

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF)
)
) No. 2010-MBR-06
LEGEND MORTGAGE COMPANY)
ATTN: David Whitacre)
452 Ogden Avenue)
Lisle, IL 60532)
License No. MB.0004394)

ORDER ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (the "Department"), having examined the activities of Legend Mortgage Company (the "Licensee") and 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 Legend Mortgage Company is an Illinois residential mortgage licensee holding license number MB.0004394 (the "License") and located, according to Department records, at 452 Ogden Avenue, Lisle, Illinois 60532;
2. That on November 18, 2009, the Investigations Section received notice from the Licensing Section that David Whitacre, owner of Legend Mortgage Company had previously submitted loan originator termination notices to the Division for David Whitacre (031.0009756), Gregory Migacz (031.0023616) and Dario Morales (031.0031381) and requesting the Licensing Section to withdraw the termination, indicating that he had prematurely terminated the aforementioned registrations before closing their pipeline, adding that Licensee was in the process of surrendering its License;
3. That further investigation by the Department revealed that Migacz' loan originator license (031.0023616) had expired on June 30, 2009;
4. Migacz failed to renew his license by the August 31, 2009 deadline; instead, he restarted his application on November 16, 2009 by submitting his initial application and fee;
5. The Department received information that seven loan files (Heffernan, Campos, Demasi, Klynstra, Corona, Perry and Zobrist) were originated by Migacz between July 23, 2009 and November 11, 2009, which revealed that Migacz originated the loan files after his loan originator license had expired on June 30, 2009;

6. Upon further investigation, the Department discovered that three out of the seven applications (Campos, Klynstra, and Zobrist) taken by Migacz on September 9, 2009, October 13, 2009 and November 11, 2009, were later entered under Whitacre's name in the Anti-Predatory Loan Database ("APLD") on September 14, 2009, October 28, 2009 and November 12, 2009, respectively;
7. There is evidence in the Department's investigation that Whitacre had knowledge that Migacz' license was expired and that therefore, the APLD was inaccessible to him, and that Whitacre directed his office staff to list himself as being the loan originator of record for three loans in the APLD when Whitacre did not actually originate those loans; Licensee has submitted comments that Whitacre took on APLD responsibilities to close loans so that consumers would not be harmed upon becoming fully apprised of Migacz' credential problems;
8. That on December 31, 2009 the Department's Legal Section mailed to Licensee by U.S. first-class and certified mail service a Potential Disciplinary Letter citing the aforementioned violations;
9. That on December 21, 2009, the Department received Licensee's formal request to surrender its Illinois residential mortgage license, along with telephone conversations with the Department in response to the Potential Disciplinary Letter; and
10. That on January 13, 2010, the Department received a written response from Licensee to its Potential Disciplinary Letter and has considered said response in mitigation of its fine.

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 Act Sections 2-4(z) and 7-1, and Rules Sections 1050.1350 and 1050.2125 and is in further violation of Section 4-5(i) (11) and (17) of the Act and the Residential Real Property Disclosure Act [765 ILCS 77/ et seq.].

ORDER

NOW THEREFORE IT IS ORDERED:

1. That LEGEND MORTGAGE COMPANY, License No. MB.0004394, shall be and hereby is assessed a fine in the amount of \$2,500 for the violations cited herein;
2. The fine in the amount of \$2,500 shall be due thirty (30) days after the effective date of this Order upon LEGEND MORTGAGE COMPANY; and
3. The fine in the amount of \$2,500 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 26TH DAY OF JANUARY, 2010

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.*].