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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU
OF SUPERVISION AND ENFORCEMENT

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v.

RESIDENTIAL HOME FUNDING CORP.
d/b/a RHF WHOLESALE

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations, has conducted an examination of Residential Home Funding Corp. d/b/a RHF Wholesale ("Residential Home Funding") and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance and Licensing (the "Bureau") believes that Residential Home Funding operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* and the regulation promulgated 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.* 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 (the "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 and the Proper Conduct Regulation for the Department.

3. Residential Home Funding is currently licensed by the Department of Banking as a mortgage lender, license number 20875, pursuant to the Mortgage Licensing Act, and with a Nationwide Mortgage Licensing System and Registry ("NMLS") number of 34973.

4. Residential Home Funding maintains its principal place of business at 707 Westchester Ave., Ste. 305, White Plains, NY 10604-3153 along with various branch locations.

5. The Department and Residential Home Funding entered into a prior Consent Agreement and Order, Docket No. 090085 (BNF-CO) on May 13, 2009 based on the Bureau's findings that Residential Home Funding had engaged in the origination of mortgages from unlicensed locations.

6. On or around July 26, 2010, the Department commenced an examination of Residential Home Funding at the 39 South Main Street, Pittston, Pennsylvania branch location.

UNLICENSED LOAN ORIGINATORS

7. The Mortgage Licensing Act provides, in relevant part, that "...on and after the effective date of this section [November 5, 2008], 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).

8. The examination revealed that four (4) mortgage originators employed by Residential Home Funding originated four (4) mortgage loans subsequent to November 5, 2008 involving Pennsylvania real estate although none of the originators were licensed to do business in the Commonwealth.

9. It is the conclusion of the Bureau that the four mortgage loan applications originated by Residential Home Funding subsequent to November 5, 2008 through unlicensed individuals are in violation of the Mortgage Licensing Act.

10. Residential Home Funding is required to directly supervise, control and maintain responsibility for the acts and omissions of the mortgage originators it employs. 7 Pa. C.S. § 6131(f)(1).

11. By failing to ensure that Residential Home Funding employed only licensed mortgage loan originators, Residential Home Funding failed to directly supervise, control and maintain responsibility for the acts and omission of the mortgage originators they employed as required by the Mortgage Licensing Act.

MATERIAL MISSTATEMENT

12. The Mortgage Licensing Act states “[a]n application for a license under this chapter shall be on a form prescribed by the department.” 7 Pa. C.S. § 6131(a).

13. Consistent with sections 202.E and 405.F(1) of the act of May 15, 1933 (P.O. 565, No. 111), known as the Department of Banking Code, the Department prescribes that all applicants and licensees use the Nationwide Mortgage Licensing System and Registry (“NMLSR”) as the form for obtaining and maintaining licenses, including mortgage lender licensees, under the Mortgage Licensing Act. 7 Pa. C.S. § 6131(a).

14. The NMLSR licensing system requires applicants and licensees to complete, and update as required, the form known as the “MU1” which asks specifically for information regarding any state or federal regulatory agency disciplinary action against the applicant or licensee, and requires verification under oath that all information is true and correct.

15. Section 6139(a)(1) of the Mortgage Licensing Act provides the Department with the authority to suspend, revoke or refuse to renew a license if the licensee has “[m]ade a material misstatement in an application or any report or submission required by this chapter or any department regulation, statement of policy or order.” 7 Pa. C.S. § 6139(a)(1).

16. Residential Home Funding had failed to disclose on its MU1 form the existence of the

Consent Agreement and Order, docketed at 090085 (BNF-CO) with the Department of Banking, which constitutes a disciplinary action requiring disclosure. The MUI form has since been corrected.

17. By indicating that it did not have any regulatory disciplinary action against it, and not disclosing the prior Consent Agreement and Order with the Department of Banking on the MUI form, Residential Home Funding made a material misstatement.

CONSUMER DISCLOSURE

18. The examination revealed that Residential Home Funding's mortgage loan files did not contain the Department's Consumer Disclosure form, or contained only incomplete forms as required by 10 Pa. Code § 46.2(b).

19. The Proper Conduct Regulation states a licensee must disclose to an applicant the loan terms and conditions, including information related to escrow, property taxes, hazard insurance, prepayment penalty as well as detailed information on the interest rate, including whether there is a lock-in, a variable interest rate or balloon payment feature, or negative amortization, within three days of application and that the executed original must be obtained from the applicant within ten (10) days and retained by the licensee in the applicant's loan file. 10 Pa. Code § 46.2(b), (c) and (e).

20. Section 46.3(a) of the Proper Conduct Regulation provides that a violation of the Proper Conduct Regulation is a violation of the Mortgage Licensing Act. 10 Pa. Code § 46.3(a).

21. By failing to provide, or complete, the Department's Consumer Disclosure form as required for each loan, Residential Home Funding violated the Proper Code of Conduct regulations, and therefore violated the Mortgage Licensing Act, in a manner that may be sanctioned by suspension. The Company advised that this was due to a computer error, which has since been corrected. 7 Pa. C.S. § 6139(a).

RECORD KEEPING

22. Section 6135(a)(2) of the Mortgage Licensing Act requires a licensee to maintain books, accounts, records and documents of the business conducted under the license as prescribed by the department to enable the department to determine whether the business of the licensee is being conducted in accordance with the provisions of this chapter and the regulations, statements of policy or orders issued under this chapter.

23. The examination revealed Residential Home Funding failed to maintain a complete and accurate loan register for withdrawn and denied loan files; a file for all of the withdrawn and denied loans; a complete and accurate adverse action loan register; and failed to accurately report office assignments for Pennsylvania licensed mortgage originators through the MUI form in "NMLS."

24. By failing to maintain records, Residential Home Funding violated section 6135(a)(2) of the Mortgage Licensing Act.

AUTHORITY OF THE DEPARTMENT

25. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department broad authority to issue orders for the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

26. Section 6139(a)(1) of the Mortgage Licensing Act provides that the Department may suspend, revoke or refuse to renew a license if a licensee or director, officer, partner, employee or owner of a licensee has "[m]ade a material misstatement in an application or any report or submission required by this chapter or any department regulation, statement of policy or order." 7 Pa. C.S. § 6139(a)(1).

27. 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

28. Residential Home Funding violated Sections 6111(a) and 6131(f)(1) of the Mortgage Licensing Act by originating four mortgage loans, involving Pennsylvania real estate, through four mortgage originators that were not licensed by the Department.

29. Residential Home Funding violated section 6139(a)(1) of the Mortgage Licensing Act by providing material misstatements on applications or reports submitted to the Department.

30. Residential Home Funding violated section 6139(a)(3) of the Mortgage Licensing Act by failing to complete and provide the one-page consumer disclosure form.

31. By failing to maintain records, Residential Home Funding violated section 6135(a)(2) of the Mortgage Licensing Act

RELIEF

32. Fine. Residential Home Funding agrees to pay a fine of forty thousand dollars (\$40,000) which shall be due and payable to the Department within thirty (30) days of the effective date of this Order as set forth in paragraph 41 below. The fine payment shall be remitted by a certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of the Compliance Division, Bureau of Compliance, Investigation and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

33. Suspension of Mortgage Lender License. Residential Home Funding agrees to a five (5) day suspension of its mortgage lender license no. 20875. The suspension shall commence December 26, 2011 at 12:00 a.m., and end on December 31, 2011 at 12:00 a.m. Residential Home Funding understand that the suspension includes the negotiation and arrangement of all new mortgage loan business in Pennsylvania at its principal place of business and all branch locations regardless of whether they are located within or outside of Pennsylvania. The suspension will not prohibit Residential Home Funding from continuing to process and complete mortgage loans originated by applications taken prior to December 26, 2011 at 12:00 a.m. Residential Home Funding shall provide the Bureau with a current pipeline of loans in process prior to December 26, 2011 at 12:00 a.m. no later than 24 hours after the beginning of the suspension.

34. Corrective Measures. Upon the effective date of this Order, Residential Home Funding shall:
- a. cease and desist from advertising, causing to be advertised, soliciting, negotiating or arranging in the ordinary course of business or offering to make or making mortgage loans from unlicensed locations; and
 - b. cease and desist from originating Pennsylvania mortgage loans through unlicensed mortgage loan originators; and
 - c. provide accurate information on all future submissions to the Department, including those submitted through NMLS; and
 - d. have an officer, owner or director of Residential Home Funding complete all future MUI filings and to update those filings as required; and
 - e. provide, in a timely manner, a completed one-page Pennsylvania Consumer Disclosure form for each mortgage transaction involving Pennsylvania real estate to the consumer and retain in its records a copy of that disclosure signed by the consumer; and
 - f. comply with all future requests for information and/or records from the Department, specifically related to examinations of Residential Home Funding; and

g. maintain all Pennsylvania records in accordance with the Mortgage Licensing Act.

35. Abeyance. Should the Bureau find that Residential Home Funding violated this Order, Residential Home Funding agrees and understands that its license will be suspended for sixty (60) days.

FURTHER PROVISIONS

36. Consent. Residential Home 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. Residential Home 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.

37. 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).

38. 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 Residential Home Funding.

39. Binding Nature. The Department and Residential Home Funding intend to be and are legally bound by the terms of this Order.

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

41. Effectiveness. Residential Home Funding hereby stipulates and agrees that the Order shall

become effective on the date that the Bureau executes the Order ("Effective Date").

42. 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 Residential Home Funding in the future regarding all matters not resolved by this Order.

b. Residential Home 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.

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

44. Counterparts. This Order may be executed in separate counterparts and by facsimile.

45. 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 Residential Home Funding 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, Acting Director
Bureau of Compliance and Licensing
Department of Banking

Date: December 16, 2011

**FOR RESIDENTIAL HOME FUNDING
d/b/a RHF WHOLESALE**

(Officer Signature)

(Print Officer Name)

(Title)

Date: 12-15-11