

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

FILED

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

PA DEPT OF BANKING

: Docket No. : 11 000e (ENF-ORD)

v.

RELIEF LAW CENTER
d/b/a USA LOAN AUDITORS

NOTICE OF RIGHT TO APPEAL AND HEARING

You, Relief Law Center d/b/a USA Loan Auditors, 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 A. 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.

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Docket No. : 11000e (ENF-ORD)

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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, Relief Law Center d/b/a USA Loan Auditors ("USA Loan Auditors"), a mortgage loan modification company, is located at 14252 Culver Dr., Suite 230, Irvine, California, 92604; and

WHEREAS, in or around April 2010, USA Loan Auditors sent a solicitation (the "Solicitation") to at least one Pennsylvania consumer. See Exhibit A; and

License Required

WHEREAS, by offering mortgage loan modification services to Pennsylvania consumers through the mail, USA Loan Auditors has engaged in the "mortgage loan business" as defined in the Mortgage Licensing Act; and

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. § 6135(1) (emphasis added); 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, USA Loan Auditors 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, USA Loan Auditors is not licensed to engage in the mortgage loan business in Pennsylvania; and

WHEREAS, the employees of USA Loan Auditors 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, USA Loan Auditors has violated the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania without a license; and

Misleading Advertising

WHEREAS, the Solicitation states that the consumer may have “been a victim of lender misconduct.” See Exhibit A; and

WHEREAS, the Solicitation states that USA Loan Auditors is “currently investigating your lender” and lists the consumer’s current mortgage lender. See Exhibit A; and

WHEREAS, it is the Bureau’s belief that the Solicitation is designed to mislead Pennsylvania consumers and entice them to contact USA Loan Auditors to pay for mortgage loan modification services; and

WHEREAS, Section 6123(3) of the Mortgage Licensing Act prohibits licensees from advertising in a way that is “false, misleading or deceptive.” 7 Pa. C.S. § 6123(3); and

WHEREAS, the Bureau views the Solicitation as false, misleading and deceptive; and

Bond

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, only licensees that have an advance fee bond are permitted to collect advance fees. See 7 Pa. C.S. § 6131(e)(1); and

WHEREAS, USA Loan Auditors, as an unlicensed mortgage broker, does not have a bond to collect advance fees; 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

Authority of the Department

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, the Bureau, pursuant to its authority referenced above hereby imposes the following Order:

1. Loan Origination. Upon the effective date¹ of this Order, USA Loan Auditors and any and all officers, members, managers, employees, independent contractors or agents of USA Loan Auditors shall cease and desist from engaging in the mortgage loan business subject to the 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 USA Loan Auditors and all mortgage originators as defined by the Mortgage Licensing Act are licensed by the Department pursuant to the Mortgage Licensing Act.

2. Pipeline Report. Upon the effective date of this Order, USA Loan Auditors shall provide a list of consumers that USA Loan Auditors 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 advertisements or that USA Loan Auditors has as clients;
- b. The amount of fees collected from the 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; and
- e. The current status and/or resolution of the loan modification.

The Pipeline Report shall be sent to John Talalai, Administrator, Compliance Division, at , 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.

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.

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

4. Contact Information. Upon the effective date of this Order, USA Loan Auditors shall provide a list of all owners, officers and employees of USA Loan Auditors. 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 _____, by 5:00 PM eastern time on the effective date of this Order.

5. Advance Fees. Upon the effective date of this Order, USA Loan Auditors shall refund all advance fees collected from a Pennsylvania consumer and shall cease and desist from collecting any future advance fees unless and until such time as USA Loan Auditors obtains a bond to collect advance fees pursuant to the Mortgage Licensing Act. 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 _____, by 5:00 PM eastern time on the effective date of this Order.

6. Waiver. Nothing in this Order shall prevent USA Loan Auditors from seeking a waiver from the Department to allow USA Loan Auditors to complete a loan modification for a Pennsylvania consumer that is listed on the Pipeline Report as provided in Paragraph 2 in order to prevent further harm to the Pennsylvania consumer and for no other reason. Requests for waiver may be made to John Talalai, Administrator, Compliance Division, at _____

7. 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.

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

Dated: 01-11-2011

EXHIBIT A

| | | | |
|--|--|---------------------------------|--------------------------------|
| File Number Redacted | Lender Investigation Notification | | Code Redacted |
| Investigation Contact Phone Number (888) 637-5482 | Property State PA | | |
| USA Loan Auditors 14252 Culver Drive Suite 230 Irvine, CA 92604 | Property Type: RESIDENTIAL | | |
| | Notice Type: 008-S | Subject Investigation Notice | |
| Personal ID Number Redacted | | | |
| Property Address and Zip Code 4 4 Redacted Redacted | RE: PREDATORY LENDING INVESTIGATION | | |
| State PA | <u>Lender Investigation</u> | Lender Redacted | Total Loan Amount \$ 439027 |

Form 008-S Lender Investigation Notification

2010

**NOTICE REGARDING PREDATORY LENDING
YOUR IMMEDIATE PARTICIPATION IS REQUIRED**

PLEASE READ ENTIRE DOCUMENT CAREFULLY

We are currently investigating your lender **Redacted** for predatory lending. Based on our information you may be a victim of lender misconduct. As a remedy you may qualify

1. Lower your monthly mortgage payments.
2. Lower your interest rate to as low as 2.5% fixed rate, 30 or 40 year term.
3. Modify your ARM or Option ARM into a low fixed rate.
4. Repair your credit score.
5. Eliminate or reduce delinquent amounts.
6. Reduce the principal of your second mortgage.
7. Discounted pay-off or forbearance amounts.

This will be the final notice that you will receive. Due to the statute of limitations laws, time to participate is very limited. It is extremely important that you contact us.

To qualify for participation you must call

Toll Free: (888) 637-5482

FAILURE TO RESPOND TO THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS

WE CAN HELP SAVE YOUR HOME

Call: (888) 637-5482

6:30 AM PST TO 8 PM PST (MON-FRI)

6:30 AM PST TO 3 PM PST (SAT)

Fax Back to 1-888-880-8729 to receive a call back within 24 hours

Please indicate best time to call _____ Cell Phone _____ Home Phone _____

Email Address _____ @ _____ By _____ Date ____/____/____

This product or service has not been approved or endorsed by any government agency and this offer is not being made by an agency of government.

Legal Advertisement

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Order upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST CLASS MAIL

Relief Law Center d/b/a USA Loan Auditors
14252 Culver Dr.
Suite 230
Irvine, CA 92604

Dated this 11th day of January, 2011.

Lauren A. Sassani, Assistant Counsel
Attorney I.D. # 203016
Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471