

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
) No. 2012-MBR-11
MTGLQ INVESTOR, L.P.)
License No. MB.6759862)
Attention: Michelle Gill)
200 West Street)
New York, NY 10282)

**ORDER REFUSING TO RENEW LICENSE,
AND ASSESSING FINE**

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION (“Department”), DIVISION OF BANKING, (“Department”), having reviewed the activities of MTGLQ Investor, L.P. (“MTGLQ”) holding Illinois residential mortgage license number MB.6759862 (“License”), and having 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 2-2 of the Act requires the Department to issue positive findings of financial responsibility, experience, character and general fitness of a licensee in order to renew its Illinois residential mortgage license.
2. Section 2-4(d) of the Act requires a licensee to aver that it will file with the Department, when due, any report or reports which it is required to file under any provisions of this Act.
3. Section 2-4(t) of the Act requires a licensee to aver with each application for 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.
4. Section 2-5 of the Act provides that the Director of the Division of Banking of the Department of Financial and Professional Regulation (“Director”) may refuse to renew a license if it is determined that the licensee is not in compliance with the Act and the Director cannot make the findings specified in Section 2-2 of the Act.
5. Section 2-6 of the Act states that it is the responsibility of each licensee to accomplish renewal of its license.

6. Section 3-2 of the Act requires a licensee to file its most recent audit report with the Department within 90 days after the end of the licensee's fiscal year. The audit must be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements, which must be prepared in accordance with generally accepted accounting principles, and must be performed in accordance with generally accepted auditing standards. The report filed with the Department shall be certified by the certified public accountant conducting the audit.
7. Section 3-5 of the Act requires a licensee engaging in mortgage banking activities to maintain a minimum of \$150,000 net worth at all times.
8. Section 4-5(h)(5) of the Act provides that when the Director finds any person in violation of the grounds set forth in subsection (i), the Director may enter an order imposing the penalty of imposing a fine not to exceed \$25,000 for each count of separate offense.
9. Section 4-5(h)(6) of the Act provides that when the Director finds any person in violation of the grounds set forth in subsection (i), the Director may deny the license.
10. Section 4-5(i) (11) of the Act provides that failure to comply with any order of the Director or rule made or issued under the provisions of this Act shall constitute grounds for disciplinary actions specified Section 4-5(h) of the Act.
11. 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.
12. Section 1050.320 of the Rules states that a license can only be renewed upon the Director's determination, based upon investigation of the application, that the findings required by Section 2-2 of the Act have been met.
13. Section 1050.430 of the Rules provides 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 Director, 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

14. MTGLQ submitted for the Department's review a statement of financial condition for the year ending December 31, 2010 ("First Financial Statement"). The First Financial Statement included notations on separate pages of "Unaudited" and "Unaudited – Prepared under U.S. GAAP."
15. Based upon its review, the Department determined that the First Financial Statement did not meet the requirements of Section 3-2 of the Act for an audited financial and that MTGLQ had not demonstrated that it met minimum net worth requirements of Section 3-5 of the Act.

16. The Department mailed a U.S. first class letter to MTGLQ's address of record on August 25 2011 informing MTGLQ of its determination of deficiency and providing instructions for meeting the minimum required net worth. The US Postal Service returned this letter to the Department on or around September 20, 2011 as undeliverable.
17. The Department created a deficiency on the licensing record of MTGLQ.
18. MTGLQ applied for renewal of its License for calendar year 2012 through the Nationwide Mortgage Licensing System ("NMLS"), but failed to correct the aforesaid deficiency.
19. While the License renewal application was pending, MTGLQ submitted for the Department's review a statement of financial condition for the year ending December 31, 2011 ("Second Financial Statement"). The Second Financial Statement likewise included notations on separate pages of "Unaudited – Prepared under U.S. GAAP."
20. The Department created separate deficiency notices, initially for the First Financial Statement, and then for the Second Financial Statement in the NMLS and communicating said deficiencies to MTGLQ using the NMLS. The Department specifically advised MTGLQ that the aforesaid deficiencies were of a repeat nature, that audited financials for the last two years were required to be submitted to the Department, and that the deficiencies would affect MTGLQ's license renewal.
21. MTGLQ has failed to submit through the NMLS or directly to the Department the required audited financials and correct the aforesaid deficiencies.

LEGAL CONCLUSIONS

Based on the Findings of Fact, the Department makes the following Conclusions of Law:

That MTGLQ is in violation of Sections 2-2, 2-4(d) & (t), 2-6, 3-2, 3-5, and 4-5 (i) (11) & (17) of the Act and Sections 1050.320 and 1050.430 of the Rules.

NOW IT IS HEREBY ORDERED THAT,

1. The Department **REFUSES TO RENEW** and denies MTGLQ its License pursuant to Sections 2-5 and 4-5(h) (6) of the Act.

2. The Department assesses a **FINE** against MTGLQ in the amount of \$4,500 pursuant to Section 4-5(h) (5) of the Act. Said fine is in the amount of the late audit fee calculated for the 2011 filing at \$50 per day for the 90 day maximum. An additional late audit fee is accruing for the 2012 filing. Said 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
Attention: FISCAL DIVISION
320 W. Washington, 5th Floor
Springfield, Illinois, 62786**

ORDERED THIS 23RD DAY OF MAY, 2012

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, 6th 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.*].