

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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COMMONWEALTH OF PENNSYLVANIA	:	
DEPARTMENT OF BANKING, BUREAU	:	
OF COMPLIANCE AND LICENSING	:	
	:	
v.	:	Docket No. 12-0015 (ENF-CO)
	:	
MORTGAGE TECH	:	

PA DEPT OF BANKING

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (“Department”), Bureau of Examinations, conducted an examination of Mortgage Tech, and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance and Licensing (“Bureau”) believes that Mortgage Tech 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 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 Mortgage Licensing Act was enacted on November 5, 2008.
3. Effective as of December 20, 2008, the Department promulgated a regulation under the Mortgage Licensing Act known as the Proper Conduct of Lending and Brokering in the Mortgage Loan Business (“Proper Conduct Regulation”). 10 Pa. Code § 46.1 et seq.

4. The Bureau is primarily responsible for administering and enforcing the Mortgage Licensing Act and the Proper Conduct Regulation for the Department.

5. Mortgage Tech is currently licensed under the Mortgage Licensing Act as a mortgage broker, with license number 25694 and with the National Mortgage Licensing System Registry ("NMLS") identification number of 128683.

6. Mortgage Tech maintains its principal place of business at 3001 Settlers Court, Murrysville, Pennsylvania 15668.

7. On or around February 8, 2011 through February 16, 2011, the Bureau conducted an examination ("Examination") of Mortgage Tech at its principal place of business.

Unlicensed Activity

8. The examination revealed that the owner of Mortgage Tech originated eighteen (18) Pennsylvania residential mortgage applications for Mortgage Tech between October 5, 2009 and September 1, 2010, prior to obtaining a mortgage originator license under the Mortgage Licensing Act.

9. As of January 1, 2009, individuals acting as mortgage loan originators were required to be licensed as mortgage loan originators pursuant to Section 6111(a) of the Mortgage Licensing Act. See Section 13 of H.B. 1654 (2009), 7 Pa. C.S. § 6111(a).

10. The Mortgage Licensing Act became effective on August 5, 2009 and it required that individuals not already licensed as mortgage originators file a mortgage originator license application with the Department within 60 days of the effective date of the Act if they intended to continue to engage in activity defined as mortgage origination. See Section 13 of H.B. 1654 (2009), 7 Pa. C.S. § 6111(a).

11. The Mortgage Licensing Act defines a mortgage loan originator as “an individual who takes a mortgage loan application or offers or negotiates terms of a mortgage loan for compensation or gain.” 7 Pa. C.S. § 6102.

12. Mortgage Tech’s owner did not submit a mortgage loan originator application to the Department until September 1, 2010 and was granted the license on September 29, 2010.

13. Mortgage Tech is in violation of the Mortgage Licensing Act because it accepted eighteen (18) mortgage loan applications from its owner while he was unlicensed.

14. The owner explained to the Bureau that he submitted an application to comply with the Mortgage Licensing Act once he was aware of the requirement.

Advertising

15. The exam revealed that some Mortgage Tech business cards did not display the NMLS unique identifier number of its mortgage originators.

16. Section 6121(14) of the Mortgage Licensing Act provides that a licensee shall clearly display the NMLS unique identifiers of its mortgage originators on all advertisements, including business cards. 7 Pa. C.S. § 6135(a)(5).

17. Mortgage Tech violated the Mortgage Licensing Act when its mortgage originators utilized business cards that failed to display the appropriate NMLS unique identifier.

18. Mortgage Tech told the Bureau that the absence of the unique identifier on the business cards was purely an oversight that it would correct immediately.

Pennsylvania Consumer Disclosure Form

19. The Examination revealed that Mortgage Tech did not consistently provide applicants with a properly completed Pennsylvania Consumer Disclosure Form (“Disclosure Form”), in a timely manner and maintain the executed disclosure form in the applicant’s loan file.

20. A violation of the Proper Conduct Regulation is a violation of the Mortgage Licensing Act. 10 Pa. Code § 46.3(a).

21. The Proper Conduct Regulation requires that Mortgage Tech, as a licensee, issue a disclosure form to applicants. 10 Pa. Code § 46.2(b).

22. In order for a disclosure form to be complete, the Proper Conduct Regulation requires that it contain the signature(s) of the borrower(s); the date the borrower(s) signed the disclosure; the licensee's name; and the date of issuance by the licensee. 10 Pa. Code § 46.2(c).

23. Once the disclosure form is issued to an applicant, the Proper Conduct Regulation requires that the licensee obtain the dated signature of the applicant within ten (10) business days of the issuance of the disclosure form and then maintain that signed original in the applicant's loan file. 10 Pa. Code § 46.2(e).

24. As part of the examination, the Bureau reviewed mortgage loan files originated by Mortgage Tech ("Loan Files").

25. Of the loan files reviewed, some did not contain the form as required by the Proper Conduct Regulation.

26. Because Mortgage Tech did not comply with the disclosure requirements of the Proper Conduct Regulation, it was in violation of the Mortgage Licensing Act.

Authority of the Department

27. The Mortgage Licensing Act grants the Department the authority to examine "any instrument, document, account, book, record or file" of a licensee. 7 Pa. C.S. § 6138(a)(1).

28. Pursuant to the Department's examination authority, the Mortgage Licensing Act states that a licensee shall pay the costs of an examination by the Department. 7 Pa. C.S. § 6138(a)(1).

29. Section 6138(a)(4) of the Mortgage Licensing Act grants the Department 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).

30. The Mortgage Licensing Act permits the Department to suspend, revoke or refuse to renew a license of a licensee where that licensee “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).

31. The Mortgage Licensing Act permits the Department to suspend, revoke or refuse to renew a license of a licensee where that licensee is a mortgage broker and “...conducted the mortgage loan business through an unlicensed mortgage originator.” 7 Pa. C.S. § 6139(a)(14).

32. Section 6140(b) of the Mortgage Licensing Act provides, in relevant part, that “[a] person licensed under this chapter or director, officer, owner, partner, employee or agent of a licensee who violates a provision of this chapter or who commits any action which would subject the licensee to suspension, revocation or nonrenewal under section 6139 may be fined by the department up to \$10,000 for each offense.” 7 Pa. C.S. § 6140(b).

VIOLATIONS

33. Mortgage Tech is in violation of the Mortgage Licensing Act because it accepted eighteen (18) mortgage loan applications from its owner while he was unlicensed.

34. Mortgage Tech violated the Mortgage Licensing Act when its mortgage originators utilized business cards that failed to display the appropriate NMLS unique identifier.

35. Mortgage Tech was in violation of the Mortgage Licensing Act because it did not comply with the disclosure requirements of the Proper Conduct Regulation.

RELIEF

36. Fine. Mortgage Tech agrees to pay a fine in the amount of five thousand seven hundred and fifty dollars (\$5,750).

37. Exam Bill. Mortgage Tech shall pay the remaining balance of the examination invoice of two thousand two hundred ten dollars and eighteen cents (\$2,210.18).

38. Payment. The combined amount of the fine and the exam bill totals seven thousand nine hundred sixty dollars and eighteen cents (\$7,960.18) ("Total Payment Due"). This Total Payment Due shall be payable to the Department in twelve installments and shall be paid in the amounts corresponding to the table in Appendix A. See attached Appendix A. The first payment shall be due within 30 days of the Effective Date of this Order as defined in paragraph 44. The remaining payments shall be due on the first day of each month thereafter until the fine is paid in full. The payments shall be remitted by certified check or money order made payable to the Pennsylvania Department of Banking and sent to the attention of: Pennsylvania Department of Banking, Bureau of Compliance and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

39. Corrective Action. Mortgage Tech shall adhere to the consumer disclosure requirements of the Proper Conduct Regulation.

FURTHER PROVISIONS

40. Consent. Mortgage Tech 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. Mortgage Tech, 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.

41. 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).

42. 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 Mortgage Tech.

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

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

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

46. 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 Mortgage Tech in the future regarding all matters not resolved by this Order.

b. Mortgage Tech 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.

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

34. Counterparts. This Order may be executed in separate counterparts, by facsimile and by PDF.

35. 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.

