

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA :
DEPARTMENT OF BANKING AND :
SECURITIES, COMPLIANCE OFFICE :
v. : DOCKET NO. 23 0032 (BNK-CAO)
AMERICAN PORTFOLIO :
MORTGAGE CORPORATION :

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Compliance Office ("Office"), has reviewed the business practices of American Portfolio Mortgage Corporation ("APMC"). Based on the results of its review, together with certain disclosures APMC has made to the Department, the Office believes that APMC operated in violation of the Mortgage Licensing Act (the "MLA"), 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 MLA.
2. The Office is primarily responsible for administering and enforcing the MLA for the Department.
3. APMC's principal place of business is located at 2401 Plum Grove Road, Suite 202, Palatine, IL 60067.
4. APMC is not licensed as a Mortgage Servicer under the MLA.
5. "Mortgage servicer" is defined as "A person who engages in the mortgage loan business by directly or indirectly servicing a mortgage loan." 7 Pa. C.S. § 6102.

6. "Service mortgage loan" is defined as "A collecting or remitting payment or the right to collect or remit payments of principal, interest, tax, insurance or other payment under a mortgage loan." 7 Pa. C.S. § 6102.

7. A person engaged in the mortgage loan business as a mortgage servicer is required to be licensed as a Mortgage Servicer. 7 Pa. C.S. § 6111(a).

8. A mortgage lender which is only servicing mortgage loans which the mortgage lender originated, negotiated and owns is excepted from the Mortgage Servicer licensing requirement. 7 Pa. C.S. § 6111(b)(1)(ii).

9. APMC filed its application for licensure as a Mortgage Servicer on June 30, 2023.

10. APMC had servicing rights to loans which APMC did not negotiate or originate or did not own at the time of servicing.

11. APMC contracted the servicing of these mortgage loans to a subservicer.

12. By servicing mortgage loans through a subservicer, APMC was indirectly servicing the mortgage loans.

13. By indirectly servicing mortgage loans which APMC did not negotiate or originate or did not own at the time of servicing, APMC acted as a mortgage servicer when it was not licensed to do so.

14. APMC cooperated with the Department regarding the matters addressed in this Order.

Authority of the Department

15. The Department has the authority to issue orders as may be necessary for the proper conduct of the mortgage loan business by licensees and the enforcement of the MLA. 7 Pa. C.S. § 6138(a)(4).

16. The Department may fine a person, whether licensed or subject to the provisions of this chapter and not licensed, who violates the act or commits any action which would subject the license to suspension, revocation or nonrenewal under Section 6139 up to \$10,000 per offense. 7 Pa. C.S. § 6140(a) and (b).

VIOLATION

17. APMC violated the MLA when it engaged in the business of a mortgage servicer while not licensed as a Mortgage Servicer. 7 Pa. C.S. § 6111(a).

RELIEF

18. Fine. APMC agrees to pay a fine of forty-one thousand nine hundred dollars (\$41,900). The payment is due within thirty (30) days of the Effective Date of the Order. The fine payment shall be remitted through the Department portal at <https://www.portal.dobs.pa.gov>.

19. Licensure. Upon meeting all licensing requirements as determined by the Department's Licensing Division, the Department will issue a Mortgage Servicer license to APMC.

FURTHER PROVISIONS

20. Consent. APMC hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Department's order authority under the MLA and agrees that it understands all of the terms and conditions contained herein. APMC, 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.

21. Consumer's Rights. The Order shall not limit or impair a consumer's rights under the MLA.

22. Publication. The Department will publish this Order pursuant to its authority in the Department of Banking and Securities Code. 71 P.S. § 733-302.A.(5).

23. 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 Office and APMC.

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

25. Counsel. This Order is subject to review by the Department's Legal Division. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

26. Effectiveness. APMC hereby stipulates and agrees that the Order shall become effective on the date that the Department's Legal Division docket this Order ("Effective Date").

27. 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 APMC in the future regarding all matters not resolved by this Order.
- b. APMC 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.

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

29. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic format.

30. 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 of Banking and Securities, Compliance Office, and American Portfolio Mortgage Corporation 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

FOR AMERICAN PORTFOLIO MORTGAGE CORPORATION

Redacted

Redacted

John Talalai, Director
Compliance Office
Department of Banking and Securities

(Officer Signature)

PAUL KESSEL
(Print Officer Name)

Date: 09/07/2023

PRESIDENT
(Title)

Date: 9/6/2023

