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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES PA DEPARTMENT OF
BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING AND :
SECURITIES, COMPLIANCE OFFICE :

v. :

Docket No: 170064 (BNK-CAO)

NOVA FINANCIAL INC., AND :
PING CHIN SHIH, INDIVIDUALLY :

CONSENT AGREEMENT AND ORDER

Through this Consent Agreement and Order (“Order”), the Department of Banking and Securities (“Department”), Compliance Office (“Compliance Office”), hereby lifts the suspensions of the Mortgage Broker license of Nova Financial Inc. (“Nova”) and the Mortgage Originator license of Ping Chin Shih (“Shih”). The Commonwealth of Pennsylvania, acting through the Department’s Compliance Office, has reviewed information relating to Nova and Shih. Based on the results of its review, the Compliance Office had concluded that Nova and Shih had violated Section 6135(a)(3) of the Mortgage License Act (“MLA”) relating to the filing of Mortgage Call Reports, and Sections 6135(a)(2) and (4) of the MLA related to the responsibility of the licensees to pay examination invoices. 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 MLA, 7 Pa.C.S. § 6101 *et seq.*

2. The Compliance Office is primarily responsible for administering and enforcing the MLA for the Department.

3. Nova, which maintains its principal place of business at 2222 Cottman Avenue, Floor 2, Philadelphia, PA 19149, was issued a license under the MLA as a Mortgage Broker, license no. 44142, National Mortgage Licensing System and Registry ("NMLS") unique identifier number 1082047.

4. Shih, who resides at Redacted, is currently licensed under the MLA as a Mortgage Originator, license no. 34370, NMLS unique identifier number 143614, and is the President of Nova.

Mortgage Call Report

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 Nova was required to complete a Mortgage Call Report (“MCR”) for the second quarter of 2017 through the National Mortgage Licensing System and Registry (“NMLS”) by August 14, 2017.

7. As the President of Nova, Shih was obligated to effectuate Nova’s MCR filing.

8. Nova did not complete its MCR for the second quarter of 2017 by the deadline of August 14, 2017

9. By email dated August 16, 2017, the Department notified Nova and Shih that Nova’s MCR was past due and that Nova may incur a penalty.

10. By letter dated August 25, 2017, the Department notified Nova and Shih that the MCR had still not been received and that Nova may incur a penalty.

11. On August 29, 2017, the Compliance Office attempted to notify Shih, by telephone, that the MCR was still outstanding and that if it was not received by September 14, 2017, Nova would be issued a fine. There was no answer and a voicemail was left.

12. On September 5, 2017, the Compliance Office spoke with Shih, who stated that he would complete the report by September 14, 2017.

13. By Order, Docket 170064 dated October 5, 2017, the Compliance Office issued a fine to Nova for failing to complete its missing MCR by the extended due date of September 14, 2017. The fine amount of \$500 was due on November 4, 2017.

14. On October 26, 2017, the Compliance Office spoke to Shih, notifying him that Nova’s MCR was still outstanding and that the \$500 fine was due no later than November 4, 2017. The Compliance Office also presented to Shih that Nova had an outstanding examination invoice which included an administrative fee invoice for failing to pay the original examination

invoice by the due date. Shih stated that he would complete all outstanding issues over the coming weekend.

Overdue Examination Invoice

15. On June 26, 2017, the Department conducted an examination of Nova at its principal place of business.

16. On August 3, 2017, the Department issued invoice number 1802071323 in the amount of \$1,524 for costs incurred during the examination.

17. The invoice was due within 60 days of the date the invoice was issued pursuant to Section 204.B of the Banking and Securities Code ("Code"). 71 P.S. § 733-204.B.

18. Nova did not pay invoice 1802071323 within 60 days from the date the invoice was issued.

19. The Department sent a dunning notice via U.S. Mail to Nova on October 18, 2017, that invoice 1802071323 was past due. The dunning notice also included administrative fee invoice 1802101903 in the amount of \$150.

20. The Department did not receive any response or payment from Nova following the mailing of the dunning notice

21. The dunning notice was not returned to the Department as undeliverable

22. The Department sent a second dunning notice via U.S. Mail to Nova on November 18, 2017, that invoice 1802071323 and administrative fee invoice 1802101903 were past due. The dunning notice also included administrative fee invoice 1802115200 in the amount of \$150.

23. Sections 6135(a)(2) and (4) of the MLA provide that the costs of the examination, including travel costs, shall be borne by the licensee 7 Pa.C.S §§ 6135(a)(2) and (4)

24. Because Nova did not pay the delinquent administrative fee invoices or the fine for failing to file the 2017 Second Quarter MCR the Department issued a Cease and Desist Order on December 7, 2017 which suspended Nova's Mortgage Broker license and Shih's Mortgage Originator license as of December 7, 2017

25. Subsequent to the issuance of the Department's Cease and Desist Order dated December 7, 2017, Nova paid the outstanding examination invoice and administrative fee invoices in full, and paid the fine of \$1,500 for failing to have completed the 2017 Second Quarter MCR and failing to pay the original \$500 fine issued on October 5, 2017.

VIOLATIONS

26. By not filing the MCR when it was due, Nova violated Section 6135(a)(3) of the MLA, 7 Pa.C.S. § 6135(a)(3).

27. By failing to pay examination invoice 1802071323 and administrative fee invoices 1802101903 and 1802115200, Nova violated Sections 6135(a)(2) and (4) of the MLA, 7 Pa.C.S. §§ 6135(a)(2) and (4).

28. Because Nova violated the MLA, the Compliance Office by Order dated October 5, 2017, directed Nova to immediately file the missing quarterly MCR and assessed a fine of \$500, payable by November 4, 2017

29. Nova did not pay the fine assessed by the Department by November 4, 2017.

30. As of the date of the Cease and Desist Order of December 7, 2017, Nova had not filed the missing MCR, and therefore remained in violation of Section 6135(a)(3) of the MLA, with the daily penalty of \$100 continuing to accrue

31. As the President of Nova, Shih is the sole responsible officer for Nova and the responsible party to effectuate Nova's compliance with the MLA. As such, Shih caused Nova to have committed the violations cited above

32. As Nova is Shih's alter ego and Shih is Nova's sole responsible officer, the violations committed by Nova are imputed upon Shih as an individual.

RELIEF

33. Fine. As of December 12, 2017, Nova has paid in full the fine of \$1,500 issued on December 7, 2017.

34. Examination Invoice As of December 12, 2017, Nova has paid in full the amount of \$1,824 for examination invoice 1802071323 and administrative fee invoices 1802101903 and 1802115200.

35. Corrective Action. Nova and Shih have completed all of the corrective actions required by the Department in Paragraph 37 of the Cease and Desist Order dated December 7, 2017.

36. Rescission of the Cease and Desist Order dated December 7, 2017. The Department's Cease and Desist Order dated December 7, 2017, is hereby RESCINDED as of the effective date of this Order contained in paragraph 41. The suspensions of Nova's mortgage broker license and of Shih's mortgage originator license are hereby RESCINDED as of the effective date of this Order

FURTHER PROVISIONS

37. Consent. Nova and Shih hereby knowingly, willingly, voluntarily, and irrevocably consent to the entry of this Order pursuant to the Department's authority under the MLA, and agree that they understand all of the terms and conditions contained herein. Nova and

Shih, 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.

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 Compliance Office and Nova and/or by the Compliance Officer and Shih.

39. Binding Nature. The Compliance Office and Nova and/or Shih, and all officers, owners, directors, employees, heirs, and assigns of Nova and/or Shih 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. Nova and Shih hereby stipulate and agree that the Order shall become effective on the date that the Compliance Office executes the Order (“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 Nova and/or Shih in the future regarding all matters not resolved by this Order
- b. Nova and Shih 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 electronic mail in portable document format ("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 Commonwealth of Pennsylvania, Department of Banking and Securities, Compliance Office, Nova Financial Inc. and Ping Chin Shih, intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES, COMPLIANCE OFFICE**

Redacted _____

James Keiser, Chief
Compliance Office
Department of Banking and Securities

Date: December 12, 2017



FOR NOVA FINANCIAL INC

(Title)

Redacted _____

Date: 12/12/17

(Officer Signature)

PING CHIN SHIH

(Officer Name)

FOR PING CHIN SHIH

Redacted

(Signature)

Date:

12/12/17