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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA	:	PA DEPT OF BANKING
DEPARTMENT OF BANKING, BUREAU OF	:	
COMPLIANCE AND LICENSING	:	
	:	
v.	:	Docket No.: 12 <u>0073</u> (ENF-ORD)
	:	
A NEW BEGINNING, INC.	:	
	:	
	:	
	:	

NOTICE OF RIGHT TO APPEAL AND HEARING

You, A New Beginning, Inc. have the right to appeal the attached Order of Prohibition (the "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 North 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, you will waive your right to an appeal and a hearing and the Order will be deemed final.

If you choose to file a petition challenging the Order, please send an additional copy to:

Sarah E. Sedlak, Assistant Counsel
Pennsylvania Department of Banking
17 North 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.

WHEREAS, on the website, A New Beginning advertised its loan modification business and offered an option to call or apply for a free consultation to consumers; and

WHEREAS, A New Beginning also used phone calls to advertise its loan modification business and offer services for an advanced fee; and

WHEREAS, the Department received one complaint from a Pennsylvania consumer (“Consumer”) regarding A New Beginning; and

WHEREAS, A New Beginning entered into a contract with at least one Consumer for loan modification services to be provided by A New Beginning; and

WHEREAS, by negotiating, offering or otherwise transacting mortgage loan modifications to at least one consumer, A New Beginning actively engaged in and held itself out as being engaged in the “mortgage loan business” as defined in the Mortgage Licensing Act, 7 Pa. C.S. § 6151(1)(i); and

WHEREAS, the Mortgage Licensing Act prohibits persons from engaging in the mortgage loan business in Pennsylvania without holding a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator license, 7 Pa. C.S. § 6111(a); and

WHEREAS, A New Beginning does not hold a license issued by the Pennsylvania Department of Banking to engage in the mortgage loan business in Pennsylvania; and

WHEREAS, Sections 6111(b) and 6112 of the Mortgage Licensing Act set forth exceptions to the licensure requirements of Section 6111(a), See 7 Pa. C.S. §§ 6111(b), 6112; and

WHEREAS, A New Beginning does not meet any of the exceptions to licensure in Section 6111(b) and 6112 of the Mortgage Licensing Act, See 7 Pa. C.S. §§ 6111(b), 6112; and

WHEREAS, the employees of A New Beginning 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

WHEREAS, the employees of A New Beginning do not meet any exception to licensure, See 7 Pa. C.S. §§ 6102, 6111(a), 6112; and

WHEREAS, A New Beginning has violated the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania without a license; and

Advance Fees

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,” See 7 Pa. C.S. § 6102; and

WHEREAS, a mortgage loan application may either be in writing or electronically submitted, including a written record of an oral application and is defined as the submission of a borrower's financial information including “the borrower's name, the borrower's monthly income, the borrower's social security number to obtain a credit report, the property address, an estimate of the value of the property, the mortgage loan amount sought, and any other information deemed necessary by the loan originator.”; and

WHEREAS, the Consumer was contacted by A New Beginning for loan modification services regarding residential property; and

WHEREAS, the Consumer entered into contract with A New Beginning for the loan modification services for the residential property; and

WHEREAS, the Consumer's contract required a payment of fees in advance of services being rendered by A New Beginning; and

WHEREAS, those advance fees are connected to the mortgage loan business; and

WHEREAS, the Mortgage Licensing Act requires those collecting advance fees related to the mortgage business to obtain specific bond coverage, 7 Pa. C. S. § 6131(e)(1); and

WHEREAS, A New Beginning had not obtained this bond; and

WHEREAS, the Consumers made the required advance payments to A New Beginning; and

WHEREAS, by charging advance fees without obtaining the proper bond, A New Beginning has violated the Mortgage Licensing Act; and

Mortgage Licensing Act

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. § 6151(1) (emphasis added); and

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, 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, 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

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, since A New Beginning has engaged in unlicensed activity, the Bureau, pursuant to its authority referenced above hereby imposes the following Order:

1. Loan Origination. Upon the Effective Date of this Order¹, A New Beginning and any and all officers, members, managers, employees, independent contractors or agents of A New Beginning shall cease and desist from engaging in the mortgage loan business subject to the Mortgage Licensing Act, including, but not limited to, advertising (including soliciting phone calls), accepting applications and negotiating mortgage loans and mortgage loan modifications in Pennsylvania, unless and until such time that A New Beginning 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, A New Beginning shall provide a list of consumers that A New Beginning 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 consumers that have responded to advertisements or that A New Beginning has as clients;
- b. The amount of fees collected from the consumers;
- c. The current rate, term and payment of the 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.

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.

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

3. Advertising. Upon the Effective Date of this Order, A New Beginning shall provide a list of any websites or copies of any other advertising that A New Beginning has utilized including, but not limited to, mail solicitations. The information shall be sent to John Talalai, Administrator, Compliance Division, [redacted] by 5:00 PM eastern time on the Effective Date of this Order.

4. Contact Information. Upon the Effective Date of this Order, A New Beginning shall provide a list of all owners, officers and employees of A New Beginning. 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, [redacted], by 5:00 PM eastern time on the Effective Date of this Order.

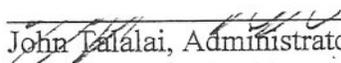
5. Advance Fees. Upon the Effective Date of this Order, A New Beginning shall provide a refund to the Consumer listed in the table in Appendix A. See attached Appendix A. The refund shall be in the amount that corresponds with the Consumer in the table in Appendix A. A New Beginning shall provide the Bureau with a copy of a cancelled/cleared check. A copy of the cancelled/cleared check shall be sent to John Talalai, Administrator, Compliance Division, at [redacted], by 5:00 PM eastern time on the Effective Date of this Order.

6. Waiver. Nothing in this Order shall prevent A New Beginning from seeking a waiver from the Department to allow A New Beginning to complete a loan modification for a consumer that is listed on the Pipeline Report as provided in Paragraph 3 in order to prevent

further harm to the consumer and for no other reason. Requests for waiver may be made to John Talalai, Administrator, Compliance Division.

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 Talalai, Administrator
Department of Banking,
Bureau of Compliance and Licensing

8/22/2012
(Date)

Appendix A

APPENDIX A

Consumer Name	Amt. Owed
Redacted	\$2,500.00

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PA DEPT OF BANKING

v.

Docket No.: 12 0073 (ENF-ORD)

A NEW BEGINNING, INC.

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

A New Beginning, Inc.
6409 Belair Road
Baltimore, Maryland 21206

Dated this 2nd day of August, 2012.

Sarah E. Sedlak, Assistant Counsel
Attorney I.D. # 93810
FOR: Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471