

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

IN THE MATTER OF:)
)
) No. 2009-MBR-293-b
SUPERIOR HOME LOANS, LLC)
License No. MB.0006048)
Attention: Joshua Phelps)
301 West A. Street)
Belleville, IL 62220)

ORDER ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (the “Department”), having investigated the activities conducted by Superior Home Loans, LLC (“Superior”) 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. The Department makes the following:

FINDINGS

1. That Superior Home Loans, LLC is an Illinois residential mortgage licensee holding license number MB.0006048 (the “License”) and located at 301 West A. Street, Belleville, Illinois 62220;
2. That the Department became aware of an anonymous complaint alleging that Superior was engaged in co-brokering of Illinois residential mortgage loans. Attached to the complaint was an email sent by Mark Dill (“Dill”), an employee and former owner/partner of Superior, to numerous licensees and unlicensed entities and both registered and unregistered loan originators;
3. That Dill’s email specifically detailed how the co-brokering would work. The instructions included the following: the prepared loan documents should be sent to Superior and in turn Superior would submit the loan documents to the lender; RESPA should be under the name Superior and Joshua Phelps (“Phelps”), former part-owner, current owner, and loan originator at Superior, should be listed as the loan originator; and that there would be further instruction how to handle loan stipulations involving contact with the borrower. Dill’s email identified Paul Barton (“Barton”) as the processor and for recipients to contact Barton with questions. Dill’s email referenced that Dill wanted to do things this way to protect their licenses and wanted the co-brokering activities to begin effective January 14, 2008;

4. That the Department subsequently opened an investigation of Superior and initially identified recipients of Dill's e-mail, including M. Jay Throneberry ("Throneberry") at Alwayslending, Glenn Hayhurst ("Hayhurst") at Strategic Lending, Inc. ("Strategic Lending"), and others, and performed a review of licensing and registration credentials of the identified recipients;
5. That in July-August, 2009, a Department investigator requested loan logs and loan files from Superior and another licensee, and expanded the request to Superior for all loans originated by Phelps from 1/1/2008 – 7/31/2008 based on information in the loan log. A review of these twenty-five (25) loans was conducted and borrowers identified. Department investigators then commenced contacting borrowers in September, 2009 to ascertain the identity of the loan originator who solicited and took their loan applications;
6. That on September 28, 2009, a Department investigator spoke with co-borrower DC who had one of the loans attributed to Phelps as loan originator. Borrower DC identified Daryl Stamper ("Stamper") as the loan originator who originated this loan and that Stamper was employed by Experienced Mortgage Professionals of Illinois ("EMP"). The Department investigator provided a description to all borrowers that the loan originator is the individual who quotes the interest rate, explains loan products, and takes the loan application, and in each instance that the borrower stated that an individual was their loan originator the borrower that the named individual performed these services in connection with their loan. Co-borrower EC later confirmed that Stamper was the loan originator on this loan, but linked Stamper to Always Lending in Wood River, Illinois. DC and EC never heard of or worked with Phelps on the loan and only learned of Superior through a letter they received from Superior after the closing thanking them for their business;
7. That a Department investigator then contacted Stamper about the DC and EC's loan who admitted that he had taken this loan application. Stamper told the investigator that Stamper had given all of the couple's paperwork to Throneberry, EMP's owner, and had no further involvement with this loan. The investigator noted irregularities in Stamper's employment and credentials/records with another licensed company in connection with the loan. Stamper also told the investigator that Stamper worked as a branch manager for another unlicensed company, Always Lending, in Wood River, Illinois for three months and closed some loans for Illinois or Missouri properties under Always Lending, and later stated that Stamper transferred employment at the same Wood River, Illinois office to Open Mortgage operated by a former EMP employee Marcus Renken ("Renken");
8. That a Department investigator then contacted borrower for another of the Phelps loans and borrower FW identified Stamper in Wood River, Illinois as the only loan originator on his loan and had never heard of or worked with Phelps;
9. That a Department investigator then contacted borrower for another of the Phelps loans and borrower TB identified Sam Hood ("Hood") who worked for the Mortgage Haus (formerly licensed as MB.0006887) as the loan originator on the loan, although Doug Gool ("D. Gool") performed processing-type functions on the loan. Borrower TB never heard of or worked with Phelps on the loan and only learned of Superior through a letter received from Superior after the closing thanking TB for the business and had not read Superior's name on any of the loan documents;

10. That a Department investigator then contacted borrower for another of the Phelps loans and Borrower RL identified Barton (an unregistered loan originator) who worked for Superior as the only loan originator on his loan and had never heard of or worked with Phelps;
11. That a Department investigator then contacted borrower for another of the Phelps loans and Borrower FP identified Hayhurst (an unlicensed loan originator) of Strategic Lending (an unlicensed mortgage company) as the only loan originator on his loan and had never heard of or worked with Phelps and that FP had given Hayhurst all the loan information at Hayhurst's office and that the Superior loan application for FP contained false information that Phelps working under Superior's License had conducted a telephone interview of FP.
12. That Stamper contacted the investigator stating that he had figured out how his clients' loans wound up going to Superior. Stamper advised the investigator that borrowers DC and FW had come to his office in early 2008 looking for FHA loans and since EMP was not FHA approved, Stamper asked Throneberry which company he should send his clients to. Stamper stated that Throneberry gave the loan files to Superior. Stamper stated he never received any compensation for these loan files. Stamper stated that Throneberry arranged to have a branch office for Open Mortgage opened in Wood River and that Renken who worked for EMP was sent to Wood River to be the branch manager. Renken would later leave Open Mortgage and Stamper then became the branch manager;
13. That a Department investigator then contacted borrower for another of the Phelps loans and Borrower JR identified D. Gool (an unregistered loan originator) who worked for the Mortgage Haus as the only loan originator on his loan and had never heard of or worked with Phelps or Superior, except that Borrower JR received a letter from Superior during the refinance process and prior to closing offering terms for a refinance;
14. That a Department investigator then contacted borrower for another of the Phelps loans and borrower FH identified Renken who worked for Always Lending as the only loan originator on his loan and had never heard of or worked with Phelps. Department investigator noted in the file that Alwayslending, LLC was the subject of a cease and desist order for unlicensed activities in the State of New Hampshire and had entered into a consent order with the State of New Hampshire Banking Department;
15. That in connection with another of the Phelps loans, the Department investigator was contacted by a real estate professional RL involved in Borrower BG's loan and identified the mortgage broker not as Superior and the loan originator not as Phelps;
16. That a Department investigator then contacted Borrower MM and real estate professional LS for another of the Phelps loans, and MM and LS provided responses that MM had been referred to Barton and Superior for mortgage financing, and Borrower MM stated that Barton had performed loan originator activities for the loan, but it had not closed due to unavailability of the loan program;
17. That a Department investigator next spoke with Hood about Borrower TB's loan. Hood advised that he was the originator, but Mike Gool ("M. Gool") was the loan originator. Hood admitted to taking TB's loan and quoting interest rate and explaining loan products/terms and that Hood was not registered with the Department as a loan originator (Hood's loan

originator application cancelled per Department records on 5/18/2009). Hood gave TB's loan application to M. Gool and was unaware that TB's loan closed or how it got to Superior;

18. That a Department investigator contacted Phelps and Dill in regards to this investigation, and Dill stated that he probably sent the co-brokering email (referred to in Item 1 above) and further stated that Dill had asked the Missouri Division of Banking about co-brokering. Dill said that he was told by that agency that it was fine to co-broker loans in Missouri. Dill stated that he never checked with the Department about the legality of co-brokering in Illinois. Phelps and Dill were advised that this co-brokering practiced by Superior and its employees for Illinois residential mortgage loans was in violation of the Act and Rules. Dill stated that Superior had already stopped the practice due to business reasons;
19. That a Department investigator then contacted the Missouri Department of Finance, Division of Banking, and was informed that co-brokering through which a mortgage loan originated by one entity who would then bring that loan application to a licensed mortgage broker to submit to a lender under its own name, was not allowed under Missouri banking regulations. The Department investigator was further informed by that agency that the definition of co-brokering that is lawful in Missouri is no more than the act of soliciting consumers for their interest in obtaining a loan and the selling those leads to licensees; and
20. That on November 2, 2009, the Department's Investigation Section closed this investigation and filed a Report of Investigation (the "ROI") with recommendation for enforcement against Superior and other named respondents as well as findings of two counts against former licensee Mortgage Haus for unregistered loan originator activity. Superior is cited for knowing and intentionally soliciting illegal co-brokering activities via email that resulted in misrepresentation of either the originating mortgage broker and/or loan originator in at least nine Illinois residential mortgage loans, and some of these misrepresentations involving unlicensed mortgage brokers and unregistered loan originators. Superior is cited for employing Barton as unregistered loan originator to perform loan originator services on two Superior loans. Superior is cited for knowing and intentionally, through misrepresentation, allowing its sponsored loan originator Phelps, to affix his signature to nine Illinois residential mortgage loan applications as having originated these loans when in fact Phelps never originated those loans, but they were originated by other registered and unregistered loan originators. Superior is cited for improper preparation of loan logs and file documents as collected by the Department from Superior and evidenced in the investigatory file, including failure in the HM loan file to include the loan originator's name and registration number in the loan brokerage agreement and failure in the SP loan file to disclose the yield spread premium as a percentage and not as a dollar amount as required.

CONCLUSIONS

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

That notwithstanding notices and other efforts by the Department, Licensee is in violation of Sections 2-4 (f), (j), (k), (r), (t), & (z), and 7-1 of the Act, and Sections 1050.1010, 1050.1175, 1050.1350 (citing 24 CFR 3500.7) and 1050.2125 of the Rules, and is in further violation of Sections 4-5(i) (2), (11), and (17) of the Act.

ORDER

NOW THEREFORE IT IS ORDERED:

1. That SUPERIOR HOME LOANS, LLC, License No. MB.0006048, shall be and hereby is assessed a fine in the amount of \$50,000 for the violations cited herein;
2. The fine in the amount of \$50,000 shall be due thirty (30) days after the effective date of this Order upon SUPERIOR HOME LOANS, LLC; and
3. The fine in the amount of \$50,000 shall be paid by means of a certified check or money order made payable to the:

**Department of Financial and Professional Regulation
Division of Banking
ATTN: MORTGAGE BANKING
320 West Washington, 6th Floor
Springfield, IL 62786**

ORDERED THIS ____ DAY OF _____, 2009

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
BRENT E. ADAMS, SECRETARY

DIVISION OF BANKING

JORGE A. SOLIS, DIRECTOR

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.*].