

FILED

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND SECURITIES

2017 AUG -2 PM 12: 59

PA DEPARTMENT OF  
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING AND  
SECURITIES, COMPLIANCE OFFICE

v.

Docket No.: 17 0050 (BNK-C&D)

VANGUARD FUNDING LLC.

**NOTICE OF RIGHT TO APPEAL AND HEARING**

You have the right to appeal the attached Order within **30 days** of the date of the Order as provided in 1 Pa. Code § 35.37. 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 30 days, you will waive your right to a hearing and the Department may enter a final order against you.**

Your Answer must be in writing, specifically admit or deny the allegations in the Order, set forth the facts upon which you rely, and state concisely the matters of law upon which you rely. Mere general denials are inadequate under 1 Pa. Code § 35.37 to raise an issue requiring a hearing or further proceedings. The Answer and any supporting documents must be filed with:

Linnea Freeberg, Docket Clerk  
Department of Banking and Securities  
17 N. Second St., Ste. 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 his counsel set forth below:

Gerard M. Mackarevich  
Assistant Counsel  
Department of Banking and Securities  
17 N. Second St., Ste. 1300  
Harrisburg, PA 17101

Once you file you're an Answer, you will be notified of pertinent information such as the name of the presiding officer designated to hear this matter and any other pertinent information. 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.

PA DEPARTMENT OF  
BANKING AND SECURITIES

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COMMONWEALTH OF PENNSYLVANIA :  
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SECURITIES, COMPLIANCE OFFICE :  
v. : Docket No. : 17 0050 (BNK-C&D)  
VANGUARD FUNDING LLC. :

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**CEASE AND DESIST ORDER**

AND NOW, this 2<sup>nd</sup> day of August 2017, the Department of Banking and Securities (“Department”), Compliance Office, hereby SUSPENDS the mortgage lender license of Vanguard Funding LLC. (“Vanguard”). Vanguard is ordered to immediately CEASE AND DESIST from engaging in the mortgage business, including accepting mortgage applications, until the license suspension is lifted. In support of its Order, the Compliance Office states the following:

**BACKGROUND**

1. The Department is the Pennsylvania administrative agency empowered to administer and enforce the Mortgage Licensing Act, 7 Pa.C.S. § 6101 *et seq.* (“MLA”).
2. The Department has delegated to the Compliance Office many of its responsibilities for enforcing the MLA.
3. Vanguard, which maintains its principal place of business at 300 Garden City Plaza, Suite 170, Garden City, NY 11530, is currently licensed under the MLA as a Mortgage Lender, license no. 26328.
4. The MLA at 7 Pa.C.S. § 6135 imposes certain requirements on mortgage licensees like Vanguard.

5. The MLA states in pertinent part as follows: “A mortgage broker, mortgage lender or mortgage loan correspondent, or a mortgage originator that is required to obtain and maintain its own bond coverage under section 6131(f)(4) (relating to application for license), on a date determined by the department, shall file periodically, as determined by the department, a report with the department or the Nationwide Mortgage Licensing System and Registry, as determined by the department, setting forth such information as the department shall require concerning the first or secondary mortgage loan business conducted by the licensee. Licensees who fail to file the required report at the date required by the department may be subject to a penalty of \$100 for each day after the due date until the report is filed.” 7 Pa.C.S. § 6135(a)(3).

6. The Department determined that each mortgage licensee was required to complete a Mortgage Call Report (“MCR”) for the first quarter of 2017 through the National Mortgage Licensing System and Registry (“NMLS”) by May 15, 2017.

7. Vanguard did not complete its MCR for the first quarter of 2017 by the deadline of May 15, 2017.

8. By email dated May 17, 2017, the Department notified Vanguard that its MCR was past due and that it may incur a penalty.

9. By letter dated May 26, 2017, the Department notified Vanguard that the MCR has still not been received and that it may incur a penalty.

10. On June 8, 2017, Andrew Bohr of the Compliance Office attempted to notify Brian Ofsie by telephone that the MCR was still outstanding and that if it was not received by June 14, 2017, Vanguard would be issued a fine letter. A voicemail was left for Mr. Osie containing this information.

11. By letter dated June 15, 2017, the Compliance Office issued a fine letter to Vanguard for failing to complete its missing MCR by the extended due date of June 14, 2017. The fine amount of \$500 was due on July 15, 2017.

12. On July 17, 2017, Andrew Bohr of the Compliance Office attempted to call Mr. Ofsie to notify him that both Vanguard's fine for the MCR and the MCR itself were still outstanding. The phone number was no longer in service. An e-mail was sent notifying him that the fine was still outstanding and failure to pay the fine may result in additional administrative action.

13. By letter dated July 18, 2017, sent by certified mail, the Department notified Vanguard that the fine for the late filing of the MCR is still outstanding and that failure to pay the fine by July 22, 2017 may likely result in suspension of their mortgage lender license.

#### **VIOLATION**

14. By not filing the MCR when it was due, Vanguard violated the MLA at 7 Pa.C.S. § 6135(a)(3).

15. The Department has the authority to issue orders to enforce the MLA. 7 Pa.C.S. § 6138(a)(4).

16. Because Vanguard violated the MLA, the Compliance Office by letter dated June 15, 2017, (Attachment 1) directed Vanguard to immediately file the missing quarterly MCR and assessed a fine of \$500, payable by July 15, 2017.

17. Vanguard did not pay the fine assessed by the Department by July 15, 2017, and has not yet paid the fine.

18. Vanguard still has not filed the missing MCR, and therefore remains in violation of Section 6135(a)(3) of the MLA, with the daily penalty of \$100 continuing to accrue.

## ADDITIONAL ENFORCEMENT MEASURES

19. The MLA at 7 Pa.C.S. § 6139(a)(2) authorizes the Department to suspend, revoke or refuse to renew a license if the licensee has “failed to comply with or violated any provision of [the MLA] or any regulation or order promulgated or issued by the department under [the MLA].”

**AND NOW THEREFORE**, because Vanguard has failed to pay the aforementioned fine in the amount of \$500 by the due date of July 15, 2017, and still has not completed an MCR for the first quarter of 2017, the Compliance Office, pursuant to its authority referenced above, hereby imposes the following Order:

20. Pursuant to the Department’s authority in 7 Pa.C.S. § 6140(b) of the MLA, Vanguard is hereby fined \$1,500, which is in lieu of the \$500 fine imposed on June 15, 2017, the \$1,500 amount being payable within 30 days of the date of this order.

21. Beginning on the effective date of this Order, Vanguard’s mortgage broker license shall be **INDEFINITELY SUSPENDED**, meaning that Vanguard and its owners, officers, directors or employees shall not engage in the mortgage loan business in Pennsylvania as defined in the MLA at 7 Pa.C.S. § 6102, unless and until the suspension is lifted. The suspension will not be lifted until the following conditions are met:

- a. Vanguard pays the \$1,500 fine referenced above.
- b. Vanguard completes the 2017 First Quarter MCR.
- c. Within ten (10) days of the date of this Order, Vanguard provides the Compliance Office with a report for the following categories of loans:
  - loans that have closed, but have not yet funded;
  - loans that have been approved but that have not closed;

- applications that have been received, but no decision has been made on approving the applications; and
  - applications that are in the initial stages of review and document gathering (the “Pipeline Report”).
- d. The Pipeline Report shall include the following information:
- the name, address and telephone number of the applicant;
  - the loan number or FHA case number;
  - the amount of all prepaid loan fees submitted by the applicant;
  - the amount of each loan;
  - the status of the loan;
  - the purpose of the loan (i.e., purchase or refinance); and
  - status of what is being done with the loan (e.g., funded by Vanguard, referred to another broker/lender, returned to broker, withdrawn by the applicant).
- e. Vanguard shall provide the Pipeline Report to Andrew Bohr of the Compliance Office via email: Redacted .

22. Vanguard shall **CEASE AND DESIST** advertising and accepting any new mortgage loan business unless and until such time the conditions set forth in Paragraph 21 are met and the license suspension is lifted by the Department.

23. During its suspension, Vanguard shall not accept new loan applications and shall **CEASE AND DESIST** from processing loan applications not listed on the Pipeline Report.

24. This Order will replace the fine letter that was issued on June 15, 2017.

25. Nothing in this Order shall prevent the Compliance Office from taking any further administrative action as deemed necessary.

**IT IS SO ORDERED.**

Redacted

James Keiser, Chief  
Compliance Office  
Department of Banking and Securities



August 2, 2017  
(Date)

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing *Cease and Desist 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

Vanguard Funding LLC.  
300 Garden City Plaza  
Suite 170  
Garden City, NY 15530

Dated this 2<sup>nd</sup> day of August 2017.

Redacted

Gerard M. Mackarevich  
Assistant Counsel  
Attorney ID #: 47529  
FOR: Commonwealth of Pennsylvania  
Department of Banking and Securities  
17 N. Second St., Ste. 1300  
Harrisburg, PA 17101