

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
)
) No. 2013-MBR-13
AMERICAN PORTFOLIO MORTGAGE CORP.)
License No. MB.0005608)
Attention: Barry Haskins)
800 East NW Highway, Suite 821)
Palatine, IL 60074)

ORDER ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (“Department”), having conducted a review of data entry practices by American Portfolio Mortgage Corporation (“Licensee” or “American Portfolio Mortgage”) into the Anti-Predatory Lending Database (“APLD”) and documented violations of the Residential Mortgage License Act of 1987 (“RMLA”) [205 ILCS 635], the rules promulgated under the Act (“Rules”) [38 Ill. Adm. Code 1050], and the Residential Real Property Disclosure Act (“RRPDA”) [765 ILCS 77], hereby issues this Order pursuant to the authority provided under Section 4-5(h)(5) of RMLA.

STATUTORY PROVISIONS

1. Section 2-4 of RMLA requires applicants to make certain averments to the Department, of which failure to fulfill the obligations of an averment shall subject the licensee to penalty, including the requirement to comply with the provisions of RMLA, or with any lawful order, rule or regulation made or issued under the provisions of RMLA.
2. Section 4-1(h-1) of RMLA grants the Department the authority to 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 purpose of administering the provisions of RMLA and any rule adopted in accordance with RMLA.
3. Section 4-5(h)(5) of RMLA states, in part, the Secretary may enter an order imposing a fine not to exceed \$25,000 for each count of separate offense upon a finding that there has been a violation of the grounds set forth in subsection (i).
4. Section 4-5(i) of RMLA sets forth acts that constitute grounds for which the disciplinary action specified in subsection (h) above may be taken against a licensee, including in subsection (11) failure to comply with any Department order or rule made or issued under the provisions of RMLA; and in subsection (18) failure to comply with or violation of any provision of Article 3 of the RRPDA.

5. Section 1050.1140 of the Rules states that loan application procedures shall comply with RMLA and applicable Federal and State law and regulations, including, but not limited to, the Consumer Credit Protection Act (15 USC 1601 et seq.), including Title VII (Equal Credit Opportunity Act) and Title I (Truth in Lending Act) of that Act, and the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505].
6. Section 70(c) of the RRPDA requires a mortgage broker or loan originator to submit to the APLD all of the information required in RRPDA Section 72, and any other information required by the Department by rule, for any mortgage on residential property within the program area.
7. Section 72 of the RRPDA, in relevant part, requires a mortgage broker or loan originator to submit for inclusion in the APLD for each loan for which the originator takes an application, the borrower's income and expense information, including total monthly consumer debt, contained in the mortgage application.

FACTUAL FINDINGS

8. American Portfolio Mortgage, with its licensed and principal place of business of record located at 800 East NW Highway, Suite 821, Palatine, Illinois 60074 is a residential mortgage banker holding active Illinois residential mortgage license number MB.0005608 with an expiration date of 12/31/2013.
9. On August 11, 2011, the Department posted a notice titled "Accurate Entry in the APLD" on its website, which stated that the APLD Program "requires that all information entered in the database be true, correct and accurate." It further stated that "It is not acceptable to enter a nominal amount such as \$1.00 as borrower income."
10. American Portfolio Mortgage entered loans into the APLD in the First Quarter (December 1, 2011 – February 29, 2012), Second Quarter (March 3, 2012 – May 31, 2012), Third Quarter (June 1, 2012 – August 31, 2012) and Fourth Quarter (September 1, 2012 – November 30, 2012).
11. In April and December 2012, the Department initiated a review of APLD data entry practices with regard to the accuracy of data entered in the aforementioned Quarters. The Department found that the Licensee entered inaccurate information in the "Borrower's Income" field in violation of Illinois law for 45 loans entered into the APLD during the aforementioned Quarters. Furthermore, the Licensee entered inaccurate income or initial monthly payment information resulting in a High Payment to Income Ratio for 1 loan entered into the APLD during the same period.
12. The inaccurate APLD entries were made for the following loan application numbers on the respective entry dates:

	LOAN APPLICATION ID	ENTRY DATE	VIOLATION
1.	293997	12/6/11	Inaccurate Income Entry
2.	294981	12/9/11	Inaccurate Income Entry
3.	295837	12/13/11	Inaccurate Income Entry
4.	317201	2/28/12	Inaccurate Income Entry
5.	319789	3/7/12	Inaccurate Income Entry
6.	320771	3/9/12	Inaccurate Income Entry
7.	325335	3/27/12	Inaccurate Income Entry
8.	330116	4/11/12	Inaccurate Income Entry
9.	338957	5/10/12	Inaccurate Income Entry
10.	343203	5/22/12	High Payment to Income Ratio
11.	354466	6/20/12	Inaccurate Income Entry
12.	357608	6/27/12	Inaccurate Income Entry
13.	363862	7/16/12	Inaccurate Income Entry
14.	372645	8/3/12	Inaccurate Income Entry
15.	373939	8/7/12	Inaccurate Income Entry
16.	373988	8/7/12	Inaccurate Income Entry
17.	374636	8/8/12	Inaccurate Income Entry
18.	376810	8/14/12	Inaccurate Income Entry
19.	383722	8/30/12	Inaccurate Income Entry
20.	385280	9/5/12	Inaccurate Income Entry
21.	385299	9/5/12	Inaccurate Income Entry
22.	386325	9/7/12	Inaccurate Income Entry
23.	386627	9/7/12	Inaccurate Income Entry
24.	388537	9/13/12	Inaccurate Income Entry
25.	390262	9/18/12	Inaccurate Income Entry
26.	394478	9/27/12	Inaccurate Income Entry
27.	397061	10/3/12	Inaccurate Income Entry
28.	397779	10/4/12	Inaccurate Income Entry
29.	398130	10/5/12	Inaccurate Income Entry
30.	400012	10/10/12	Inaccurate Income Entry
31.	402412	10/16/12	Inaccurate Income Entry
32.	406462	10/24/12	Inaccurate Income Entry
33.	406613	10/25/12	Inaccurate Income Entry
34.	407118	10/25/12	Inaccurate Income Entry
35.	408714	10/30/12	Inaccurate Income Entry
36.	408975	10/30/12	Inaccurate Income Entry
37.	409263	10/31/12	Inaccurate Income Entry
38.	413950	11/12/12	Inaccurate Income Entry
39.	414322	11/13/12	Inaccurate Income Entry
40.	410827	11/15/12	Inaccurate Income Entry
41.	415778	11/15/12	Inaccurate Income Entry
42.	416858	11/19/12	Inaccurate Income Entry
43.	416867	11/19/12	Inaccurate Income Entry
44.	417074	11/19/12	Inaccurate Income Entry

	LOAN APPLICATION ID	ENTRY DATE	VIOLATION
45.	419473	11/27/12	Inaccurate Income Entry
46.	419516	11/27/12	Inaccurate Income Entry

LEGAL CONCLUSIONS

13. The Licensee has violated RMLA Sections 2-4 and 4-5(i)(11) & (18), Rules Section 1050.1140, and RRPDA Sections 70(c) and 72.

NOW IT IS HEREBY ORDERED THAT,

1. The Department assesses a **FINE** against Licensee in the amount of \$45,000 (45 violations at \$1,000) pursuant to RMLA Sections 4-1(h-1) and 4-5(h)(5) for the violations cited herein. 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
Attention: FISCAL DIVISION
320 W. Washington, 5th Floor
Springfield, Illinois 62786.**

ORDERED THIS 14TH DAY OF FEBRUARY, 2013

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
MANUEL FLORES, ACTING SECRETARY

DIVISION OF BANKING

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].