

FILED

COMMONWEALTH OF PENNSYLVANIA 2012 MAR 26 PM 2: 55
DEPARTMENT OF BANKING

~~PA DEPT OF BANKING~~

Commonwealth of Pennsylvania	:
Department of Banking, Bureau	:
of Compliance and Licensing,	:
	: Docket No. : 110171 (ENF-ORD)
v.	:
	:
Mortgage Foreclosure Experts, LLC	:
Philip J. Livolsi, an individual	:
Marco Ferreira, an individual	:
The Denker Law Group a/k/a	:
Denker Law Group,	:
Aaron D. Denker, Esq., LLC, and	:
Aaron D. Denker, an individual	:
jointly and severally	:
	:

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking ("Department"), Bureau of Examinations, has conducted an examination of Mortgage Foreclosure Experts, LLC ("MFE"), its principals Philip J. Livolsi and Marco Ferreira, and of Aaron D. Denker, Esq., LLC d/b/a The Denker Law Group, its principal Aaron D. Denker, and employees Philip J. Livolsi and Marco Ferreira, (collectively "Respondents"). Based on the results of its review, the Bureau of Compliance and Licensing ("Bureau") contends that the Respondents, jointly and severally, operated in violation of the Mortgage Licensing Act, 7 Pa. C.S. § 6101 *et seq.* The Respondents to the above captioned matter, contend that they operated with the belief that they were in compliance with the Mortgage Licensing Act, and all other statutes and regulations. The Respondents, without admitting wrongdoing, and for the purpose of avoiding litigation, agree to the terms of this Consent Agreement and Order ("Order") and are, thereby, legally bound.

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. Mortgage Foreclosure Experts, LLC is a New Jersey limited liability corporation organized in 2008.
4. Philip J. Livolsi and Marco Ferreira are the principles of Mortgage Foreclosure Experts, LLC.
5. Aaron D. Denker is a licensed attorney in the Commonwealth of Pennsylvania who, in partnership with another attorney, maintains a separate law office at 2033 Walnut Street, Philadelphia, Pennsylvania.
6. Aaron D. Denker, Esq., LLC d/b/a The Denker Law Group is solely owned by attorney Aaron D. Denker.
7. Aaron D. Denker, Esq., LLC is a Pennsylvania limited liability corporation organized on or about April 27, 2011.
8. 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. See 7 Pa. C.S. § 6111(a).
9. Section 6112 of the Mortgage Licensing Act contains an exception allowing attorneys who are (a) "not otherwise engaged in or holding himself or herself out to the public as being engaged in the mortgage loan business" but (b) who act "as a mortgage broker or a mortgage originator in negotiating or placing a mortgage loan in the normal course of legal

practice” to represent a client in a loan modification without a license as a broker, lender, or loan originator. 7 Pa. C.S. § 6112.

10. The Mortgage Licensing Act defines the “mortgage loan business” as “the 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.

Factual Allegations

11. The Bureau, based on its investigative findings, concludes that prior to July, 2011, Mortgage Foreclosure Experts, LLC, Philip J. Livolsi, and Marco Ferreira engaged in the residential mortgage loan modification business through its website at www.mortgageforeclosureexperts.org while physically located in the state of New Jersey, including modifications of mortgages on real property in Pennsylvania.

12. The Bureau, based on its investigative findings, concludes that Mortgage Foreclosure Experts, LLC, Philip J. Livolsi, and Marco Ferreira were not licensed as mortgage brokers, lenders, or loan originator in New Jersey or Pennsylvania at the time, but rather conducted the business of residential mortgage loan modification in association with a licensed attorney.

13. The Bureau, based on its investigative findings, concludes that, in or around July, 2011, Mortgage Foreclosure Experts, LLC, Philip J. Livolsi and Marco Ferreira moved their office from New Jersey to 560 State Road, Suite 200, Bensalem, Pennsylvania, 19020.

14. The Bureau, based on its investigative findings, concludes that Mortgage Foreclosure Experts, LLC, Philip J. Livolsi and Marco Ferreira were not licensed as mortgage brokers, lenders, or loan originators in Pennsylvania, but once again affiliated themselves with an

attorney through the recently created corporation, Aaron D. Denker, Esq. LLC d/b/a The Denker Law Group.

15. The Bureau, based on its investigative findings, further concludes that Mortgage Foreclosure Experts, LLC, Philip J. Livolsi and Marco Ferreira employed or subcontracted work to other individuals that were also unlicensed, and that Aaron D. Denker, Esq., LLC created an employment relationship with Philip J. Livolsi and Marco Ferreira.

16. The Bureau, based on its investigative findings, concludes that Respondents operated under the fictitious name Denker Law Group for all new matters, and continued to use Mortgage Foreclosure Experts, LLC for lead generation, and matters initiated but not completed in New Jersey.

17. The Bureau, based on its investigative findings, concludes that Aaron D. Denker, advertised on his own website, www.denkerlowenthallaw.com, that he engages in the practice of “mortgage loan modifications” without further qualification.

18. Based on the investigation, the Bureau concludes that the Respondents actively engaged in and held themselves out through advertisements as being engaged in the residential “mortgage loan business” as that term is defined in the Mortgage Licensing Act 7 Pa. C.S. § 6151(1)(i) in Pennsylvania and New Jersey in violation of the Mortgage Licensing Act.

19. The Respondents assert that at all times they operated with the belief that they were operating properly in compliance with the Mortgage Licensing Act, and all other statutes and regulations, and that they met an exception to the licensing requirement in the Mortgage Licensing Act for attorneys, set forth in Section 6112 of the Mortgage Licensing Act, because they operated under the employment of and supervision by an attorney. 7 Pa. C.S. § 6112.

20. The Bureau disagrees noting that the Mortgage Licensing Act, in compliance with the Secure and Fair Enforcement Mortgage Licensing Act of 2008 ("SAFE Act"), exempts only certain *activities* of an attorney, but does not exempt attorneys from the licensing requirement as a mortgage broker, lender, or loan originator in order to engage in the mortgage business.

21. Further, the Mortgage Licensing Act, in compliance with the SAFE Act, allows a licensed attorney to assist a client with a loan modification as an ancillary matter to his representation of the client in a more general matter, such as a divorce, in which case the loan modification activity would be exempted from the licensure requirements of the Mortgage Licensing Act. See Federal Register of June 30, 2011, Vol. 76, No. 126, at 38479.

22. The Respondents did voluntarily remove Mortgage Foreclosure Experts, LLC's website from the internet promptly after being notified by the Bureau of its objection to their activities in the mortgage loan modification business and cooperated in other ways with the Bureau.

23. The Respondents further contend that they no longer are engaging in conduct which the Department contends is in violation of the Mortgage Licensing Act.

Authority of the Department

24. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department broad authority to issue orders for the proper conduct of the mortgage licensing business and the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4).

25. Section 6139(a)(2) of the Mortgage Licensing Act states that the department may suspend, revoke or refuse to renew a license where a licensee has "failed to comply with or violated any provision of this chapter or any regulation or order promulgated or issued by the department under this chapter." 7 Pa. C.S. § 6139(a)(2).

26. 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).

RELIEF

27. Fine. Respondents, jointly and severally, agree to pay a fine of one thousand dollars (\$1,000) which shall be due and payable to the Department within thirty (30) days of the effective date of this Order as defined by paragraph 41 below. The fine payment shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of John Talalai, at: Pennsylvania Department of Banking, Bureau of Compliance and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

28. Corrective Action. Upon the effective date of this Order, all Respondents shall cease and desist from engaging in the residential mortgage loan modification business as defined by the Mortgage Licensing Act, over which the Department has jurisdiction, i.e., within the geographic borders of Pennsylvania, or in relation to real property located in Pennsylvania from any other jurisdiction, unless licensed under the Mortgage Licensing Act. This prohibition does not prevent any of the Respondents from applying for a license under the Mortgage Licensing Act. This prohibition does not apply to loan modifications that are ancillary to representation by counsel on another legal matter, including, but not limited to, divorce or foreclosure defense.

29. This Order alone will not be the basis for any license denial to any of the Respondents, but will be only considered together with the numerous other factors as provided in section 6133 of the Mortgage Licensing Act, 7 Pa. C.S. § 6133.

30. Within fifteen days of the effective date of this Order, all Respondents will provide to the Bureau, through counsel, a final report on all outstanding residential mortgage loan modifications, for which consumers have paid Respondents a fee over which the Department has jurisdiction based on the Mortgage Licensing Act. This includes all loan modifications for residential homes located in Pennsylvania regardless of where the work was performed, and all residential loan modifications that were in process while the office was located in Pennsylvania regardless of the state wherein the property was located. The final report will include the name, address, telephone number, and amount of fee paid by the consumer.

31. Respondents will obtain, within thirty days thereafter, a written consent from each of the consumers identified on the final report, whose file comprises an incomplete loan modification, to move their file to a licensed mortgage broker or non-profit HUD or government approved agency for completion.

32. If a consumer does not provide consent to move the file to a licensed broker within thirty days of the date of this Order, MFE will return the file to the consumer with a refund of the entire fee paid by that consumer.

33. Aaron D. Denker, Esq. Aaron D. Denker, Esq., agrees as an individual, to:

- a. modify the language on his law office website, www.denkerlowenthallaw.com, so that it does not hold him out to the public as engaging in the residential mortgage loan business as defined by the Mortgage Licensing Act.
- b. further agrees that he will not perform any residential loan modification work unless it is ancillary to another legal matter and/or for the sole benefit of the client.

34. Philip J. Livolsi. Philip J. Livolsi agrees to refrain from engaging in the residential loan modification business in Pennsylvania or in regard to real properties located in Pennsylvania, as a loan originator, and will not work as a loan processor unless supervised by a licensed loan originator.

35. Marco Ferreira. Marco Ferreira agrees to refrain from engaging in the residential loan modification business, in Pennsylvania or in regard to real properties located in Pennsylvania, as a loan originator until properly licensed, and will not work as a loan processor unless supervised by a licensed loan originator.

FURTHER PROVISIONS

36. Consent. Respondents hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order pursuant to the Department's order authority under the Mortgage Licensing Act, and agree that they understand all of the terms and conditions contained therein. Respondents, by voluntarily entering into this Order, waive any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

37. 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).

38. 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 Respondents.

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

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

41. Effectiveness. Respondents hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

42. 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 Respondents, in the future regarding all matters not resolved by this Order.
- b. Respondents acknowledge and agree 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.

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

44. Counterparts. This Order may be executed in separate counterparts and by facsimile or by PDF.

45. 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 Department and Mortgage Foreclosure Experts, LLC, Philip D. Livolsi and Marco Ferreira, Aaron D. Denker, Esq., LLC d/b/a The Denker Law Group, and Aaron D. Denker 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

3-26-2012

~~John Talalai~~
John Talalai, Enforcement Administrator
Bureau of Compliance and Licensing
Department of Banking

Date: 3/20/2012

FOR MORTGAGE FORECLOSURE, LLC

(Officer Signature)

(Print Officer Name)

Joint Managing Member
(Title)

Date: 3/20/2012

FOR AARON D. DENKER, ESQ., LLC D/B/A THE DENKER LAW GROUP

(Owner's Signature)

(Print Name)

(Title) *Attly - LLC - PRINCIPAL*

Date: *3/20/12*

FOR AARON D. DENKER, ESQ.

(Signature)

(Print Name)

Date: *3/20/12*

FOR PHILIP J. MYLSI

(Signature)

(Print Name)

Date: *3/20/2012*

FOR MARCO FERREIRA

(Signature)

(Print Name)

Date: *3/20/12*