



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING
HARRISBURG

THE SECRETARY

August 3, 2004

TO ALL LENDERS AND BROKERS UNDER THE JURISDICTION OF THE
DEPARTMENT OF BANKING:

The Pennsylvania Department of Banking ("Department") and the Pennsylvania Housing Finance Agency commissioned a study of mortgage foreclosures in Monroe County in connection with the work of a joint state task force that included representatives from the Department, the Pennsylvania Housing Finance Agency, the Office of Attorney General and the Pennsylvania Department of State ("Task Force"). The study has raised several concerns and a copy of it is available for your review on the Department's website at www.banking.state.pa.us.

One of the concerns that surfaced during the study was that the home appraisal process in certain instances was potentially improper. As you know, an honest and fair appraisal is critical to the integrity of a loan transaction that is secured by a home. As a lender or a broker, your role in the appraisal process must be above reproach. Therefore, please know that it is the position of the Department that it is impermissible for any lender or broker to improperly influence, or even attempt to improperly influence, the outcome of an appraisal. Such conduct could lead the Department to take various kinds of administrative action including issuing a cease and desist order or suspending or revoking a license, depending upon the statute involved.¹ Prohibited conduct includes any attempt to ensure that an appraisal matches the contemplated sales price of a home or any act or omission that is intended to compromise the independent judgment of an appraiser.

Another concern that was raised anecdotally with members of the Task Force as the study progressed was that some builders may be refinancing transactions after the initial construction or sale. Please be advised that the exception to licensing for builders found at section 303(b)(6) of the Mortgage Bankers and Brokers and Consumer Equity

¹ For example, this type of conduct would be considered unsafe and unsound under statutes governing depository institutions like the Department of Banking Code, 71 P.S. §§ 733-202, 733-501.A, or the Banking Code of 1965, 7 P.S. § 103(a)(i). Under other statutes, the prohibited conduct would be considered "unfair or unethical practices or conduct in connection with the mortgage business," as that phrase is used in section 313(a)(5) of the Mortgage Bankers and Brokers and Consumer Equity Protection Act, 63 P.S. § 456.313(a)(5), or not the "proper conduct of the business" as that phrase is used in both section 16(1) the Secondary Mortgage Loan Act, 7 P.S. § 6616(1), and section 310(a) of the Mortgage Bankers and Brokers and Consumer Equity Protection Act, 63 P.S. § 456.310(a). Regardless of the particular phrase used in a statute, including statutes not listed here, improperly influencing the outcome of a home appraisal (or attempting to do so) is impermissible in the mortgage loan industry and will not be tolerated by the Department.

Protection Act² is limited to when a builder first builds or sells a home. To participate in the financing of a home constructed by the builder after the initial construction or sale of that home would require a license under the Mortgage Bankers and Brokers and Consumer Equity Protection Act.

On behalf of the Department, I thank you for your anticipated compliance with this letter.

Sincerely,

/s/

A. William Schenck III
Secretary of Banking

² The builder's exception is for, "[b]uilders, when obtaining mortgages for their own construction or for the sale of their own construction." 63 P.S. § 456.303(b)(6).