

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

FILED

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

PA DEPARTMENT OF
BANKING AND SECURITIES

Docket No.: 14 0017 (BNK-ORD)

v.

BAYMAR CAPITAL FUNDING, LLC, and
SCOTT D. FELTMAN, individually

NOTICE OF RIGHT TO APPEAL AND HEARING

You have the right to appeal the attached Order within **10 days** of the date of the Order as provided in 1 Pa. Code § 35.20. To appeal the Order, you must file a petition, in writing, with the Docket Clerk as set forth below. **If the Docket Clerk does not receive your petition within 10 days, you will waive your right to a hearing and the Order will be deemed final.**

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 as required by 1 Pa. Code §35.17:

The petition and all other documents relating to this matter must be filed with the Docket Clerk:

Linnea Freeberg, Docket Clerk
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Further, you must serve a copy of the petition on the person who signed the attached Order by providing a copy to their counsel set forth below:

Sarah E. Sedlak, Assistant Counsel
Pennsylvania Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Once you file your petition, you will be notified of pertinent information such as the name of the presiding officer designated by the Banking and Securities Commission to hear this matter and, if a hearing is scheduled, the date, time and location of the hearing. You have the right to be represented by an attorney.

All 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.

Unlicensed Activity

6. On or around December 13, 2013, the Department became aware that Baymar Capital was conducting mortgage loan business in Pennsylvania.

7. The Department received numerous complaints from Pennsylvania and non-Pennsylvania consumers regarding Baymar Capital.

8. Baymar Capital entered into agreements with these consumers to provide loan modification services.

9. By negotiating, offering or otherwise transacting mortgage loan modifications to at least one Pennsylvania consumer, Baymar Capital was actively engaged in and held itself out as being engaged in the “mortgage loan business” as defined in the Mortgage Licensing Act. *See* 7 Pa. C.S. § 6151(1)(i).

10. The Mortgage Licensing Act defines the 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.” *See* 7 Pa. C.S. § 6102.

11. 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).

12. Neither Baymar Capital nor Scott D. Feltman hold a license issued by the Pennsylvania Department of Banking and Securities to engage in the mortgage loan business in Pennsylvania.

13. 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.

14. Neither Baymar Capital nor Scott D. Feltman 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.

15. Baymar Capital and Scott D. Feltman violated the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania without a license.

Advance Fees

16. The consumers entered into an agreement with Baymar Capital for loan modification services for residential property.

17. The consumers' agreement required a payment of fees in advance of services being rendered by Baymar Capital.

18. 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.

19. A mortgage loan application is "a request, in any form, for an offer, or a response to a solicitation of an offer, of mortgage loan terms, and the information about the borrower or prospective borrower that is customary or necessary in a decision on whether to make such an offer." *See* 7 Pa. C.S. § 6102.

20. The advance fees requested by Baymar Capital were in connection with the mortgage loan business.

21. The Mortgage Licensing Act requires those collecting advance fees related to the mortgage business to obtain specific bond coverage. *See* 7 Pa. C. S. § 6131(e)(1).

22. Baymar Capital never provided the Department with information that it maintained this required bond coverage.

23. The consumers paid Baymar Capital and Scott D. Feltman the advance fees.

24. By collecting advance fees without obtaining the proper bond, Baymar Capital and Scott D. Feltman violated the Mortgage Licensing Act.

DEPARTMENT'S AUTHORITY

25. 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. *See* 7 Pa. C.S. § 6138(a)(4).

26. Section 6138(a)(5) of the Mortgage Licensing Act provides the Department with authority to “[p]rohibit or permanently remove a person or licensee responsible for a violation of this chapter from working in the present capacity or in any other capacity of the person or licensee related to activities by the department.” *See* 7 Pa. C.S. § 6138(a)(5).

27. 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.” *See* 7 Pa. C.S. § 6140(a).

AND NOW, THEREFORE, since Baymar Capital and Scott D. Feltman 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, Baymar Capital, Scott D. Feltman and any and all officers, members, managers, employees, independent contractors or agents of Baymar Capital 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 Baymar Capital 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, Baymar Capital and Scott D. Feltman shall pay a fine to the Department in the amount of \$10,000. The fine payments shall be remitted by a certified check or money order made payable to the Department of Banking and Securities and sent to the attention of the Compliance Division, 17 N. 2nd Street, Suite 1300, Harrisburg, PA 17101.

3. Consumer Refund. Upon the Effective Date of this Order, Baymar Capital shall provide the consumers, named in Appendix A, a refund of the advance fee collected. Baymar Capital 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 jtalalai@pa.gov, by 5:00 PM eastern time on the Effective Date of this Order.

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

¹ This Order is effective on the tenth (10th) 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 Baymar Capital has as clients;
- b. The amount of fees collected from the Pennsylvania consumers;
- c. The current rate, term and payment of the Pennsylvania 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.

The Pipeline Report shall be sent to John Talalai, Administrator, Compliance Division, at jtalalai@pa.gov, 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, Baymar Capital shall provide a list of any websites or copies of any other advertising that Baymar Capital has utilized including, but not limited to, mail solicitations. The information shall be sent to John Talalai, Administrator, Compliance Division, at jtalalai@pa.gov, by 5:00 PM eastern time on the Effective Date of this Order.

6. Contact Information. Upon the Effective Date of this Order, Baymar Capital shall provide a list of all owners, officers and employees of Baymar Capital. 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 jtalalai@pa.gov, by 5:00 PM eastern time on the Effective Date of this Order.

7. Waiver. Nothing in this Order shall prevent Baymar Capital from seeking a waiver from the Department to allow Baymar Capital to complete a loan modification for a Pennsylvania consumer that is listed on the Pipeline Report as provided in Paragraph 3 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.

8. 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.

Redacted

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

4/30/2014

(Date)

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DEPARTMENT OF BANKING AND SECURITIES

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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

Baymar Capital
11 Starbord Way
Mount Laurel, NJ 08054-6117

Scott D. Feltman
11 Starbord Way
Mount Laurel, NJ 08054-6117

Dated this 30th day of April, 2014.

Redacted

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