

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:)
) No: 2010-LO-07
MARK S. DIAMOND)
2357 N. Damen)
Chicago, IL 60647)

ORDER REVOKING
LOAN ORIGINATOR REGISTRATION AND ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking, (the “Department”), having conducted an investigation of the facts related to registered Loan Originator, (the “Registrant”), 2357 N. Damen, Chicago, IL 60647 and having found that the Registrant has committed violations cited herein of the Residential Mortgage License Act of 1987 (the “Act”) [205 ILCS 635], and of the rules promulgated under the Act (the “Rules”) [38 Ill. Adm. Code 1050], hereby issues this Order pursuant to the authority provided under Section 7-1 of the Act and Sections 1050.2170(a)(1)&(2) of the Rules. The Department makes the following findings:

FINDINGS

1. That Registrant holds an expired Illinois Loan Originator registration No. 031.0014001 (“Registration”) and has the address of 2357 N. Damen, Chicago, IL 60647;
2. That Registrant was one hundred percent (100%) owner of OSI Financial Services, Inc. (License No. MB. 0005434; “OSI”) for all purposes of this Order;
3. That on September 16, 2009, the Department opened an investigation of Registrant and others for their alleged participation in a mortgage fraud scheme cited in The People of the State of Illinois v. United Construction of America, Inc., et al., (Case No. 09 CH 33398 in Circuit Court of Cook County, Illinois, Chancery Division; “Complaint”);
4. That the assigned Department investigator (“Investigator”) identified initially three (3) borrowers in connection with the Complaint (borrowers DWC, RW, and EO);
5. That the Investigator received from Harbor Financial Group, Ltd. (“Harbor Financial”) the requested loan files for borrowers DWC and RW, but Harbor Financial had no record of the EO loan; the Investigator received from Harbor Financial the requested loan log and upon review of all items noted Matthew Fefferman (“Fefferman”) as the loan originator for the DWC and RW loans;

6. That on September 29 & 30, 2009, the Investigator identified additional co-borrowers, DC & MW, in connection with the Complaint and requested from Harbor Financial the DC & MW loan file;
7. That on October 1, 2009, the Investigator interviewed borrower RW and relative DW about RW's loan; RW stated that DW had contacted Registrant about remodeling work for RW; RW stated that Registrant then contacted RW about a "government-funded" home repair, and RW stated RW never applied for a loan (including through Harbor Financial), or met with or worked with Fefferman; the Investigator noted the discrepancy with Harbor Financial's loan records showing Fefferman as having taken RW's loan application through a face-to-face interview;
8. That on October 5, 2009, and later on November 5, 2009, the Investigator interviewed borrower DWC about DWC's loan and DWC said OSI Financial had contacted DWC to refinance a home repair, that DWC had met with Registrant who took DWC's loan application and upon closing the loan received a signed-over settlement check and other moneys for home repairs that were never completed; DWC further stated that DWC first became aware of Harbor Financial when DWC noticed Harbor Financial's name on the loan paperwork at closing and only worked with Registrant on the DWC loan; the same discrepancy was noted as Paragraph 7 above with Harbor Financial's loan records showing Fefferman as having taken DWC's loan application; later on October 5, 2009, the Investigator contacted Fefferman as to the borrowers' information and noted discrepancies and collected the DC & MW loan file;
9. That on October 6, 2009, the Investigator interviewed DC about the DC & MW loan file and DC stated that MW had been contacted by Registrant's secretary about a home repair, that they had subsequently met with Registrant on several occasions, but had never worked with or even heard of Fefferman or Harbor Financial and thought DC & MW loan file was through OSI Financial;
10. That on October 5, 2009 and during the course of the aforesaid investigation, the Department commenced a regular examination of Harbor Financial for the exam period 1/1/2006 to 9/30/2009 and the examiners found additional violations related to Registrant and Diamond as subsequently cited in the Report of Examination (the "ROE") as follows:

Averments of Licensee – (violation of Sections 2-4(k),(q) & (z) of the Act) – as cited in ROE, and including, but not limited to, examiners identified and interviewed four other borrowers (borrowers EH, MP, HJ, and MT) who stated that Registrant was the loan originator for their loan, but Harbor Financial's records show Fefferman as loan originator; and
11. That Registrant knowingly participated in a mortgage fraud scheme by using a name and registration number belonging to another loan originator for

compensation or gain due to the fact that his Registration was expired. Registrant's actions were a misrepresentation to the consumers and lenders Registrant worked with and also constitutes dishonest dealings in violation of the Act and the Rules.

CONCLUSIONS

BASED UPON THE ABOVE FINDINGS, THE DEPARTMENT IS OF THE OPINION AND CONCLUDES:

Registrant's activities under Certificate of Registration No. 031.0014001 cited herein warrant a revocation and fine pursuant to Rules Sections 1050.2165(b), (c), (e) and (j).

ORDER

1. That Mark. S. Diamond, Certificate of Registration No. 031.0014001, is revoked by Order of the Department pursuant to Section 1050.2170(a) of the Rules and Section 7-1 of the Act.
2. That Mark S. Diamond shall be and hereby is assessed a fine of \$25,000 for violating the Act and Rules cited herein pursuant to Rule section 1050.2170(a)(2);
3. The total fine in the amount of \$25,000 shall be due thirty (30) days after the effective date of this Order; and
4. The fee in the amount of \$25,000 shall be paid by means of a certified check or money order made payable to the:

**Department of Financial and Professional Regulation
Division of Banking
ATTN: Loan Originator Section
320 W. Washington, Springfield, Illinois, 62786**

ORDERED THIS ____ DAY OF _____, 2010

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
BRENT E. ADAMS, SECRETARY

DIVISION OF BANKING

JORGE A. SOLIS, 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. You have the opportunity to request a hearing regarding this matter for a fee of \$250 plus the transcript fee pursuant to 38 Ill. Adm. Code 1050.2175. The request for a hearing shall be filed within 10 days after the receipt of an administrative decision. A hearing shall be held by the Department of Financial and Professional Regulation, Division of Banking on the administrative decision. Absent a request for a hearing, this Order shall constitute a final administrative decision subject to the Administrative Review Law [735 ICLS 5/3-101 *et seq.*]

State of Illinois (
 (ss:
 County of Cook (

The undersigned, being duly sworn on oath, states that on ____/____/____, I mailed with sufficient postage affixed, a copy of the foregoing **ORDER REVOKING LOAN ORIGINATOR REGISTRATION AND ASSESSING FINE** by regular and certified mail, return receipt requested at 122 S. Michigan Avenue, Suite 1900, Chicago, Illinois 60603, to the address of Registrant's Licensee registered with IDFPD Division of Banking listed below:

MARK S. DIAMOND
2357 N. Damen
Chicago, IL 60647

AFFIANT

Subscribed and sworn to before me,
this ____ day of _____, 2010

NOTARY PUBLIC
