

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

FILED

2012 FEB -2 AM 9:51

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

v.

JACKSON FEDERAL MORTGAGE CORP.,
JACKSON FEDERAL FORECLOSURE
RELIEF and JACKSON FEDERAL
HOME SAVERS

Docket No. : 12 0014 (ENF-ORD)

PA DEPT OF BANKING

NOTICE OF RIGHT TO APPEAL AND HEARING

You, Jackson Federal Mortgage Corp., Jackson Federal Foreclosure Relief and Jackson Federal Home Savers, have the right to appeal the attached 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 N. 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, your right to a hearing will be waived and the Order will be deemed final.

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

Sarah Sedlak, Assistant Counsel
Pennsylvania Department of Banking
17 N. 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.

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Docket No. : 12 0014 (ENF-ORD)

ORDER

WHEREAS, the Department of Banking (“Department”) is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the Mortgage Licensing Act, 7 Pa. C.S. § 6101 et seq.; and

WHEREAS, the Bureau of Compliance and Licensing (“Bureau”) is primarily responsible for administering and enforcing the Mortgage Licensing Act for the Department; and

WHEREAS, the Mortgage Licensing Act was amended on August 5, 2009 by Act 31 of 2009, H.B. 1654 (P.N. 2448); and

WHEREAS, Jackson Federal Mortgage Corporation was a registered domestic corporation in the State of Florida; and

WHEREAS, according to the Florida Department of State, Division of Corporations, Jackson Federal Mortgage Corporation was listed as inactive on September 23, 2011 for failure to file an annual report; and

WHEREAS, Jackson Federal Mortgage Corporation also operated under the names of Jackson Federal Foreclosure Relief and Jackson Federal Home Savers; and

WHEREAS, for purposes of this order, Jackson Federal Mortgage Corporation, Jackson Federal Foreclosure Relief and Jackson Federal Home Savers shall be collectively referred to as (“Jackson Federal”); and

WHEREAS, Jackson Federal maintained locations at the addresses of 1851 Executive Center Drive, Suite 200, Jacksonville, Florida 32207 and 3115 Spring Glen Road, Suite 507, Jacksonville, Florida 32207; and

WHEREAS, Jackson Federal used to maintain a web address of www.jfhomesavers.com through which services for mortgage loan modifications were advertised; and

WHEREAS, in or around September 2010 the Department received a consumer complaint from Pennsylvania residents and (“Consumers”) regarding Jackson Federal; and

WHEREAS, the Department’s investigation revealed the Jackson Federal was actively engaging in and holding 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, on or around June 28, 2010, the Consumers engaged the services of Jackson Federal for the purpose of obtaining a mortgage loan modification; and

WHEREAS, the Consumers received and signed paperwork explaining that Jackson Federal would be negotiating with Consumers’ lender on their behalf; and

WHEREAS, the paperwork stated that if Consumers attempted to contact their lender separately, the contact would effectively breach the contract; and

WHEREAS, on September 24, 2010, Jackson Federal sent a letter to Consumers stating that Jackson Federal was no longer going to assist them with their modification “due to the banks phasing out third parties”; and

WHEREAS, as of the Effective Date of this Order, the Consumers have not received a mortgage loan modification and have not received a refund of their fee; and

WHEREAS, by offering mortgage loan modification services to Pennsylvania consumers, Jackson Federal has engaged in the “mortgage loan business” as defined in the Mortgage Licensing Act; and

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

WHEREAS, Jackson Federal is not licensed to engage in the mortgage loan business in Pennsylvania; and

WHEREAS, the employees of Jackson Federal 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 do not meet any exception to licensure, See 7 Pa. C.S. § 6102; and

WHEREAS, Jackson Federal 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, the Consumers’ contract required a payment of fees in advance of services being rendered by Jackson Federal; and

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

WHEREAS, the Consumers paid a total of \$1,561 in fees on June, 29 2010 in advance of Jackson Federal attempting to negotiate a mortgage loan modification on Consumers' behalf; and

WHEREAS, only licensees that have an advance fee bond are permitted to collect advance fees, See 7 Pa. C.S. § 6131(e)(1); and

WHEREAS, Jackson Federal, as an unlicensed mortgage broker, does not have a bond to collect advance fees; and

WHEREAS, by charging advance fees, Jackson Federal 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. § 6135(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 Jackson Federal 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, Jackson Federal and any and all officers, members, managers, employees, independent contractors or agents of Jackson Federal shall cease and desist from engaging in the mortgage loan business subject to the Mortgage Licensing Act, including, but not limited to, advertising (including website advertising), accepting applications and negotiating mortgage loans and mortgage loan modifications in Pennsylvania or to Pennsylvania consumers, unless and until such time that Jackson Federal and all mortgage originators as defined by the Mortgage Licensing Act are licensed by the Department pursuant to the Mortgage Licensing Act.

2. Fine. Upon the Effective Date of this Order, Jackson Federal shall pay a \$1,000 fine for violating the Mortgage Licensing Act. The fine shall be made by certified check or money order made payable to the "Department of Banking" and shall be sent to the attention of the Department of Banking, Bureau of Compliance and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

3. Restitution. Upon the Effective Date of this Order, Jackson Federal shall provide the Consumers, _____ and _____, a refund in the amount of \$1,561. Jackson Federal shall provide the Bureau with evidence that the refund was paid by providing 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 _____, by 5:00 PM eastern time on the Effective Date of this Order.

4. Pipeline Report. Upon the Effective Date of this Order, Jackson Federal shall provide a list of consumers that Jackson Federal has worked with in order to negotiate mortgage

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.

loan modifications (the "Pipeline Report"). The Pipeline Report shall include, but is not limited to:

- a. The names, addresses and phone numbers of Pennsylvania consumers that have responded to advertisements or that Jackson Federal has as clients; and
- b. The amount of fees collected from the consumers; and
- c. The current rate, term and payment of the Pennsylvania consumers' loans; and
- 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.

The Pipeline Report shall be sent to John Talalai, Administrator, Compliance Division, at _____, 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.

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

6. Contact Information. Upon the Effective Date of this Order, Jackson Federal shall provide a list of all owners, officers and employees of Jackson Federal. 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, at _____, by 5:00 PM eastern time on the Effective Date of this Order.

7. Advance Fees. Upon the Effective Date of this Order Jackson Federal shall refund all advance fees collected from a Pennsylvania consumer and shall cease and desist from collecting any future advance fees unless and until such time as Jackson Federal obtains a bond to collect advance fees. Proof of the refunded advance fees shall be made in the form of cancelled/cleared checks and shall be sent to John Talalai, Administrator, Compliance Division, at _____, by 5:00 PM eastern time on the Effective Date of this Order.

8. Waiver. Nothing in this Order shall prevent Jackson Federal from seeking a waiver from the Department to allow Jackson Federal to complete a loan modification for a Pennsylvania consumer that is listed on the Pipeline Report as provided in Paragraph 4 in order to prevent further harm to the Pennsylvania consumer and for no other reason. Requests for waiver may be made to John Talalai, Administrator, Compliance Division, at jtalalai@pa.gov.

9. 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

2-2-2012
(Date)

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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

Jackson Federal Foreclosure Relief
1851 Executive Center Dr.
Suite 200
Jacksonville, FL 32207

Jackson Federal Foreclosure Relief
3115 Spring Glen Rd.
Suite 507
Jacksonville, FL 32207

Dated this 2nd day of February 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