

STATE OF ILLINOIS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

IN THE MATTER OF:

MENA ZOELLNER
Charter Mortgage Services, Inc.
145 Covington Dr.
Bloomington, Illinois 60108

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) No. 2012-MLO-CD-01
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ORDER TO CEASE AND DESIST & ASSESSING FINE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, Division of Banking (“Department”), having examined the activities of Mena Zoellner (“Zoellner”), 145 Covington Dr., Bloomington, Illinois 60108, 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 1-3(a) of the Act states in relevant part:

No person, partnership, association, corporation or other entity shall engage in the business of brokering, funding, originating, servicing or purchasing of residential mortgage loans without first obtaining a license from the Secretary in accordance with the licensing procedure provided in this Article I and such regulations as may be promulgated by the Secretary.

2. Section 1-3(d-1) of the Act provides that the Secretary may 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 purposes of administering the provisions of this Act and any rule adopted in accordance with this Act.
3. Section 1-3(e) of the Act provides that any person, partnership, association, corporation or other entity who violates any provision of this Section commits a business offense and shall be fined an amount not to exceed \$25,000.
4. Section 1-4(jj) of the Act defines a mortgage loan originator in relevant part:

"Mortgage loan originator" means an individual who for compensation or gain or in the expectation of compensation or gain:

- (i) takes a residential mortgage loan application; or
- (ii) offers or negotiates terms of a residential mortgage loan.

5. Section 7-1A of the Act states that it is unlawful to work as a mortgage loan originator without a license in the State of Illinois and requires an application for a license to the Department.
6. Section 7-13 of the Act provides a list of prohibited acts and practices for mortgage loan originators, in relevant part as follows: (1) directly or indirectly employ any scheme, or artifice to defraud or mislead borrowers or lenders or to defraud any person; (2) engage in any unfair or deceptive practice toward any person; (3) obtain property by fraud or misrepresentation; (6) conduct any business covered by this Act without holding a valid license as required under this Act, or assist or aid and abet any person in the conduct of business under this Act without a valid license as required under this Act; (8) fail to comply with this Act or rules or regulations promulgated under this Act, or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this Act; (9) make, in any manner, any false or deceptive statement or representation of a material fact, required on any document or application subject to this Act; and (15) engage in conduct that constitutes dishonest dealings.
7. Section 1050.910 of the Rules states that no person, partnership, association, corporation or other entity shall cause to be circulated or use any advertising appearing in the State of Illinois or make any representation or give any information to any person, which indicates or reasonably implies activity involving the making, servicing, or brokering of loans secured by residential real estate located in Illinois.
8. Section 1050.2170 (c) of the Rules gives the Director the authority to issue a cease and desist order to compel the loan originator to comply with the Act and other applicable laws.

FACTUAL FINDINGS

9. Zoellner was working as a processor under the license of Charter Mortgage Services, Inc. (MB. 0006429, "Licensee") for all purposes of this Order;
10. On October 28, 2008, the Department conducted an Examination of Licensee for the period of 8/1/2005 to 8/31/2008 and found numerous violations of the Act and Rules as cited in the Report of Examination ("ROE") specifically at issue was the unregistered loan origination by Zoellner and Tony Costabile.
11. Through the loan log it was found that Zoellner had originated nine loans during this exam period without being registered as a loan originator.

12. On October 19, 2009, Licensee was issued an "Order Assessing Fine" (No. 2009-MBR-262) for this and other violations of the Act and 1050.910 of the Rules.

LEGAL CONCLUSIONS

13. Zoellner violated Sections 1-3(a), 7-1A, 7-13 (1), (2), (3), (6), (8), (9) and (15) of the Act, and Section of the Rules.

NOW IT IS HEREBY ORDERED THAT,

1. Mena Zoellner shall **CEASE AND DESIST** from engaging in mortgage loan originating activities in the State of Illinois pursuant to Section 1-3(d-1) of the Act and 1050.2170(c) of the Rules.
2. Mena Zoellner shall pay a **FINE** in the amount of \$1,000 as authorized under Section 1-3(e) 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: Loan Originator Section
320 W. Washington, 5th Floor
Springfield, Illinois, 62786.**

ORDERED THIS ____ DAY OF _____, 2012

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

MANUEL FLORES, DIRECTOR

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 \$250 hearing fee by certified check or money order shall be filed with the Department at 320 West Washington Street, Springfield, IL 62786, ATTN: Loan Originator Section 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.*].

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 **CEASE AND DESIST ORDER & ASSESSING FINE** by U.S. registered mail, return receipt requested, at 122 S. Michigan Avenue, Suite 1900, Chicago, Illinois 60603, to the name and address listed below:

AFFIANT

Subscribed and sworn to before me,

this ____ day of _____, 2012

NOTARY PUBLIC

Send to:

MENA ZOELLNER
Charter Mortgage Services, Inc.
145 Covington Dr.
Bloomington, Illinois 60108