

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
) No. 2013-MBR-38
PERFORMANCE MORTGAGE, INC.)
License No. MB.0005187)
31632 N Ellis Drive, Suite 113)
Volo, IL 60073)

ORDER REVOKING LICENSE & ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (“Department”), having reviewed the license status **Performance Mortgage, Inc.** (“Licensee”) 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 2-4 of RMLA requires applicants/licensees 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 requirements to (c) maintain records for 36 months; (d) file with the Department any required reports; (s) advise the Department of any changes to the information submitted on its most recent license application within 30 days of said change; and (t) comply with the Act and Rules.
2. Section 2-6 of the Act provides in subsection (a) that licenses shall be renewed annually every year on the anniversary of the date of issuance of the original license, or the common renewal date of the Nationwide Mortgage Licensing System and Registry as adopted by the Director; in subsection (b) that it shall be the responsibility of each licensee to accomplish renewal of its license; and in subsection (e) that a licensee ceasing activities regulated by the Act and desiring to no longer be licensed shall inform the Department in writing and, at the same time, convey the license and all other symbols or indicia of licensure, including a withdrawal plan, timetable for the disposition of the business, and comply with the Department’s surrender guidelines or requirements.
3. Section 4-1(h-1) of the Act provides that the Director may issue orders against any person if the Director 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 Director, or for the purposes of administering the provisions of the Act and any rule adopted in accordance with the Act.

4. Section 4-5(h)(1) 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 revocation of license.
5. Section 4-5(h)(5) of the Act provides, in part, 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 a fine not to exceed \$25,000 for each separate offense.
6. Section 4-5(i) of the Act provides grounds for discipline, in part, in subsection (11) for failure to comply with the Rules; in subsection (13) for failure to pay in a timely manner any fee, charge, or fine under the Act; in subsection (14) for failure to maintain, preserve, and keep available for examination, all books, accounts or other documents required by the Act and Rules; and in subsection (17) for failure to comply with any provisions of the Act.
7. Section 1050.475 of the Rules states that each licensee shall be required to provide advance written notice to the Director at least ten (10) business days prior to a) closing a full-service office, or b) discontinuing brokering, originating, or servicing, as defined under the Act.

FACTUAL FINDINGS

8. Performance Mortgage, Inc., with its licensed and principal place of business of record located at 31632 N Ellis Drive, Suite 113, Volo, IL 60073, is a residential mortgage broker holding inactive Illinois residential mortgage license number MB.0005187 (“License”) with an expiration date of 12/31/2012.
9. The Department provided Surrender Guidelines to Licensee January 25, 2013, and sent a letter dated June 24, 2013 notifying Licensee of the incomplete status of its surrender request and the consequent initiation of a revocation of its License.
10. Licensee’s surrender was improper due to:
 - a) Failure to provide a letter explaining the reason for the surrender of its License;
 - b) Failure to provide a written withdrawal plan including details such as a timetable for disposition of the business, location of stored files, and transitional contact information;
 - c) Failure to confirm the cessation of any advertising, including the webpage status;
 - d) Failure to provide a copy of its loan log for the required period;
 - e) Failure to return its original license or an affidavit explaining its absence; and
 - f) Failure to resolve pending compliance issues with the Department.

LEGAL CONCLUSIONS

11. The Licensee has violated Sections 2-4(c),(d),(s) & (t), 2-6(a),(b) & (e) and 4-5(i)(11),(13),(14), & (17) of the Act and Section 1050.475 of the Rules.

NOW IT IS HEREBY ORDERED THAT,

1. The Department **REVOKES** Performance Mortgage, Inc.'s Illinois residential mortgage license number MB.0005187 pursuant to Sections 4-1(h)(1) and 4-5(h)(1) of the Act.
2. The Department assesses a **FINE** against Performance Mortgage, Inc. in the amount of \$10,000 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
Attention: FISCAL DIVISION
320 W. Washington, 5th Floor
Springfield, Illinois 62786.**

ORDERED THIS 11TH DAY OF SEPTEMBER, 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].