

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
)
) No. 2013-MBR-49
GREEN FINANCIAL SERVICES, INC.)
License No. MB. 0005649)
Attention: Gregory Vaysman)
3400 Dundee Rd, Suite 150)
Northbrook, IL 60062)

ORDER REVOKING LICENSE AND ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (“Department”), having conducted an examination and investigation of Green Financial Services, Inc. (“Green Financial”) for the period September 1, 2009 through July 31, 2011, and having documented violations of the Residential License Act of 1987 (“RMLA”) [205 ILCS 635] and the rules promulgated under the Act (“RMLA Rules”) [38 Ill. Adm. Code 1050], and the Residential Real Property Disclosure Act, (“RRPDA”) [765 ILCS 77/70], hereby issues this order for violations of RMLA, RMLA Rules and RRPDA.

STATUTORY PROVISIONS

1. Section 4-1 of RMLA authorizes the Secretary to enter orders, impose fines, suspend or revoke licenses for violation of any provisions of the Act or Rules.
2. Section 2-4(c) of RMLA requires a licensee to aver that it will keep and maintain the same written records as required by the federal Equal Credit Opportunity Act, and any other information required by regulations of the Secretary regarding any home mortgage in the course of the conduct of its residential mortgage business for 36 months; (d) requires a licensee to aver that it will file with the Secretary, when due, any report or reports which it is required to file under any of the provisions of this Act; (k) requires a licensee to aver that it will not knowingly misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars regarding a transaction to which it is a party to the injury of another party; (r) requires a licensee to aver that it has not demonstrated by course of conduct, negligence or incompetence in performing any act for which it is required to hold a license under this Act; (t) requires a licensee to aver 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; (y) requires a licensee to aver that it will at all times act in a manner consistent with the Purpose of the Act and Policy Statement.
3. Section 1-4(d)(3) of RMLA defines an “exempt person” as any person employed by a licensee to assist in the performance of the residential mortgage licensee’s activities regulated by this Act who is compensated in any manner by only one licensee; (r) defines a “full service office” as an office, and staff in Illinois reasonably adequate to efficiently handle communications, questions, and other

matters relating to any application for or an existing Illinois residential mortgage loan. The management and operation of each full service office must include observance of good business practices such as proper signage and adequate, organized, and accurate books and records, ample phone lines, hours of business, and staff training and supervision; (dd) defines an "Affiliate" and 12 U.S.C. 2602(2), (7), & (8) of the federal Real Estate Settlement Procedures Act ("RESPA") respectively define "thing of value," "affiliated business arrangement" and "associate." The term "thing of value" includes any payment, advance, funds, loan, service, or other consideration. Federal regulation at 24 CFR 3500 further defines an "affiliate business arrangement." RESPA Section 2607 and federal regulation at 24 CFR 3500.14 prohibit kickbacks, unearned fees, and providing things of value for referral of a settlement service; provided, however, that affiliated business arrangements, as defined, are not prohibited so long as a disclosure is made of the existence and charges in such an arrangement to the person being referred.

4. Section 3-4 of RMLA provides that a licensee establishing an office in Illinois shall maintain a full service office with staff reasonably adequate to handle efficiently communications, questions, and all other matters relating to any application for a home mortgage or an existing home mortgage for which it is providing services for any borrower, lender, or other specified party. Subsection (a) states that offices shall not be located in any real estate, retail, or financial business establishment, unless separated from the other business by a separate and distinct area within the establishment.
5. Section 5-9 of RMLA states that no licensee may fail to provide timely notice to the borrower of any material change as defined therein in the terms of the residential mortgage loan prior to the closing of the loan.
6. Section 5-11 of RMLA requires licensees to provide the borrower a complete copy of any appraisal obtained by the lender for use in underwriting the residential mortgage loan within three business days of receipt by the licensee, but in no event less than 24 hours prior to the date of closing.
7. Section 70(a-5) of the RRPDA provides that the program area for the anti-predatory lending database ("APLD") is Cook County commencing July 1, 2008, and the additional counties of Kane, Peoria, and Will commencing July 1, 2010. The APLD applies to all mortgage applications that are governed by this Article and made or taken on or after the inception of the program.
8. Section 70(c) of the RRPDA requires a mortgage broker or loan originator to submit to the APLD all of the information required for any mortgage on property within the program area within 10 days after taking a mortgage loan application.
9. Section 72 of the RRPDA requires a mortgage broker or loan originator to submit 18 required fields of information in the APLD for each loan application.
10. Section 1050.110 of the RMLA Rules defines "person employed" as used in Section 1-4(d)(3) of the Act as any natural person who performs activity licensable under the Act exclusively for one licensee under the Act, provided that the licensee, expressly in writing on a form approved by the Director, assumes full and direct legal responsibility for the licensable activity performed on behalf of or in the name of the licensee or that benefits or is intended to benefit the licensee.
11. Section 1050.610 of the RMLA Rules provides that, on or before March 1 of each year, each licensee, except entities engaged solely in loan brokering activities and entities engaged solely in servicing activities, shall file an Annual Report of Mortgage Brokering Activity. The Director may

require reporting by licensees of mortgage, mortgage brokerage, and mortgage servicing activities to the Nationwide Mortgage Licensing System & Registry (“NMLS”), upon the dates established by NMLS.

12. Section 1050.630(a) of the RMLA Rules provides that each licensee shall report the number and aggregate dollar amount of application for, and the number granted and the aggregate dollar amount of, loans pursuant to Section 4-8.3 of RMLA.
13. Section 1050.640 of the RMLA Rules provides that each licensee which brokers residential mortgage loans shall file an Annual Report of Brokerage Activity.
14. Section 1050.1010 of the Rules provides that before a borrower signs a completed residential mortgage loan application or gives the licensee any consideration, whichever comes first, a loan brokerage agreement shall be required and shall be in writing and signed by both the borrower and a licensee providing loan brokering services to the borrower. Subsection (b) requires that both the licensee's authorized representative and the borrower shall sign and date the loan brokerage agreement at the same time, and a copy of the executed agreement shall be given to the customer at the time of signing. Subsection (h) provides that the loan brokerage agreement shall contain the name and registration number of any Loan Originator assisting the licensee in performing services for the borrower.
15. Section 1050.1020 of the RMLA Rules provides that before the borrower signs a loan brokerage agreement or gives the licensee any consideration, whichever comes first, the licensee shall give the borrower a written disclosure statement and shall obtain the borrower's signature on a duplicate of the disclosure statement near clear and conspicuous wording indicating that the customer has read and understands the disclosure statement or has had the contents explained to him or her by someone not connected with the licensee. Subsection (b) provides that the Loan Brokerage Disclosure Statement shall prominently display the name under which the entity is licensed under RMLA, any other names under which the licensee has engaged in activities regulated by the Act, even if not licensed under the current or predecessor Act, during the preceding 10 years and, if applicable, the name of the parent or affiliated company. Subsection (c) provides that the Loan Brokerage Disclosure Statement shall prominently display whether the licensee does business as an individual, partnership, association, corporation or any other organization form.
16. Section 1050.1110 of the RMLA Rules provides that before a borrower signs a completed residential mortgage loan application or gives the licensee any consideration, whichever comes first, the licensee shall give the borrower a Borrower Information Document. Subsection (a) requires a “Regulatory Disclosure Statement” to be included setting forth those exhibits and materials to be received in connection with a residential mortgage loan application, name of licensee and license number, and identifying the Department as the regulator for the licensee. Subsection (d) requires the inclusion of a Good Faith Estimate of Costs. Subsection (i) requires a borrower to acknowledge by way of a “Dated Customer Acknowledgement” that the borrower received each of the required disclosures and showing date of receipt.
17. Section 1050.1140 of the RMLA Rules requires loan application procedures to comply with the Act as well as applicable Federal and State law and regulations.
18. Section 1050.1150 of the RMLA Rules requires, except for applications by mail, that the licensee provide the borrower, at the time of signing, a copy of each document he or she signs, except for

releases for credit information and verifications of employment, bank accounts and current mortgage history.

19. Section 1050.1175(a) of the RMLA Rules requires a mortgage broker to maintain an accurate loan log for each residential mortgage loan application received with all 16 required fields of information.
20. Section 1050.1177 (formerly 1050.1175) of the RMLA Rules requires licensees engaged in loan brokering or originating to maintain a loan application file for each loan application. Each loan application file shall include: a) the Loan Brokerage Agreement and Loan Brokerage Disclosure Statement, if any mortgage loan brokerage services were utilized by the borrower; b) the Borrower Information Document; c) all documents signed by the borrower or borrowers, including, but not limited to, the initial loan application, disclosure documents and closing documents; d) the appraisal and credit report, as well as other third-party documents relating to the loan; and e) all other documents in or related to the loan file.
21. Section 1050.1305 of the RMLA Rules provides that immediately upon approval of a residential mortgage loan application, the licensee shall deliver to the applicant, a written loan approval notice stating the terms and condition of the residential mortgage loan agreed to by the licensee and borrower. The approval notice shall state the exact expiration date of the loan commitment, all economic terms of the loan and their duration, and whether the economic terms are fixed or subject to change and explanation of the circumstances for any change.
22. Section 1050.1335 of the RMLA Rules requires that a Rate-Lock Fee Agreement be in writing and signed by both the licensee and borrower and provided to borrowers regardless of whether a fee is collected or the interest rate is locked or floating.
23. Section 1050.1350 of the RMLA Rules states that commitment and closing procedures of a licensee shall comply with applicable Federal and State statutes and regulations.
24. Section 1050.2120 of the RMLA Rules requires that each calendar year, a Loan Originator shall complete a minimum of hours of continuing education as approved by the Secretary. The employing licensee shall be responsible for ensuring compliance with these requirements for each Loan Originator it employs.
25. Section 12 USC 2602(2) defines the term “thing of value” includes any payment, advance, funds, loan, service, or other consideration.
26. Section 12 USC 2607(a) provides that no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.
27. Section 24 CFR 3500 provides that no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person. Any referral of a settlement service is not a compensable service, except as set forth in

Section 3500.14(g)(1). A company may not pay any other company or the employees of any other company for the referral of settlement services business.

FACTUAL FINDINGS

28. Green Financial, with its principal place of business at 3400 Dundee Road, Suite 150, Northbrook, Illinois 60062, Illinois residential mortgage license number MB.0005649, is engaged in the brokerage of conventional first-lien residential mortgage loans, including a significant number of refinances, to entities that fund mortgage loans and may subsequently sell such loans in the secondary mortgage market or to private investors.
29. The Department conducted a regular examination of Green Financial, for the period beginning September 1, 2009 through July 31, 2011 (“examination period”). The examination consisted of a review of 21 loan files (all closed refinances), a review of Green Financial’s loan log, and a search of the APLD database.
30. The Department issued a report of examination (“ROE”) on February 28, 2012 and provided Green Financial with a copy. The Department found the following:
 - i. Green Financial failed to disclose its direct or indirect affiliation with six companies that received payments for services related to mortgage applications. Two of the companies are owned by borrowers of Green Financial. The other four companies operate out of the same address location and suite number as Green Financial.
 - ii. Green Financial provided kickbacks to businesses owned by borrowers for services that were never provided in the amount of \$31,526.00.
 - iii. Green Financial failed to include complete loan brokerage agreements in 21 loan files.
 - iv. Green Financial failed to include Changed Loan Term notices in the 21 loan files examined.
 - v. Green Financial failed to provide Disclosure and Delivery of Appraisal notices to nine borrowers prior to closing.
 - vi. Green Financial included Rate Lock Agreements in two loan files that were missing the borrower’s signature and not given to the borrower.
 - vii. Green Financial failed to include or provide Truth-in-Lending notices for seven of the 21 loan files reviewed; and
 - viii. Green Financial failed to provide Pay-off letters for eight of the 21 files examined.
31. Green Financial failed to enter mandatory information for 85 loans within the APLD program area into the APLD within 10 days of taking the loan applications.
32. Green Financial failed to submit, or failed to submit to the Department’s examiner in a timely manner, the following documentation:

- i Green Financial's 2009 check transactions report.
 - ii. A complete and accurate loan log.
 - iii.. Seven loan files requested for borrowers.
33. Two loans not entered in the loan log involved loans for which Greg Vaysman, owner of Green Financial, was the borrower. Five loans not entered in the loan log involved loans for which Ella Vaysman, Greg's wife, was the borrower.
34. Department examiners found the following at Green Financial's office:
 - i Outside signage indicated only Green Financial's prior name, Home USA Mortgage Company, a name no longer in use.
 - ii. The outside signs indicated three law offices within the same suite as Green Financial.
 - iii. The lobby directory indicated three additional companies doing business from the same suite. No signage for any of the seven entities was displayed at the suite's entrance or within the suite.
 - iv. There was no clear separation between the companies within the suite.
 - v. The reception area had limited coverage by individuals not employed by Green Financial.
35. Green Financial failed to properly document employment, compensation, and completion of continuing education for four loan originator employees.
36. Green Financial failed to properly supervise its employees when conducting business on behalf of Green Financial.
37. Green Financial failed to file the third and fourth quarter Mortgage Call Reports with the MLS for the year 2012 as well as the Annual Report of Brokerage Activity.
38. Green Financial filed the 2012 financial statements late and was assessed a late audit fee of \$4,500 which remains unpaid.

LEGAL CONCLUSIONS

39. Green Financial has engaged in unlawful business practices in violation of sections 1-4(r) (**2** violations), 2-4(c) (**30** violations), (d) (**1** violation), (k) (**8** violations), (r) (**1** violation), (t) (**24** violations), (y) (**1** violation), 3-4 (**1** violation), 5-9 (**4** violations), and 5-11 (**10** violations) of RMLA; sections 1050.110 (**4** violations), 1050.610 (**1** violation), 1050.630 (**2** violations), 1050.640 (**1** violation), 1050.1010 (**9** violations), 1050.1020 (**9** violations), 1050.1110 (**9** violations), 1050.1140 (**14** violations), 1050.1150 (**2** violations), 1050.1175(a) (**84** violations), 1050.1177 (**10** violations), 1050.1305 (**21** violations), 1050.1335 (**2** violations), 1050.1350 (**26** violations) and 1050.2120 (**4** violations) of the RMLA Rules; and Sections 70(c) (**85** violations) and 72 (**85** violations) of the RRPDA.

NOW IT IS HEREBY ORDERED THAT:

1. The Department **REVOKES** Green Financial Services, Inc., License No. MB.0005649 pursuant to its authority under Sections 4-1(h-1) and 4-5(a) (1) & (h) (1) of RMLA.
2. Green Financial shall pay a **FINE** as authorized by Sections 4-1(h-1) and 4-5(h) (5) of RMLA in the amount of \$100,000 within 30 days of the effective date of this Order. The fine is payable by certified check or money order submitted to the:

**Department of Financial and Professional Regulation
Division of Banking
Attention: FISCAL DIVISION
320 W. Washington, 5th Floor
Springfield, Illinois, 62786**

ORDERED THIS 18TH DAY OF NOVEMBER, 2013

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

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.*].