

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

IN THE MATTER OF	)	
	)	No. 2011-MBR-62
<b>SMART MORTGAGE CENTERS, INC.</b>	)	
License No. MB. 0004870	)	
Attention: Richard Birk	)	
1355 S. Route 59, Suite 202	)	
Naperville, IL 60563	)	

**ORDER ASSESSING FINE**

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, DIVISION OF BANKING (“DOB”), having reviewed the activities of Smart Mortgage Centers, Inc. (“Licensee”) and documented violations of the Residential Mortgage License Act of 1987 (“Act”) [205 ILCS 635] and the rules promulgated under the Act (“Rules”) [38 Ill. Adm. Code 1050], hereby issues this order for violations of the Act and Rules.

**STATUTORY PROVISIONS**

1. Section 2-4(d) of the Act requires a licensee to aver with each application for license or renewal of license that it will file with the Commissioner, when due, any reports which it is required to file under any provisions of the Act.
2. Section 2-4(t) of the Act requires a licensee to aver with each application for license or renewal of license that it will comply with the provisions of this Act, or with any lawful order, rule or regulation made or issued under the provisions of this Act.
3. Section 3-2 of the Act requires a licensee to file its most recent audit report with the Commissioner within 90 days after the end of the licensee’s fiscal year.
4. Section 4-5(h)(5) of the Act provides that when the Commissioner finds any person in violation of the grounds set forth in subsection (i), the Commissioner may enter an order imposing a fine not to exceed \$25,000 for each count of separate offense.
5. Section 4-5(i)(11) of the Act provides that failure to comply with any order of the Commissioner or rule made or issued under the provisions of this Act shall constitute grounds for disciplinary actions in Section 4-5(h) of the Act.

6. Section 4-5(i)(13) of the Act provides that failure to pay in a timely manner any fee, charge or fine under this Act shall constitute grounds for disciplinary actions in Section 4-5(h) of the Act.
7. Section 4-5(i)(17) of the Act provides that failure to comply with or violation of any provision of this Act shall constitute grounds for disciplinary actions specified in Section 4-5(h) of the Act.
8. Section 1050.430 of the Rules provides, in relevant part, that audit reports not delivered within 90 days after the date specified in Section 3-2 of the Act, unless extended for cause by the Commissioner, shall cause the licensee to pay to pay a fee at the rate of \$50 per calendar day for up to three months.

### **FACTUAL FINDINGS**

9. Commencing in spring 2011, the DOB conducted a review of licensees for compliance with the deadline in Section 3-2 of the Act for filing their annual audit reports or financial statements for the latest fiscal year.
10. During the course of this review, the DOB found that Licensee had not filed its annual audit report or financial statement by the aforementioned deadline.
11. On or around June 16, 2011, the DOB assessed by letter to Licensee a late audit report fee in the amount of \$4,500.00 as calculated according to the rate required by Section 1050.430 of the Rules. The DOB advised the Licensee in said letter sent by U.S. first class mail that Licensee had 10 days to remit the accompanying invoice with full payment to the DOB. The DOB further advised the Licensee that failure to pay the late audit report fee would result in an enforcement action against the Licensee.
12. Thereafter, the DOB conducted a second review for compliance by licensees in paying their assessed late audit report fees. The DOB found no record of Licensee having paid its assessed late audit report fee.
13. Based upon this second review, the DOB created an enforcement issue for Licensee in the amount of the assessed late audit report fee.

### **LEGAL CONCLUSIONS**

14. Licensee violated Sections 2-4(d) & (t), 3-2, and 4-5(i)(11), (13), & (17) of the Act and Section 1050.430 of the Rules.

**NOW THEREFORE IT IS HEREBY ORDERED THAT:**

1. The DOB assesses a **FINE** against Licensee, License No. MB.0004870, in the amount of \$4,500.00 for violating the Act and Rules pursuant to Section 4-5(h) (5) of the Act. The fine is payable by certified check or money order within thirty (30) days of the effective date of this order to the:

**Department of Financial and Professional Regulation  
Division of Banking  
ATTN: FISCAL DIVISION  
320 West Washington, 6<sup>th</sup> Floor  
Springfield, IL 62786**

ORDERED THIS 19<sup>TH</sup> DAY OF OCTOBER, 2011

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

DIVISION OF BANKING

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MANUEL FLORES, 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 \$500 hearing fee (certified check/money order) shall be filed at 320 W. Washington, Springfield, IL 62786, within 10 days after the receipt of an administrative decision. The request for hearing must include an explicit admission, denial or appropriate response to each allegation or issue contained in the administrative decision pursuant to 38 Ill. Adm. Code 1050.1570. 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.].**