

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

IN THE MATTER OF:)
) No. 2011-MBR-CD19
BUTLER & ASSOCIATES)
Attention: Solomon Butler)
743 Terrace Drive)
East St. Louis, IL 62201)

ORDER TO CEASE AND DESIST & ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking, (“Department”), having investigated the activities of Butler & Associates pursuant to 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 1-3(a) of the Act states in relevant part:

No person, partnership, association, corporation or other entity shall engage in the business of brokering, funding, originating, servicing or purchasing of residential mortgage loans without first obtaining a license from the Secretary in accordance with the licensing procedure provided in this Article I and such regulations as may be promulgated by the Secretary.

2. Section 1-3(b) of the Act provides that no person, partnership, association, corporation, or other entity except a licensee or entity exempt from licensing under Section 1-4(d) of the Act shall circulate or use any advertising, make any representation, or give any information to any person which indicates or reasonably implies any other activity within the scope of this Act.
3. Section 1-3(d-1) of the Act provides that the Secretary may issue orders against any person if the Secretary has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Secretary, or for the purposes of administering the provisions of this Act and any rule adopted in accordance with this Act.

4. Section 1-3(e) of the Act provides that any person, partnership, association, corporation or other entity who violates any provision of this Section commits a business offense and shall be fined an amount not to exceed \$25,000.
5. Section 1-4(c) of the Act states “soliciting, processing, placing, or negotiating a residential mortgage loan” shall mean for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower including, but not limited to, the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, including a closing in the name of a broker.
6. Section 1-4(o) of the Act states “loan brokering,” “brokering,” or “brokerage service” shall mean the act of helping to obtain from another entity, for a borrower, a loan secured by residential real estate situated in Illinois or assisting a borrower in obtaining a loan secured by residential real estate situated in Illinois in return for consideration to be paid by either the borrower or the lender including, but not limited to, contracting for the delivery of residential mortgage loans to a third party lender and soliciting, processing, placing, or negotiating residential mortgage loans.
7. Section 1-4(w) of the Act defines “advertisement” as any attempt by publication, dissemination, or circulation to induce, directly or indirectly, any person to enter into a residential mortgage loan agreement or residential mortgage loan brokerage agreement in connection with Illinois residential real estate.
8. Section 1050.310(a) of the Rules states that any person, association, corporation or partnership that intends to operate as a licensee shall file an application for an Illinois license on a form prescribed by the Director with all other required materials.
9. Section 1050.910 of the Rules restates the advertising prohibition in Section 1-3(b) of the Act.
10. Section 1050.920 of the Rules further defines “advertisement” as any message, conveyed in any format, attempting to induce, directly or indirectly, any person to enter into a residential mortgage loan or residential mortgage loan brokerage agreement as defined in Section 1-4(w) of the Act. The only exemption from being defined as an “advertisement” is limited to those small items bearing only the name, address, and telephone number of the distributing entity.

FACTUAL FINDINGS

11. Solomon Butler (“Butler”) and Riu Murphy (“Murphy”), who were not properly registered as loan originators in Illinois, participated in a co-brokering scheme.
12. Co-brokering is committed when an unlicensed person or entity prepares loan documents (“loan package”) and submits said loan package to a properly licensed entity who in turn, without any additional work to the loan package, submits it to the lender. The properly licensed company and a properly registered/licensed loan originator would be listed on the documents within the loan package to further deceive the lender. Once the loan was funded, the unlicensed and licensed persons or entity split the commission.
13. Butler and Murphy created numerous sham, unlicensed mortgage companies to carry out the co-brokering scheme, including Butler & Associates, Murphy Mortgage Solutions and Murphy Home Solutions. Murphy and Butler also originated loans through American Home Lending Group which is a Missouri mortgage company not properly licensed in Illinois. As associates or partners, Murphy and Butler took loan applications for properties located in Illinois, ordered appraisals and/or ordered a Request for Evidence of Insurance (“REI”) for at least 17 Illinois borrowers. With the assistance of Illinois licensed companies such as Equity One Mortgage and Superior Mortgage LLC, d/b/a Superior Home Loans (License No. MB. 0006048; “Superior”) Murphy and Butler were able to have their loans funded through their co-brokering scheme.
14. Butler & Associates committed additional violations of the Act and Rules by advertising on the website www.solomonbutler.ws that they could give consultation for home loans, church loans, commercial loans and refinancing, and provide consumers with answers to their home financing needs.
15. Butler & Associates further distributed business cards to induce consumers to enter into a residential mortgage loan, such as describing itself as a “Real Estate & Mortgage Consultant” engaging in “refinance” activities.

LEGAL CONCLUSIONS

16. Butler & Associates violated Sections 1-3(a) & (b) of the Act and Sections 1050.310(a) and 1050.910 of the Rules by engaging in brokering and advertising activities within the definitions of Sections 1-4(c), (o), & (w) of the Act and Section 1050.920 of the Rules without a license or lawful exemption under Section 1-4(d) of the Act.
17. Butler & Associates has committed a business offense under Section 1-3(d-1) of the Act.
18. The Department has reasonable cause to believe Butler & Associates has engaged in unsafe, unsound, and unlawful practices pursuant to Section 1-3 (d-1) of the Act.

NOW IT IS HEREBY ORDERED THAT,

1. Butler & Associates shall **CEASE AND DESIST** from engaging in the residential mortgage activities in the State of Illinois pursuant to Section 1-3(d-1) of the Act.
2. Butler & Associates shall pay a **FINE** in the maximum amount of \$25,000 as authorized under Section 1-3(e) 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: MORTGAGE BANKING
320 West Washington, 5th Floor
Springfield, IL 62786**

ORDERED THIS 21ST DAY OF DECEMBER, 2011

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

DIVISION OF BANKING

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 by certified check or money order shall be filed with the Department at 320 West Washington Street, 5th Floor, 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.*].