

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

IN THE MATTER OF:)
)
) No. 2010-MBR-47
TAMAYO FINANCIAL SERVICES, INC.)
License No. MB.0005041)
Attention: Jose Tamayo, Juan Tamayo, & Luis Tamayo)
16123 S. LaGrange Road)
Orland Park, IL 60467)

ORDER REVOKING LICENSE & ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (the “Department”), having reviewed and examined the activities conducted by Tamayo Financial Services, Inc. (“TFSI”) holding residential mortgage license number MB.0005041 (the “License”) 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 Sections 4-5(h)(1) & (5) of the Act. The Department makes the following:

FINDINGS

1. That the Department cites TFSI for violations of the Act and Rules as follows:
 - a. Act Sections 5-6(a) & (b) (Verification of Borrower’s Ability to Repay) – TFSI failed to verify the reasonable ability of four Federal Housing Administration (“FHA”) borrowers to re-pay their loans as cited in the Department’s report of examination (the “ROE”) of TFSI for the period February 1, 2007 to August 31, 2009. The loan files did not contain proper documentation of borrowers’ income and financial resources. Each of these borrowers failed to make even one payment towards their mortgage;
 - b. Act Sections 5-6(a) & 2-4(f) and Rules Section 1050.1180 (High Debt-to-Income (“DTI”) – Borrower’s Ability to Repay) – TFSI failed to ensure the borrowers’ reasonable ability to repay for eight borrowers that were provided mortgage loans for which, at the time of consummation, the disclosed debt was in excess of 50% of their income (ranging from 53% to 65% DTI) as cited in the ROE. TFSI also failed to ensure the borrower’s ability to repay for five borrowers who appeared to have DTIs less than or close to 50%, but after including all undisclosed debt, the DTI ratios ranged from 66% to 96%;

- c. Act Section 5-6(a) (Borrower's Ability to Repay – U.S. Department of Housing and Urban Development (“HUD”) Default and Foreclosure Review) For the two-year period ended July 31, 2009, TFSI had a 12.66% Default and Claim rate on FHA loans, which is nearly three times the national HUD rate. TFSI originated 237 FHA loans, 30 of which were in default, and 26 of which were on Illinois properties. The Department reviewed 12 FHA loans in preparing the ROE and for these loans, four loans were in default with no payments towards the mortgage and five more loans had less than two payments towards the mortgage;
- d. Rules Section 1050.2165(f) (Averments of Loan Originators per ROE, and citing Rules Section 1050.1350 Compliance with Other Laws) – TFSI permitted borrowers to sign disclosures which were blank for 14 loan files cited in the ROE;
- e. Act Section 3-5 and Rules Section 1050.410 (Maintenance of Minimum Net Worth) – TFSI is required by Act Section 3-5 to maintain a minimum of \$150,000 net worth at all times. Based upon a review of TFSI's annual financial report, the Department computed TFSI's Adjusted Net Worth at negative (-\$579,244) for period ending December 31, 2009;
- f. Act Section 2-4(x) (Averments of Licensee – Reporting of Loan Repurchase Requests) – TFSI failed to report in writing to the Department repurchase requests made upon TFSI within 30 days of receipt of the request. In addition, during the examination and per specific inquiry by the examiner, TFSI failed to report its loan repurchase requests. The Department documented TFSI's non-compliance in the ROE by listing seven repurchase requests made by another licensee on TFSI during the examination period. The Department made multiple additional requests following the examination and through the Potential Disciplinary Letters for TFSI to fully report in writing loan repurchase requests and TFSI has failed to do so;
- g. Act Section 4-5(i)(15) (Refusal to Produce Requested Records for Review by the Department - Conventional Loan Delinquency – Default Rates) despite numerous requests by the Department, TFSI failed to report all conventional loans underwritten by TFSI and their corresponding default and foreclosure rates;
- h. Act Section 5-11 (Requirement to Provide Borrower with a Copy of all Appraisals) – TFSI failed to provide a copy of the appraisal report to borrowers as required under Act Section 5-11 (from the effective date of Act Section 5-11 to the end of the examination period);
- i. Act Section 4-5(i)(15) (Refusal to Produce Requested Records for Review by the Department - Loan Modification Activities) – despite a specific request in the final Potential Disciplinary Letter, TFSI failed to report its loan modification activities;
- j. Rules Sections 1050.610 & 1050.630 (Filing Requirements – Report of Mortgage Activity) – TFSI failed to produce sufficient documentation that it filed the 2007 Report of Mortgage Activity and failed to provide any documentation that it filed the 2009 Report of Mortgage Activity;

- k. Act Section 4-5(i)(13) (Failure to pay Examination Fee) – TFSI has not paid its examination fee;
 - l. Rules Section 1050.940(a) (Advertising Requirements) – TFSI advertised three closed branch office locations on its Internet website during the examination period; and
 - m. Act Section 2-9 (Posting of License) - TFSI failed to post its License number and required contact information for the Department on its Internet website.
2. That the Department used the following process to cite TFSI for violations of the Act and Rules:
- a. That the Department conducted a regular examination of TFSI for the period February 1, 2007 to August 31, 2009 and issued the ROE citing TFSI for numerous violations of the Act and Rules critical enough to support revocation of the License and a fine;
 - b. That on February 11, 2010, the Department’s Examination Section mailed a copy of the ROE to TFSI by U.S. first class mail, and included an invoice for the examination fee of \$3,162, and requested TFSI’s written response to the ROE;
 - c. That on or around March 22, 2010, TFSI provided a written response to the ROE; however, the Department found TFSI’s March 22nd response to be incomplete and missing requested information and documentation;
 - d. That on May 4, 2010, the Department created an enforcement issue against TFSI’s License for the violations cited in the ROE;
 - e. That on May 4, 2010, the Department’s Legal Section mailed to TFSI by U.S. registered, return receipt mail a Potential Disciplinary Letter for complete information and documentation as requested;
 - f. That on or around May 26, 2010, TFSI provided a partial written response to the Potential Disciplinary Letter; however the Department again found this May 26th response to be incomplete and missing requested information and documentation;
 - g. That on June 15, 2010, the Department’s Legal Section issued a Notice of Intent to Revoke License and set a June 29, 2010 meeting for TFSI to be heard and provide full and complete response and documentation for the deficiencies and violations cited in the ROE, the Potential Disciplinary Letter, and the Notice of Intent to Revoke License. The Department and TFSI’s owners and outside counsel met at the Department’s Offices on June 29, 2010. However, only limited additional oral information was provided by TFSI at that time;
 - h. That on June 30, 2010, the Department’s Legal Section mailed a final Potential Disciplinary Letter by U.S registered, return receipt mail to TFSI and its outside counsel and requiring TFSI to produce the previously requested and still outstanding information and documentation from the ROE. In addition, the final Potential Disciplinary Letter requested information and documentation from TFSI on its net worth and loan modification activities;

- i. That the response to the final Potential Disciplinary Letter was due on or before July 9, 2010; and
 - j. That TFSI did not respond to the final Potential Disciplinary Letter.
3. That based upon TFSI's record of conduct with the License both as to borrowers and the Department, the Department further cites TFSI for violations of the Act as follows:
- a. Act Sections 1-2(b) & 2-4(y) (Purpose of the Act) – TFSI failed to produce evidence that it engaged in responsible business practices, free from deception, and within the purposes of the Act;
 - b. Act Sections 1-3(d-1) & (g), & 4-1(h-1) (Scope & Supervision of the Act) – TFSI failed to conduct licensable activities in conformity with the Act, and instead violated the Act and Rules, and the Department has reasonable cause to believe with respect to TFSI that unsafe, unsound, or unlawful practices have occurred, are occurring, or are about to occur; and
 - c. Act Section 2-2(a)(6) & 2-4(o) (Cause for Denial of License – Confidence of Community Standard) – TFSI's application for the License required TFSI to operate in such a way to command the confidence of the community where it engaged in licensable activities and to warrant the belief that its business would be operated honestly, fairly, and efficiently within the purpose of the Act. TFSI has failed to do so.

CONCLUSIONS

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

That notwithstanding notices and other efforts by the Department, TFSI is in violation of Sections 1-2(b), 1-3(d-1) & (g), 2-2(a)(6), 2-4(f),(o),(y) & (x), 2-9, 3-5, 4-1(h-1), 5-6(a) & (b), & 5-11 of the Act and Sections 1050.410, 1050.610, 1050.630, 1050.940(a), 1050.1180, 1050.1350, & 1050.2165(f) of the Rules, and is in further violation of Sections 4-5(i)(11),(13), (15) & (17) of the Act.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED that the license of TAMAYO FINANCIAL SERVICES, INC., License No. MB.0005041 is:

1. Revoked by Order of the Department pursuant to Section 4-5(h)(1) of the Act; and
2. Assessed a fine by Order of the Department in the amount of \$100,000 pursuant to Section 4-5(h)(5) of the Act. The fine in the amount of \$100,00 shall be due thirty (30) days after the

effective date of this Order and paid by means of a certified check or money order made payable to the Department and delivered to the following address:

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

ORDERED THIS 19TH DAY OF JULY, 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, and hearing fee pursuant to 38 Ill. Adm. Code 1050.210(f), 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.*].