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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

PA DEPT OF BANKING

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

v.

Docket No. 11 0205 (ENF-CO)

DAVID A. STORTZ & ASSOCIATES, P.C.  
d/b/a STORTZ MORTGAGE SERVICES

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department") Bureau of Non-Depository Examinations, conducted an examination of David A. Stortz & Associates, P.C. d/b/a Stortz Mortgage Services ("Stortz Mortgage Services") and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance and Licensing ("Bureau") concluded that Stortz Mortgage Services operated in violation of the regulations known as the Proper Conduct of Lending and Brokering in the Mortgage Loan Business, 10 Pa. Code §§ 46.1-46.3 ("Regulations") and the Mortgage Licensing Act, 7 Pa. C.S. §§ 6101-6154. 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. Stortz Mortgage Services's principal place of business is located at 3775 Chestnut Street, Emmaus, Pennsylvania 18049.

4. Stortz Mortgage Services is licensed by the Department as a mortgage broker, Nationwide Mortgage Licensing System and Registry Identification No. 109167, Department Mortgage Broker License No. 21186.

5. On January 28, 2011, an examiner for the Bureau of Non-Depository Examinations commenced an examination of Stortz Mortgage Services.

#### VIOLATION

6. The examiner found that in eight of the 50 mortgage loan files reviewed, Stortz Mortgage Services did not provide the disclosure forms to applicants within the time frame required by the Regulations.

7. Specifically, the Regulations provide that "a licensee who takes an application shall," on a form prescribed by the Department "disclose the following to the applicant:"

- (1) If the lender providing the loan will escrow the applicable property taxes and hazard insurance.
- (2) If the licensee is a lender with the ability to directly lock-in a loan interest rate.
- (3) Whether the loan contains a variable interest rate or balloon payment feature.
- (4) Whether the loan includes a prepayment penalty.
- (5) Whether the loan has a negative amortization feature.

*See 10 Pa. Code § 46.2(b).*

8. A licensee issuing the disclosure form. . . "shall sign and date the disclosure form and deliver or place in the mail the disclosure form within 3 business days after the application is received or prepared by the licensee." *See* 10 Pa. Code § 46.2(c).

9. Further, a "licensee shall require an applicant to sign and date the disclosure form. . . within 10 business days after delivery or mailing. . . ." *See* 10 Pa. Code § 46.2(e).

10. Stortz Mortgage Services did not provide the required consumer disclosure form to applicants within 3 days nor did it have the applicants sign the form within 10 days, thus, it violated Section 46.2(c),(e) of the Regulations. *See* 10 Pa. Code § 46.2(c),(e).

11. By failing to comply with the Regulations, Stortz Mortgage Services violated the Section 6139(a)(2) of the Mortgage Licensing Act which authorizes the Department to take action against its license for failing to comply with "any regulation" issued by the Department. 7 Pa. C.S. § 6139(a)(2).

#### AUTHORITY

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

13. Because Stortz Mortgage Services, a licensee, violated the Regulations and Section 6139(a)(2) of the Mortgage Licensing Act, the Department has the authority to impose a fine of "up to \$10,000 for each offense." *See* 7 Pa C.S. § 6140(b).

#### RELIEF

14. Fine. Within 30 days of the Effective Date of this Order as defined in Paragraph 21, Stortz Mortgage Services shall pay the Department a fine in the amount of \$500. The fine payment shall be made by certified check or money order payable to the "Department of"

Banking.” Stortz Mortgage Services shall mail or deliver the fine payment to the attention of the Bureau of Compliance and Licensing, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

15. Corrective Action. Upon the Effective Date of this Order, Stortz Mortgage Services shall ensure that the disclosure form required by 10 Pa. Code §46.2(b) is issued to applicants within 3 business days after the mortgage loan application is received or prepared. Further, Stortz Mortgage Services shall require the applicants to sign and date the disclosure form within 10 business days after delivery or mailing and maintain the original executed disclosure in the applicant’s loan file.

#### FURTHER PROVISIONS

16. Consent. Stortz Mortgage 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. Stortz Mortgage 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.

17. 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).

18. 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 Stortz Mortgage Services.

19. Binding Nature. The Department and Stortz Mortgage Services intend to be and are legally bound by the terms of this Order.

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

21. Effectiveness. Stortz Mortgage Services hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

22. 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 Stortz Mortgage Services, in the future, regarding all matters not resolved by this Order.

b. Stortz Mortgage 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.

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

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

25. 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 David A. Stortz & Associates, P.C. d/b/a Stortz Mortgage Services 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**

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~~John Galai~~, Enforcement Administrator  
Bureau of Compliance and Licensing

Date: 12-22-2011

**FOR DAVID A. STORTZ & ASSOCIATES, P.C.  
d/b/a STORTZ MORTGAGE SERVICES**

\_\_\_\_\_  
(Officer Signature)

\_\_\_\_\_  
(Print Officer Name)

\_\_\_\_\_  
(Title)

Date: 12/21/11