

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF)
)
KEY MORTGAGE SERVICES, INC.) No. 2012-MBR-20
ATTN: Steve Dimarco)
475 N. Martingale Road, Suite 925)
Schaumburg, IL 60173)
License No. MB.0001012)

ORDER ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, DIVISION OF BANKING (“Department”), having reviewed the activities of Key Mortgage Services, 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] as well as violations of the Residential Real Property Disclosure Act (“RRPDA”) [765 ILCS77], hereby issues this order for violations of the Act, Rules, and RRPDA.

STATUTORY PROVISIONS

1. 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 a fine not to exceed \$25,000 for each count of separate offense.
2. 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 in Section 4-5(h) of the Act.
3. Section 1050.480 of the Rules states that at least 10 days before the proposed effective date of an address change, a licensee shall file with the Department a completed application for change of address.
4. Section 1050.1140 of the Rules states that the loan application procedures shall comply with the Act as well as applicable Federal and State law and regulations.
5. Section 1050.1350 of the Rules states that the commitment and closing procedures of a licensee shall comply with applicable Federal and State statutes and regulations.
6. Section 70(c) of the RRPDA requires that within 10 days after taking a mortgage application, the broker or originator for any mortgage on residential property within the program area (counties of Cook, Kane, Peoria or Will), the broker or originator must submit all of the required information to the anti-predatory lending database (“APLD”).

7. Section 73 of the RRPDA provides that a borrower shall be recommended for counseling if, after reviewing the information in the APLD submitted under Section 72, the Department finds the borrower(s) are all first-time homebuyers or refinancing a primary residence and the loan includes one or more of the following: (1) loan permits interest only payments, (2) loan may result in negative amortization, (3) total points and fees payable by the borrower at or before closing will exceed 5 %, (4) loan includes a prepayment penalty, or (5) loan is a closed-end mortgage transaction that allows adjustments of the loan interest rate during the first 3 years of the loan term.

FACTUAL FINDINGS

8. The Department conducted a review of information entered by Key Mortgage into the APLD.
9. The APLD documented that Key Mortgage entered data for a residential mortgage loan for borrowers V.P. and M.P. (“Loan”) into the APLD on January 26, 2011. The Loan included points and fees over 5% requiring counseling for the Loan. On January 27, 2011, borrowers V.P. and M.P. attended counseling and the Loan closed on the same day.
10. The Department created an enforcement issue for Key Mortgage including failure to enter data for the Loan within 10 days of taking the Loan application and not recommending counseling upon timely entry of the Loan into the APLD.
11. The Department mailed a Potential Disciplinary Letter to Key Mortgage on August 19, 2011, via U.S. first-class and certified mail service, and that on August 22, 2011 and August 25, 2011 the Department received back from the U.S. Postal Service the U.S. first-class and certified letter “Return to Sender – Not Deliverable as Addressed – Unable to Forward.”
12. On August 25, 2011, the Department then forwarded the returned letters to the address listed on the return mail.
13. On August 29, 2011, a signed receipt card evidencing receipt of such delivery was received by the Department, and that further communications between the Department and Key Mortgage via telephone conversations occurred on September 1, 2011 through September 9, 2011.
14. The Department’s review of licensing records for Key Mortgage now shows that the correct State of Illinois documents and fee for its change of address has been submitted to the Department.

LEGAL CONCLUSIONS

15. Key Mortgage violated Sections 4-5(i)(11) of the Act and Sections 1050.480, 1050.1140, and 1050.1350 of the Rules and Sections 70(c) and 73 of the RRPDA.

NOW IT IS HEREBY ORDERED THAT:

1. The Department assesses a **FINE** against Key Mortgage Services, Inc., License No. MB.0001012 in the amount of **\$5,000** for violating the Act, Rules, and RRPDA 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, 5th Floor
Springfield, IL 62786**

ORDERED THIS 18TH DAY OF JULY, 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 (certified check/money order) shall be filed at 320 W. Washington, 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.].