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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

2011 OCT 24 AM 10:21

PA DEPT OF BANKING

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

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: Docket No. 11 0170 (ENF-CO)
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v.

SKY FINANCIAL SERVICES, INC.

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CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations conducted an examination of Sky Financial Services, Inc. ("Sky Financial Services") and its officers, employees and directors. Based on the results of its review, the Bureau of Compliance and Licensing ("Bureau") found that Sky Financial Services 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 Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department.
3. Sky Financial Services is a mortgage broker located at 21 N. Main St., Coopersburg, Pennsylvania 18036.

4. Sky Financial Services is licensed by the Department, license number 24109, Nationwide Mortgage Licensing System Number ("NMLS") 141744, to engage in the mortgage loan business in Pennsylvania as set forth in 7 Pa. C.S. § 6151.

5. On April 25, 2011, an examiner of the Department commenced an examination of Sky Financial Services.

Unlicensed Mortgage Loan Originators

6. 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 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).

7. The examination revealed that Sky Financial originated forty (40) mortgages through employees unlicensed to perform such services between August 5, 2009 and October 5, 2009.

8. It is the conclusion of the Bureau that the mortgage loan applications originated by Sky Financial subsequent to November 5, 2008 through unlicensed individuals are in violation of the Mortgage Licensing Act.

9. Sky Financial 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).

10. It is the conclusion of the Bureau that Sky Financial failed to employ only licensed mortgage loan originators, and failed to directly supervise, control and maintain

responsibility for the acts and omission of the mortgage originators it employed as required by the Mortgage Licensing Act.

Mortgage Originator Unique Identifier

11. The examination revealed that forty (40) applications originated by Sky Financial did not contain the mortgage originator's NMLS unique identifier number as required by the Mortgage Licensing Act. 7 Pa. C.S. § 6121(14).

12. The exam further revealed that Sky Financial failed to display the mortgage originator's NMLS numbers on advertising, specifically mortgage originator business cards.

13. Section 6121(14) of the Mortgage Licensing Act requires that all "mortgage loan applications forms and personal solicitations or advertisements, including business cards" clearly display the mortgage originator's unique identifier. 7 Pa. C.S. § 6121(14).

14. Section 6135(a)(5) of the Mortgage Licensing Act similarly requires licensees to include the mortgage originator's unique identifier on all advertising. 7 Pa. C.S. § 6135(a)(5).

15. Because Sky Financial failed to include the mortgage originator's unique identifier on all mortgage applications, advertising and business cards, Sky Financial is in violation of sections 6121(14) and 6135(a)(5) of the Mortgage Licensing Act.

Advertising: Required Licensing Language

15. The exam revealed that Sky Financial Services did not display the statement that it was licensed by the Department of Banking on advertising, including business cards as required by Mortgage Licensing Act.

16. Section 6135(a)(5) of the Mortgage Licensing Act provides that "[e]ach licensee shall include in all advertisements language indicating that the licensee is licensed by the department." 7 Pa. C.S. § 6135(a)(5).

17. Because Sky Financial failed to include the statement that it is licensed by the department on all advertisements, including business cards, Sky Financial is in violation of Section 6135(a)(5) of the Mortgage Licensing Act.

Authority of the Department

18. 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).

19. 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. . . may be fined by the department up to \$10,000 for each offense.” 7 Pa C.S. § 6140(b).

RELIEF

20. Fine. Within 30 days of the effective date of this Order as defined in paragraph 27 below, Sky Financial Services shall pay the Department a fine in the amount of \$10,250 remitted by certified check or money order made payable to the Department of Banking. The fine payment shall 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.

21. Corrective Action. Upon the effective date of this Order, Sky Financial Services shall ensure the following in relation to all mortgage loan transactions occurring within Pennsylvania:

- (1) that the mortgage loan originators it employs to engage in the mortgage loan business in Pennsylvania are licensed by the Department; and

- (2) that the NMLS unique identifier of the mortgage originator responsible for originating the mortgage loan application appears on the application; and
- (3) that all advertisements, including business cards, utilized by mortgage originators display the required licensing language and NMLS unique identifier.

FURTHER PROVISIONS

22. Consent. Sky Financial Services 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. Sky Financial Services, 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.

23. 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).

24. 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 Sky Financial Services.

25. Binding Nature. The Department and Sky Financial Services intend to be and are legally bound by the terms of this Order.

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

27. Effectiveness. Sky Financial Services hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

28. 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 Sky Financial Services, in the future regarding all matters not resolved by this Order.

b. Sky Financial Services 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.

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

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

31. 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 Sky Financial 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, INVESTIGATION AND LICENSING**

John J. [redacted], Enforcement Administrator
Bureau of Compliance and Licensing
Department of Banking

Date: 10-21-11

FOR SKY FINANCIAL SERVICES, INC.

(Officer Signature)

(Print Officer Name)

owner
(Title)

Date: 9/23/2011

