131(f)(2) of the Mortgage Licensing Act.

Unique Identifier Missing from Applications

20. The examiner also found that Patriot’s mortgage originators did not prominently display their unique identifiers, that is, their NMLS numbers, on the mortgage loan applications that they completed for applicants.

21. Section 6121(14) of the Mortgage Licensing Act requires that “[a] licensee shall do all of the following . . . in 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).

22. By failing to require its mortgage originators to display their unique identifiers on the mortgage loan applications, Patriot violated Section 6121(14) of the Mortgage Licensing Act.

Consumer Disclosure Forms

23. Finally, the examiner found that Patriot’s mortgage loan files, reflecting the business transacted for the period of March 20, 2009 through January 2010, did not contain the original executed consumer disclosure form required by the Regulations.

24. The Regulations require a licensee that takes a mortgage loan application to provide the applicant with a signed and dated disclosure form "prescribed" by the Department within three business days after the application is received or prepared by the licensee. 10 Pa. Code §§ 46.2(b),(c).

25. Thereafter, the licensee must have the applicant sign and date the disclosure form within 10 business days, after delivery or mailing, and return it to the licensee who will retain the original executed disclosure form in the applicant's loan file. See 10 Pa. Code § 46.2(e).

26. By failing to require its mortgage originators to provide the disclosure form to the applicants and by failing to maintain the original executed disclosure form in the applicants' loan files, Patriot violated 10 Pa. Code §§ 46.2(b),(c),(e).

Authority of the Department

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

28. Section 6140(b) of the Mortgage Licensing Act provides, in relevant part, that "[a] person licensed under [the Mortgage Licensing Act] or director, officer, owner, partner, employee or agent of a licensee who violates a provision of [the Mortgage Licensing Act] 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).

29. A licensee can be subject to suspension, revocation or nonrenewal under section 6139 if it fails to comply with any regulation or order issued by the Department. 7 Pa. C.S. § 6139(a)(2).

30. Thus, the Department has the authority to fine a licensee for violating the Mortgage Licensing Act and the Regulations.

RELIEF

31. Fine. Patriot shall pay a fine of \$11,500. The fine shall be paid in six installments. The first installment of \$4,000 is due within 30 days of the effective date of this Order as set forth in Paragraph 38. Patriot shall pay the remaining \$7,500 in five installments of \$1,500. Each payment of \$1,500 is due 30 days from the date of the previous payment until paid in full. Patriot shall remit the payments by certified check or money order made payable to the "Department of Banking" and mail or deliver the fine payments to the following: Bureau of Compliance and Licensing, Pennsylvania Department of Banking, 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

32. Corrective Action. Upon the effective date of this Order as defined in Paragraph 38, Patriot shall:

- a. Cease and desist from employing mortgage originators that are simultaneously employed by other mortgage lenders, mortgage brokers or other mortgage licensees to engage in the mortgage loan business on its behalf; and
- b. Cease and desist from permitting its mortgage originators to work out of locations that are not licensed by the Department as principal or branch locations; and
- c. Ensure that the mortgage originators' unique identifiers are prominently displayed on the mortgage loan application forms that the mortgage originators complete; and

d. Require its employees to complete the one page disclosure required by 10 Pa. Code § 46.2(b)(c),(e). Specifically, Patriot shall complete the one page consumer disclosure form prescribed by the Department within 3 business days after the application is received or completed by Patriot. Thereafter, Patriot shall have the applicant sign and date the disclosure form within 10 business days after Patriot delivered or mailed the form to the applicant. Once completed, Patriot shall retain the original disclosure form in the applicant's loan file.

FURTHER PROVISIONS

33. Consent. Patriot 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. Patriot, 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.

34. 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).

35. 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 Patriot.

36. Binding Nature. The Department and Patriot intend to be and are legally bound by the terms of this Order.

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

38. Effectiveness. Patriot hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

39. 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 Patriot, in the future regarding all matters not resolved by this Order.

b. Patriot 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.

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

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

42. 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 and Licensing and Patriot Lending Services, 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 AND LICENSING**

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

Date: 12/2/11

FOR PATRIOT LENDING SERVICES, INC.

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 12-2-11