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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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

: Docket No.: 11 0155 (ENF-CO)

v.

THE ADVISOR MORTGAGE GROUP, LLC :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of The Advisor Mortgage Group, LLC ("Advisor Mortgage") and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing ("Bureau") concluded that Advisor Mortgage 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 and agree 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. Advisor Mortgage is a mortgage broker with its principal place of business located at 811 Camp Horne Road, Suite # 210, Pittsburgh, Pennsylvania 15237-1281.

4. Advisor Mortgage has a mortgage broker license issued by the Department, License Number 24732 and Nationwide Mortgage Licensing System and Registry (“NMLS”) Identification Number 113038.

5. As a mortgage broker, Advisor Mortgage must “[m]aintain supervision and control of *and responsibility for the acts* and omissions of all mortgage originators” that it employs. *See* 7 Pa. C.S. § 6121(13)(i) (emphasis added); *see also* 7 Pa. C.S. § 6131(f)(1).

6. On February 14, 2011, the Department commenced an examination of Advisor Mortgage.

7. During the examination, the examiner reviewed mortgage loans originated by Advisor Mortgage through its employees between November 1, 2008 and December 31, 2010.

8. The purpose of the examination was to ascertain Advisor Mortgage’s compliance with the Mortgage Licensing Act since its initial effective date, November 5, 2008.

9. In November 2008, the Mortgage Licensing Act excluded from the definition of mortgage originator persons that owned more than 10% of a licensed mortgage company; thus, an owner of a mortgage broker company did not have to obtain a mortgage originator license from the Department to originate loans in Pennsylvania.

10. On August 5, 2009, however, the Mortgage Licensing Act was amended.

11. As part of the amendments to the Mortgage Licensing Act, the definition of mortgage originator was changed, in relevant part, to remove the owner exclusion.

12. Section 6102 currently defines a mortgage originator, in relevant part, as “an individual who takes a mortgage loan application or offers or negotiates terms of a mortgage loan for compensation or gain.” *See* 7 Pa. C.S. § 6102.

13. Thus, any individual that engages in the activity of a mortgage originator as defined in Section 6102 must obtain and maintain a mortgage originator license from the Department regardless of his or her ownership interest in the mortgage company. *See* 7 Pa. C.S. § 6111(a) (“no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a . . . mortgage originator”).

14. Although the amendments to the Mortgage Licensing Act became effective on August 5, 2009, owners had until October 5, 2009 to apply for a mortgage originator license with the Department as set forth in the transition provisions of the amendments.

15. During the examination, the examiner found that Advisor Mortgage permitted an owner and two of its employees to engage in activity as mortgage originators, without a license, in violation of Section 6111(a) of the Mortgage Licensing Act as set forth below.

VIOLATION

Unlicensed Mortgage Originators

16. The examiner found that Advisor Mortgage permitted three of its employees, an owner and two non-owner employees, to originate a total of 64 mortgage loans for Pennsylvania residents when they were not licensed by the Department as mortgage originators.

17. At the time of the examination, Douglas K. McNelis owned 25% of Advisor Mortgage.

18. Because he was an owner, Mr. McNelis had until October 5, 2009 to apply for a mortgage originator license from the Department.

19. Mr. McNelis did not apply for a mortgage originator license with the Department until October 23, 2009.

20. Between October 5, 2009 and October 23, 2009, Mr. McNelis originated three mortgage loan applications on behalf of Advisor Mortgage without a license.

21. Terrence R. Colabrese also owned 25% of Advisor Mortgage but gave up his ownership interest in the company as of April 30, 2009.

22. Until Mr. Colabrese gave up his ownership interest, he did not need a mortgage originator license for the owner exclusion applied to him.

23. However, commencing May 1, 2009, Mr. Colabrese continued to be employed by Advisor Mortgage to originate loans as a non-owner.

24. As a non-owner, the Mortgage Licensing Act required Mr. Colabrese to obtain a mortgage originator license as of November 5, 2008 or prior to commencing work as a mortgage originator.

25. Mr. Colabrese did not obtain a mortgage originator license from the Department until January 7, 2010.

26. Between May 1, 2009 and January 7, 2010, Mr. Colabrese originated 57 mortgage loans without being licensed.

27. Finally, Advisor Mortgage employed Christopher Martin, who maintained no ownership interest in the company, to originate mortgage loan applications.

28. As a non-owner, the Mortgage Licensing Act required Mr. Martin to obtain a mortgage originator license as of November 5, 2008 or prior to his employment as a mortgage originator.

29. Mr. Martin did not obtain a mortgage originator license from the Department until January 13, 2010.

30. Between November 5, 2008 and January 13, 2010 Mr. Martin originated four mortgage loans on behalf of Advisor Mortgage without being licensed.

31. By permitting the aforementioned three individuals it employed to originate mortgage loans without being licensed by the Department as mortgage originators, Advisor Mortgage violated Section 6111(a) of the Mortgage Licensing Act, 7 Pa. C.S. § 6111(a). *See also* 7 Pa. C.S. § 6121(13)(i).

Authority of the Department

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

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

RELIEF

34. Fine. Advisor Mortgage shall pay a \$3,000 fine for violating the Mortgage Licensing Act. The fine shall be paid within 30 days of the effective date of this Order as defined in Paragraph 42. The fine payments shall be remitted by a company check, 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, Pennsylvania 17101.

35. License Surrender. Within 30 days of the effective date of this Order, as defined in Paragraph 42, Advisor Mortgage shall file a request to surrender its mortgage broker license, License Number 24732, NMLS Number 113038, through the Nationwide Mortgage Licensing System. Once Advisor Mortgage files its license surrender request and pays the \$3,000 fine as required by Paragraph 34 of this Order, the Department will accept Advisor Mortgage's license surrender request. *See* 7 Pa. C.S. § 6137.

36. Corrective Measures. On the date that the Department accepts Advisor Mortgage's mortgage broker license surrender request, Advisor Mortgage shall immediately cease and desist from engaging in the mortgage loan business in Pennsylvania. After the Department accepts the surrender request, Advisor Mortgage may only process the loans remaining in its pipeline (*i.e.*, mortgage loans originated while licensed) to ensure that the consumers' financial interests are not harmed. Once the Department accepts the surrender request, should Advisor Mortgage originate new mortgage loans or engage in the mortgage loan business (except as provided herein) the Department may commence additional administrative action against Advisor Mortgage, including but not limited to, the imposition of additional fines, orders and other relief as permitted by law.

Finally, should Advisor Mortgage fail to abide by any of the terms of this final Order, the Department retains the right to seek enforcement in Commonwealth Court or in any other manner as provided by law.

FURTHER PROVISIONS

37. Consent. Advisor Mortgage 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 herein. Advisor Mortgage, 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.

38. 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).

39. 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 Advisor Mortgage.

40. Binding Nature. The Department, Advisor Mortgage, and all officers, owners, directors, employees, heirs and assigns of Advisor Mortgage intend to be and are legally bound by the terms of this Order.

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

42. Effectiveness. Advisor Mortgage hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

43. 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 Advisor Mortgage in the future regarding all matters not resolved by this Order.

b. Advisor Mortgage 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.

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

45. Counterparts. This Order may be executed in separate counterparts, by facsimile and by PDF via email.

46. 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 The Advisor Mortgage Group, LLC, 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, Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: September 21, 2011

FOR THE ADVISOR MORTGAGE GROUP, LLC

(Officer's Signature)

(Print Officer's Name)

(Title)

Date: 9-16-11

