

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

IN THE MATTER OF:)
)
) No. 2009-MBR-259
MORTGAGE & INVESTMENT CONSULTANTS, INC.)
License No. MB.6760437)
Attention: Kevin Kleist)
2489 Rice Street, #200)
St. Paul, MN 55113)

**ORDER ASSESSING FINE, REFUSING TO ISSUE, AND DENYING
APPLICATIONS FOR ADDITIONAL FULL SERVICE OFFICE LICENSES**

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (the “Department”), having reviewed applications made and investigated and examined activities conducted by Mortgage & Investment Consultants, Inc. (“MIC”) and having documented violations of the Residential Mortgage License Act of 1987 (the “Act”) [205 ILCS 635] and the rules promulgated under the Act (the “Rules”) [38 Ill. Adm. Code 1050], hereby issues this ORDER pursuant to the authority provided under Section 4-5(h)(5) of the Act for Count I, and Sections 2-5 and 4-5(h)(6) of the Act for Counts II, III, and IV. Therefore, based on the record before the Department, the Department makes the following findings, conclusions, and orders:

COUNT I (Fine Against Corporate License) – FINDINGS

The findings for Count I are set forth below:

1. That Mortgage & Investment Consultants, Inc. is an Illinois residential mortgage licensee holding license number MB.6760437 (the “License” or “Corporate License”) at 2489 Rice Street, #200, St. Paul, Minnesota 55113 (the “Corporate Office”);
2. That MIC initially was issued the License on September 20, 2007 to conduct brokering, processing, and originating activities from its Corporate Office;
3. That on or around April 23, 2009, the Department opened an investigation upon receiving information that a website (www.davidpoitier.com) was advertising as iLoan and Mortgage & Investment Consultants using the address at 2235 W. North Avenue, Chicago, Illinois (the “North Avenue Office”) which was the address in Department records for Freedom Mortgage

Team, Inc. (“Freedom Mortgage Team”) whose Illinois residential mortgage license number MB.0006074 lapsed into inactive status as of December 17, 2008;

4. That an initial records review by the assigned investigator (the “Investigator”) showed that loan originator David Poitier (“Poitier”) had started working for MIC on March 23, 2009 and that Poitier was last sponsored by Freedom Mortgage Team from Freedom Mortgage Team’s corporate office at 2239 W. North Avenue, Chicago, Illinois. The Investigator confirmed that Poitier was using the name iLoan and Mortgage & Investment Consultants on the website as well as other variations of the name iLoan;
5. That on April 27, 2009, the Investigator went to the North Avenue Office to ascertain if MIC was operating an unlicensed additional full service (branch) office at that location. The Investigator observed building signage for “Freedom” and upon entering the office space did not observe any signage for MIC; however, the Investigator asked the receptionist if this was the office for MIC to which the receptionist replied in the affirmative. The Investigator observed a receptionist as well as six to seven persons in the office and some apparently working with consumers. The Investigator upon request for the additional full service office license for the North Avenue Office was shown a copy of MIC’s Corporate License. The Investigator later spoke with Tim Cummings (“Cummings”), MIC’s Chief Operating Officer in the Corporate Office and learned that MIC had a second additional full service office at the Johnsburg Office address at 2400 W. Johnsburg Road, Johnsburg, Illinois. The Investigator reviewed the Department’s licensing records and determined that the Johnsburg Office was not licensed per those records.
6. That on April 28, 2009, the Investigator visited the Johnsburg Office to ascertain if MIC was operating an unlicensed additional full service (branch) office from that location. The Investigator observed no external signage for MIC, but upon entering the office space, observed internal signage for MIC. The Investigator spoke with Steve Schmidt (“Schmidt”) who identified himself as the branch manager. Schmidt provided his business card which contained the name of MIC and the address and telephone numbers for the Johnsburg Office, and title senior mortgage consultant. The Investigator again asked to see the additional full service office license for the Johnsburg Office and instead, Schmidt provided a copy of the Corporate License. The Investigator asked Schmidt how long the Johnsburg Office had been operating and Schmidt stated that he had only been working as branch manager for two months, but asked another employee who indicated the Johnsburg Office had been operating for approximately the past twelve (12) months;
7. That on April 28, 2009, the Investigator spoke with the Department’s Licensing Section Manager who verified that MIC was never told it could operate either the North Avenue or Johnsburg Offices or use a d/b/a name without being properly licensed. The Investigator had noted in a prior conversation with Cummings that MIC had contacted the Department’s Licensing Section about temporary use of the North Avenue Office during construction of new office space. Cummings never produced licenses for the North Avenue Office or the Johnsburg Office;
8. That on April 29, 2009, the Investigator requested from MIC copies of its loan logs for the North Avenue and Johnsburg Offices. On May 5, 2009, MIC provided a version of a loan log showing ninety-seven (97) Illinois loans closed in 2008-2009 and four Illinois loans closed in 2007, and upon further request, MIC provided a version of a loan log on May 7,

2009 showing that all one hundred one (101) Illinois loans in the loan logs for 2007-2009 were originated in Illinois by loan originators at the North Avenue Office (70 loan files originated) or Johnsborg Office (31 loan files originated).

9. That the loan logs showed Gaspare (Reno) Manuele (“Manuele”) as having originated an Illinois loan on January 26, 2009 while employed by another Illinois residential mortgage licensee. MIC responded to the Investigator’s inquiry, that MIC believed it could have a new loan officer originate loans during a transfer period from another licensee; however, the Investigator was told by the Department’s Loan Origination Section Manager that the Department was not in receipt of, nor did Department records indicate Manuele ever applied for a transfer to MIC;
10. That on May 11, 2009, the Department’s Licensing Section received an application from MIC for an additional full service office license for the Johnsborg Office; however, the Department returned the application on May 15, 2009 due to deficiency in the application; that on or around June 16, 2009, MIC provided further information for the applications. On August 4, 2009, the Department received second and third applications for additional full service office licenses for the North Avenue Office at 2235-39 W. North Avenue, Chicago, Illinois and for 20 N. Racine, Chicago, Illinois (the “North Racine Office);
11. That on July 21, 2009, the Investigator filed an additional supplementary report identifying, in addition to Manuele, eleven (11) loan originators formerly employed by Freedom Mortgage Team who had originated fifty (50) additional loans under MIC before the loan originator transfers were recorded and effective. The loan originator names and number of loans prior to transfer are as follows: Cynthia Koutsovitis (9), Fitni Rexhepi (4), Graco Funes (8), Joe Elstner (5), Johanna Cruz (1), Julian Bregu (7), Mary Tribicka (1), Nazira Mussri (1), Nick Memeti (6), Renato Zotaj (6) and Tony Abazi (2);
12. That on July 21, 2009, the Department issued Cease and Desist Order No. 2009-MBR-CD2 (the “Cease and Desist Order”) to MIC to stop conducting all loan brokering and licensable activities at the North Avenue and Johnsborg Offices due to not having licenses for those locations. That subsequent to issuance of the Cease and Desist Order, Department approved renewal upon proper application of MIC’s Corporate License pending ongoing Department activities with MIC;
13. That on July 28, 2009, the Investigator visited the North Avenue Office and Johnsborg Office and found both offices operating and advised MIC employees on site of the Cease and Desist Order, and that they needed to immediately close their offices and could contact MIC’s Corporate Office for further information;
14. That the Investigator filed Reports of Investigation and Supplemental Post Investigative Reports with supporting evidence/documentation/summaries and created an enforcement issue;
15. That on July 30, 2009, the Department commenced a regular examination of MIC for the period from License issuance to June 30, 2009, reviewing eighty-eight (88) Illinois loan files taken from the North Avenue and Johnsborg Offices as well as branch office and corporate activities, and issued a Report of Examination (the “ROE”) with findings of numerous violations of the Act and Rules;

16. That the Department has found violations hereinafter by MIC of the cited Act and Rules in the ROE and the number of loan files with violations are based upon the eighty-eight (88) Illinois loan files examined by the Department and the ROE identifies the specific files with violations by borrower(s) name:
- a. Act Section 1-3(a) – unrecorded/unlicensed business locations at Johnsburg and North Avenue Offices
 - b. Rules Section 1050.350 – unlicensed additional full service offices at Johnsburg and North Avenue Offices
 - c. Act Section 2-8 – unlicensed additional full service offices at Johnsburg and North Avenue Offices. Mortgages originated at the unlicensed Johnsburg location between June 2007 and July 2009. Mortgages originated at the unlicensed North Avenue location between December 2008 and July 2009. MIC’s loan logs show a combined total of three hundred sixteen (316) loan applications taken at the two unlicensed offices during the unlicensed period.
 - d. Act Section 3-3 – MIC failed to include “Illinois Residential Mortgage Licensee” on its advertisements.
 - e. Rules Section 1050.940 – MIC failed to include “Illinois Residential Mortgage licensee” on its advertisements.
 - f. Rules Section 1050.1010 – sixteen (16) of MIC’s loans brokered and funded during the examination period failed to include a Loan Brokerage Agreement; thirteen (13) of the loans did not include the loan originator registration number; five (5) of the loans were not signed by the mortgage applicants within the prescribed timeframe; twenty-eight (28) loan brokerage agreements did not contain required verbiage as required under subparts 1050.1010 (a), (c), (d),(e), and (f).
 - g. Rules Section 1050.1020 - fifty-seven (57) files brokered by MIC did not contain a Loan Brokerage Disclosure; four (4) Loan Brokerage Disclosure Statements were not signed by the borrower within the prescribed time frame; thirteen (13) Loan Brokerage Disclosure Statements did not provide notification to the proposed mortgagor of the Licensee’s affiliate businesses.
 - h. Rules Section 1050.1110(a) – sixty-three (63) files did not include a Borrower Information Document. Twelve (12) files did not reference MIC’s License number. The Borrower Information Document in eight (8) files was not signed by the proposed mortgagor(s) within the prescribed timeframe.
 - i. Rules Section 1050.1120 – MIC failed to produce a list of documentation (i.e. bank accounts, paystubs, divorce decree, mortgage payoff letter, etc.) necessary to facilitate the application process and complete and underwrite the applicant’s mortgage loan request among the disclosures drawn from the loan files reviewed.
 - j. Rules Section 1050.1175 – The Loan Log initially produced by MIC on July 30, 2009 only detailed closed loan activity for the period from License issuance to June 30, 2009. Cancelled, rejected and pending loan data was not provided for the period. Subsequently during the examination, MIC produced revisions of the Loan Log on August 3, 4, and 7, 2009. These revised Loan Logs did not conform to Rules Section 1050.1175(a). Data fields for property purchaser name, property seller name, and servicer information were excluded or not populated.
 - k. Rules Section 1050.1305 – MIC failed to issue an Approval Notice for seventy-four (74) loan files. In addition, the Approval Notice in one file failed to provide commitment expiration. In another loan file, an Approval Notice stated a note rate of

5.0%; however, the transaction funded at 5.5% and no updated Approval Notice was provided the applicant.

- l. Rules Section 1050.1335 – MIC’s “Lock-In Agreement” form failed to include the loan amount and loan term.
- m. Act Section 5-6(a) (b) – The Department identified 11 loan files in which the borrower had a total debt/income ratio exceeding 50%. Of loans reviewed by the Department, MIC failed to obtain W-2 wage statements, pay stubs, or similar means of income verification for sixty-six (66) loan files (49 refinances and 17 purchases) that would have allowed MIC to ensure the prospective mortgagor’s ability to repay the loan (all these loans originated after July 1, 2008 and the effective date of statutory amendments to this Section).
- n. Act Section 5-9 & Rules Section 1050.1230 – MIC failed to disclose pertinent information to the borrower in thirty-five (35) instances in which an application was affected by a change in the prevailing loan terms while the loan was being processed. The ROE details changes that MIC failed to disclose to borrowers and notes violations of the Real Estate Settlement Procedures Act (“RESPA”) and Truth in Lending Act (“TILA”).
- o. Rules Section 1050.1350 citing Reg. X (RESPA Regulations) 34 CFR 3500.7(c) – Department noted disparities in Yield Spread Premium (“YSP”) disclosed by MIC on the Good Faith Estimate (“GFE”) compared to the actual YSP incurred by the mortgagor(s) as detailed on the HUD-1 settlement statement in nineteen (19) loan files; for eighteen (18) of these loan files, MIC listed no YSP on the GFE when MIC did in fact receive a YSP ranging from \$469.10 to \$7,444.28.
- p. Rules Section 1050.1350 citing Reg. X (RESPA Regulations) 34 CFR 3500.8(b) – MIC failed to provide on the initial GFE for five (5) loans the estimated premium for homeowners insurance paid on purchase money mortgages with these being items required by lender to be paid in advance.
- q. Rules Section 1050.1350 citing Reg. Z (TILA Regulations) 12 CFR 226.22(a) – for two Truth in Lending disclosures prepared by MIC and signed by the prospective mortgagor, the APR and principle loan amount were the same, despite the fact that prepaid finance charges were associated with the loans.
- r. 765 ILCS 77/70(d) (Residential Real Property Disclosure Act) – the borrowers on one loan cited in the ROE incurred a counseling fee in their settlement costs in violation of the Illinois Anti-Predatory Lending Database Program.
- s. Act Section 7-1, Rules Sections 1050.2110, 1050.2125, 1050.2150, 1050.2220 – ROE cites MIC for employing Gilbert Duran who took a loan application for MIC from a borrower on May 27, 2009 without having his loan originator certificate of registration. ROE cites and are identified hereinafter by name and number of loans the following four inactive loan originators who originated sixteen (16) loans originated and were not sponsored by MIC at time of these loans: Rick Zegar (1), Chase Harris (2), Aracely Martins (2), and Joseph Saccomonto (11). ROE additionally cites and are identified hereinafter by name and number of loans the following twelve (12) loan originators who originated fifty-nine (59) loans prior to their sponsorship being properly transferred from Freedom Mortgage Team to MIC: Cynthia Koutsovitis (9), Fitni Rexhepi (6), Graco Funes (10), Joe Elstner (5), Johanna Cruz (1), Julian Bregu (9), Mary Trebicka (1), Nazira Mussri (1), Nick Memeti (6), Renato Zotaj (6), Reno Manuele (3), and Tony Abazi (2); and

17. That thereafter the Department transmitted a copy of the ROE to MIC and assigned MIC to supervision for the numerous violations of the Act and Rules cited in the ROE, said supervision continuing and subject to further enforcement actions against MIC and/or the License.

COUNT II (North Avenue Office) – FINDINGS

The Department adopts and incorporates by reference the findings in Count I.

COUNT III (Johnsburg Office) – FINDINGS

The Department adopts and incorporates by reference the findings in Count I.

COUNT IV (North Racine Office) – FINDINGS

The Department adopts and incorporates by reference the findings in Count I.

COUNT I (Fine Against Corporate License) - CONCLUSIONS

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

Notwithstanding notices and other efforts by the Department, Licensee has violated, and otherwise failed to meet standards, of Sections 1-3(a) & (f), 2-1(a), 2-4(d),(j),(s),(t), & (z), 2-8, 3-3, 5-6(a) & (b), 5-9, and 7-1 of the Act and Sections 1050.350, 1050.910, 1050.940, 1050.1010, 1050.1020, 1050.1110, 1050.1120, 1050.1175, 1050.1230, 1050.1305, 1050.1335, 1050.1350 (citing violations of 24 CFR 3500.7 & 3500.8(b), and 12 CFR 226.22(a)), 1050.2110, 1050.2125, 1050.2150, 1050.2165, 1050.2220 of the Rules, and 765 ILCS 77/70, and is in further violation of Sections 4-5(i)(11) and (17), of the Act.

COUNT II (North Avenue Office) - CONCLUSIONS

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

The Department adopts and incorporates by reference the conclusions in Count I.

COUNT III (Johnsburg Office) – CONCLUSIONS

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

The Department adopts and incorporates by reference the conclusions in Count I.

COUNT IV (North Racine Office) – CONCLUSIONS

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

The Department adopts and incorporates by reference the conclusions in Count I.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED,

COUNT I (Fine Against Corporate License)

The Department fines MIC in the amount of two hundred thousand dollars (\$200,000) for separate counts of offense in violating the Act and Rules cited herein and payable within thirty days of the effective date of this Order.

COUNT II (North Avenue Office)

The Department refuses to issue and denies MIC's additional full service office license application for the North Avenue Office at 2235-39 W. North Avenue, Chicago, Illinois.

COUNT III (Johnsburg Office)

The Department refuses to issue and denies MIC's additional full service office license application for the Johnsburg Office at 2400 W. Johnsburg Road, Johnsburg, Illinois.

COUNT IV (North Racine Office)

The Department refuses to issue and denies MIC's additional full service office license application for the North Racine Office at 20 N. Racine, Chicago, Illinois.

ORDERED THIS 14TH DAY OF OCTOBER, 2009

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

BRENT E. ADAMS
ACTING SECRETARY

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 and, if so requested, a hearing shall be held on the administrative decision, by the Department of Financial and Professional Regulation, Division of Banking. 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.*].