

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF BANKING

IN THE MATTER OF:)
)
MUTUAL TRUST FUNDING CORPORATION) No. 2006-MBR-31
ATTN: Nasir S. Muhammad)
120 W. Madison, Suite 1305)
Chicago, IL 60602)

ORDER REVOKING LICENSE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking, (hereinafter referred to as the “Department”), having conducted an examination of the facts related to Mutual Trust Funding Corporation (hereinafter referred to as the “Licensee”), 120 W. Madison, Suite 1305, Chicago, IL 60602, and having found that the Licensee has committed violations cited herein of the Residential Mortgage License Act of 1987 (hereinafter referred to as the “Act”) [205 ILCS 635], and of the rules promulgated under the Act (hereinafter referred to as the “Rules”) [38 Ill. Adm. Code 1050], hereby issues this ORDER pursuant to the authority provided under Section 4-5 (h)(1) of the Act. The Department makes the following:

FINDINGS

1. That Mutual Trust Funding Corporation is an Illinois residential mortgage licensee holding license No. MB.0005897 and located on the Department’s records at 120 W. Madison, Suite 1305, Chicago, IL 60602;
2. That the Department opened an examination on October 19, 2005 prior to Licensee changing its name from Greater Investment Mortgage Corporation to Mutual Trust Funding Corporation; that the Department extended said examination on April 5, 2006 due to South Star Funding (hereinafter referred to as the “Lender”), filing a complaint alleging fraudulent information in seven closed loan files by Licensee; that a request for documentation was initiated prior to April 12, 2006 with documentation received on May 26, 2006, resulting in the further examination of all loan files originated by the Licensee through its loan originator, Mr. Charles T. White, Jr. (hereinafter referred to as the “Loan Originator”) and registered with the Department as number 031.0010401;
3. That the Department’s examination of Licensee found numerous and serious violations of the Act and Rules, including the following:
 - a. **Sections 4-5(i)(2) & (7) of the Act – Fraud, Misrepresentation or Deceit in Mortgage Financing Transaction & Failure to Disburse in Accordance with Agreements**

Licensee failed to disclose an affiliation to Eyes Have Not Seen (hereinafter referred to as "EHNS"), a company owned by the Loan Originator, and to which substantial amounts approximating \$1.5 million were paid at closing from Licensee's brokered loans. Licensee further failed to disclose an affiliation to Title Zone, LLC in which the Loan Originator held a financial interest, and affiliated title companies as identified in the Department's Division of Financial Institutions, Title Insurance Section, Order Number 06TII104. Licensee further failed to disburse funds in accordance with its agreements with Lender in three loans referenced on page 12 of the Report of Examination by changing or facilitating the change in disbursements to EHNS at closing without the Lender's knowledge.

b. **Section 2-4 (k) of the Act – Averments of Licensee**

Licensee failed to disclose substantial fees and disbursements diverted to EHNS, which it knew or should have known due to the number of loans and amount of fees and disbursements, from closing proceeds to the injury of another party, including borrowers, sellers, and funders, including but not limited to the Lender. The Department's examiners found that Licensee's loan files contained incomplete or incorrect HUD-1 Settlement Statements for twenty (20) loans identified in the Report of Examination. Further, closing files obtained through Department's Title Insurance Section showed that in transactions for four borrowers referenced on pages 11-12 of the Report of Examination, EHNS received fees that were not evident when the Department's examiners reviewed files submitted by the Licensee.

c. **Section 3-4 and Section 1050.340 of the Rules - Full-Service Office**

Licensee has a signed lease for 120 W. Madison, Suite 1305 Chicago, Illinois, but does not maintain a full service office at that location as required by the Act and Rules. When examiners attempted to open an exam at that location on April 5, 2006 to investigate the Lender's allegations, they were unable to gain entry to the office as it was dark, closed and unstaffed and said pattern of non-use or limited use was confirmed to the Department by building personnel. Examiners also noted that neither the licensee's previous or current names were listed on the building's directory. Licensee may have conducted licensable activities at the unlicensed office of EHNS and/or other locations not licensed by the Licensee.

d. **Section 1-3 of the Act and Section 1050.1030 of the Rules – Necessity for License & Prohibited Practice**

Licensee conducted licensable activities with an unlicensed entity, EHNS, which according to records on file with the Business Services Department of the Office of the Illinois Secretary of State is located at 800 S. Wells, Chicago, Illinois. This company received approximately \$1.5 millions dollars for undisclosed services for which the Department has no determination of exemption under Section 1-4(d) of the Act from the licensing requirement of Section 1-3 of the Act.

e. **Sections 3-1, 3-2 & 3-5 of the Act and Section 1050.410 of the Rules – Bonds, Financials & Net Worth**

The Licensee failed to provide sufficient documentation of surety bond coverage for the period 7/12/2004 to 5/26/2005, an annual financial statement 90 days after the close of its Fiscal Year as required, and the acceptable documentation to verify minimum net worth.

f. **Section 1050.1175 of the Rules - Maintenance of Records – Loan Log, Loan & Loan File Retention & Sections 1050.1010, 1050.1110, 1050.1140, and 1050.1230, 1050.1250, and 1050.1350 of the Rules**

Licensee failed to include six of the required thirteen (13) items or fields on its loan log. The loan log presented for review did not include the following: property seller names, property address, loan originator registration numbers, appraiser names and license numbers, corporate or full service office and license number where application taken, and amount of points and fees charged. The Loan Originator's registration number is missing from the Loan Brokerage Agreement in each loan file reviewed. It fails to disclose the loan originators' names and registration numbers on the loan brokerage agreement. The Department noted loan file discrepancies of missing, incomplete or improperly completed information and blank documents in thirty (30) loan files reviewed in its Report of Examination, involving appraisals, HUD-1 Settlement Statements, non-disclosed affiliations, non-matching borrower information on credit report and application, loan program changes, and yield spread premiums on Good Faith Estimates.

g. **Sections 7-1 and 2-4(x) of the Act & Section 1050.2120 of the Rules - Loan Originator Registration, Continuing Education, & Employment**

The Department's review showed that six loan originators (Aldridge, Muhammad, Dyer, Searcy, Johnson, and Wilson) then employed by Licensee originated one or more loans after July 1, 2004 without the required provisional registration, that continuing education compliance was missing, and identified other employment issues. The compensation of independent contractors may be referred by the Department for determination to other state agencies.

4. That the Department did not conduct an exit interview due to the severity of the findings in the Report of Examination.

CONCLUSIONS

BASED UPON THE ABOVE FINDINGS, THE DEPARTMENT IS OF THE OPINION AND CONCLUDES:

Licensee is in violation of Section 4-5(i)(2), (7), (11), and (17) of the Act, and of the Sections of the Act and Rules cited herein and said violations constitute grounds for revocation of License No. MB0005897 under Section 4-5(h) (1) of the Act.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the license of MUTUAL TRUST FUNDING CORPORATION, INC., License No. MB.0005897 is revoked by Order of the Department pursuant to

Section 4-5(h)(1) of the Act for violation of Section 4-5(i)(2), (7), (11), and (17) of the Act, and of the Sections of the Act and Rules cited herein.

ORDERED THIS 2nd DAY OF AUGUST 2006

DEPARTMENT OF FINANCIAL AND
PROFESSIONAL REGULATION,
DIVISION OF BANKING,
of the State of Illinois;
DEAN MARTINEZ, SECRETARY
D. LORENZO PADRON, DIRECTOR

D. LORENZO PADRON

You are hereby notified that this Order is an administrative decision. Pursuant to 205 ILCS 635/4-12 and 38 Ill. Adm. Code, 1050.1510 *et seq.* any party may file a request for a hearing on an administrative decision. The request for a hearing shall be filed within 10 days after the receipt of an administrative decision. A hearing shall be held within 30 days after the receipt by the Department of Financial and Professional Regulation, Division of Banking of a request for a hearing. Absent a request for a hearing, this Order shall constitute a final administrative Order subject to the Administrative Review Law [735 ILCS 5/3-101 *et seq.*].